

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC LANDS - WASHINGTON

Michel v. City of Seattle

Court of Appeals of Washington, Division 1 - November 8, 2021 - P.3d - 2021 WL 5176658

Homeowners brought amended claims for adverse possession, quiet title, prescriptive easement, trespass, and conversion relating to disputed property previously deeded to railway company and eventually conveyed to city.

City brought its own claims for adverse possession. On cross-motions for summary judgment, the Superior Court granted summary judgment in favor of homeowners, allowing homeowners to take disputed property by adverse possession and granting prescriptive easements for access. Following denial of its motion for reconsideration, city appealed.

The Court of Appeals held that:

- City established their actual and exclusive possession of disputed property, acquiring title by adverse possession more than 50 years prior;
- Land actually used or planned for use in a way that benefits the public as shown by the benefits flowing from governmental ownership is immune from claims of adverse possession; and
- Homeowners were barred by statute immunizing government-held property from adverse possession from taking possession of property.

City established their actual and exclusive possession of disputed property, acquiring title by adverse possession more than 50 years prior to action by homeowners claiming adverse possession of portions of property; city maintained a continuous presence on property for more than 60 years by using it for electrical distribution with power poles, city did not share possession of property with homeowners and their heirs or assigns, city consented to the use of the property by third parties by allowing access to roadway, parks, recreation, and trails, city actively managed property, and city granted permits to portions of property to prior homeowners while requiring that it be allowed to access property at all reasonable times to ensure compliance with permitted use.

Because the legislature intended to broadly shield government-held land, the prohibition on adverse possession of public lands can apply to adverse possession claims brought against a government entity under the statute governing adverse possession claims based on payment of taxes, the statute governing adverse possession claims based on the disputed property being vacant or unoccupied, or the statute governing adverse possession claims brought within ten years of possession.

In the context of the statute immunizing certain government-held property from adverse possession, the statutory phrase “lands held for any public purpose” means land actually used or planned for use in a way that benefits the public as shown by the benefits flowing directly or indirectly from governmental ownership of the particular property

Homeowners were barred by statute immunizing certain government-held property from adverse possession from taking possession of city-owned public property; property was used continuously for recreation from the time of the city’s possession for more than 60 years, including for fishing,

swimming, and as a public park and an inter-urban trail, and property was further used continuously to supply public utility service since the city's possession, including for electrical distribution and water infrastructure.