

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

Department of Transportation v. Mixon

Supreme Court of Georgia - October 5, 2021 - S.E.2d - 2021 WL 4528939

Landowner brought action against Georgia Department of Transportation (GDOT), alleging nuisance and inverse condemnation arising from flooding on her property following road-widening project, and seeking injunctive relief and compensation.

The Superior Court dismissed in part. Department applied for interlocutory appeal, which was granted. The Court of Appeals affirmed. Department petitioned for writ of certiorari, which was granted.

The Supreme Court held that:

- State constitutional takings provision waives sovereign immunity for two types of claims for injunctive relief, and
- Provision waived Department's sovereign immunity for landowner's inverse condemnation claim seeking injunctive relief.

Waiver of sovereign immunity effected by just compensation provision of State Constitution for claims seeking injunctive relief allows an injunction only to stop the taking or damaging until such time as the authority fulfills its legal obligations that are conditions precedent to eminent domain.

Just compensation provision of State Constitution waived Georgia Department of Transportation's (GDOT) sovereign immunity against landowner's inverse condemnation claim seeking injunctive relief arising from flooding on her private property following road-widening project, where landowner alleged that GDOT's failure to maintain its storm water drainage systems resulted in regular flooding on property, there was no suggestion that GDOT afforded landowner compensation for the alleged taking, and there was no suggestion that GDOT availed itself of legal process to exercise its eminent domain power over landowner's property. property.