

Bond Case Briefs

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EMINENT DOMAIN - NORTH DAKOTA

City of West Fargo v. McAllister

Supreme Court of North Dakota - May 12, 2022 - N.W.2d - 2022 WL 1493547 - 2022 ND 94

City filed quick-take eminent domain proceeding to acquire right-of-way across landowner's property for a sewer improvement project.

The District Court entered judgment in favor of city. Landowner appealed.

The Supreme Court held that:

- Quick-take condemnation procedure applied to city's acquisition of right-of-way across landowner's property for sewer improvement project;
- City was not required to pay for a sewer improvement project with special assessments in order to use the quick-take procedure; and
- Exclusion of portion of expert testimony was warranted.

Quick-take condemnation procedure, which allowed municipality to immediately take possession of right-of-way after making an offer to purchase and depositing the amount of the offer with the clerk of court, was not limited only to a right-of-way for highway or roadway purposes, and applied to city's acquisition of right-of-way across landowner's property for sewer improvement project.

City was not required to pay for a sewer improvement project with special assessments in order to use the quick-take procedure, which allowed municipality to immediately take possession of right-of-way after making an offer to purchase and depositing the amount of the offer with the clerk of court, to acquire right-of-way across landowner's property as part of project.