

Bond Case Briefs

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EMINENT DOMAIN - OHIO

State ex rel. Duncan v. American Transmission Systems, Inc.

Supreme Court of Ohio - February 9, 2022 - N.E.3d - 2022 WL 385590 - 2022-Ohio-323

Owner of property adjacent to right-of-way on which power lines were to be constructed filed complaint against company that installed transmission towers, electric utility, city, and mayor, seeking declaration that power lines were public and private nuisance resulting in taking of his property, preliminary and permanent injunction halting project's construction, writ of mandamus requiring respondents to commence appropriation proceedings, and compensatory relief.

The Eleventh District Court of Appeals granted respondents' motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim. Property owner appealed.

The Supreme Court held that:

- Court of Appeals lacked jurisdiction over claims for declaratory judgment and compensatory relief;
- Court of Appeals lacked jurisdiction over claims for injunctive relief;
- Alleged risks of harm were not actionable taking;
- Construction project was not compensable taking based on denial of access to land;
- Owner failed to state claim for regulatory taking;
- Alleged damages to owner's property were not peculiar to his property, and thus, did not constitute compensable taking on that ground; and
- Consequential damages were not recoverable for alleged injury to owner's property.