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EMINENT DOMAIN - GEORGIA

D. Rose, Inc. v. City of Atlanta

Court of Appeals of Georgia - May 20, 2021 - S.E.2d - 2021 WL 2010139

Property owner filed inverse condemnation action alleging that city's setback requirements in its zoning code effectively deprived it of all economic use of property.

The trial court entered summary judgment in city's favor, and owner appealed.

The Court of Appeals held that it was not city's 60-foot setback restriction, by itself, that deprived owner of all economic use of property.

It was not city's 60-foot setback restriction, by itself, that deprived owner of all economic use of property, and thus city's denial of its request for variance was not taking, even though owner was unable to build residence on property without variance due to restriction in conjunction with 100-year floodplain and several sewer easements and sewer lines on rear 2/3 of property.

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