

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - INDIANA

Nordin v. Town of Syracuse

Court of Appeals of Indiana - July 14, 2022 - N.E.3d - 2022 WL 2721041

Property owners brought action against town for negligence, based on flooding of their cottage when a town worker accidentally turned on a water valve.

The Circuit Court granted summary judgment in favor of town. Property owners appealed.

The Court of Appeals held that:

- The Circuit Court erred in measuring damages based on difference between cottage's pre-flooding and post-flooding market value;
- Evidence supported the Circuit Court's determination as to cottage's pre-flooding market value;
- Genuine issue of material fact existed as to what repairs were necessary to restore cottage; and
- There was no evidence that costs associated with repairing cottage would have exceeded half of cottage's fair market value.

Trial court erred in measuring damages for flooding of a cottage based on difference between cottage's fair market value prior to flooding and after flooding, rather than simply cottage's pre-flooding market value, in property owners' negligence action against town which accidentally caused flooding; cottage could not be repaired and was rendered useless.

Evidence supported trial court's determination as to fair market value of cottage prior to flooding accidentally caused by town, for purposes of ruling on damages in property owners' negligence action; owners contended that town failed to show that pre-flooding property-tax assessment of cottage bore any resemblance to market value, but they cited no authority saying that tax assessment could not be evidence of market value, owners failed to explain how estimated costs of repairing cottage were reflective of pre-flooding market value, and it was undisputed that restored or rebuilt cottage would be significantly nicer and more valuable than old, unoccupied, and deteriorating structure which owner's purchased.

Genuine issue of material fact existed as to what repairs were necessary to restore cottage which was damaged when town accidentally caused flooding, precluding grant of town's motion for summary judgment on issue of loss of use in property owners' negligence action.

There was no evidence that costs associated with repairing a flooded cottage would have exceeded half of cottage's fair market value, precluding grant of town's motion for summary judgment on issue of loss of use in property owners' negligence action.