

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - INDIANA

624 Broadway, LLC v. Gary Housing Authority

Court of Appeals of Indiana - December 27, 2021 - N.E.3d - 2021 WL 6110010

Condemnee brought action against municipal housing authority, seeking injunctive relief and damages based on allegations that authority unlawfully exercised eminent domain over condemnee's real property and violated condemnee's constitutional and statutory procedural rights.

The Superior Court granted authority's motion for summary judgment and denied condemnee's motion for summary judgment. Condemnee appealed.

The Court of Appeals held that:

- Indiana's statutory membership and quorum requirements for local housing authorities are preempted by federal law governing administrators appointed by United States Department of Housing and Urban Development (HUD) over local housing authorities in substantial default of agreements with HUD;
- Indiana's statutory requirement that local housing authority obtain approval from local fiscal body before exercising eminent domain is preempted by federal law governing HUD administrators;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act creates no right in a condemnee to judicial review of an agency's property-acquisition practices;
- Authority's use of notice by publication for hearing regarding exercise of eminent domain, rather than providing actual notice to condemnee's agent whose name and address were known to authority, violated condemnee's right to due process; and
- Fact that agent eventually learned of and attended hearings did not render harmless authority's failure to attempt service method likely to give condemnee actual notice of the meetings.