

Bond Case Briefs

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INVERSE CONDEMNATION - MONTANA

Wittman v. City of Billings

Supreme Court of Montana. - July 5, 2022 - P.3d - 2022 WL 2437885 - 2022 MT 129

Homeowners brought inverse condemnation action against city arising from a single-event backup of raw sewage into their basement caused by a grease clog in city's sewer main.

The District Court granted summary judgment for city. Homeowners appealed.

The Supreme Court held that sewage backup was not a constitutional damaging of homeowners' property for public use.

A single-event backup of raw sewage into homeowners' basement caused by grease clog in city's sewer main was not a constitutional damaging of homeowners' property for public use under the law of inverse condemnation, where city did not deliberately plan and build its sewer system in such a way that made damaging homeowners' property foreseeable, and backup was caused by misuse of system by people discharging grease into system.

Statistical possibility that homeowners could sustain damage from a backup of raw sewage into their basement from city's sewer system could not be used to establish an inverse condemnation claim against city arising from such a backup arising from a grease clog in the sewer main; fact that 0.04687 percent of sewer users across city experienced some form of a sanitary sewer overflow in a given year, from all causes, did not render homeowners' single-event backup foreseeable, and damage sustained from backup was properly considered an incidental or inadvertent consequence of operation of system.