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EMINENT DOMAIN - FLORIDA

Jamieson v. Town of Fort Myers Beach, Florida

District Court of Appeal of Florida, Second District - December 29, 2022 - So.3d - 2022 WL 17982952

Landowner brought action against town alleging inverse condemnation, partial inverse condemnation, and violation of the Bert J. Harris, Jr., Private Property Rights Protection Act.

The Circuit Court granted the town's motion for summary judgment. Landowner appealed. The District Court of Appeal reversed and remanded. On remand, the Circuit Court granted town summary judgment. Landowner appealed.

The District Court of Appeal held that:

- Landowner's claim for inverse condemnation against town was ripe for review, and
- Remand was required to allow the trial court to address town's claim that landowner's Bert Harris Act claim was time-barred.

Landowner's claim for inverse condemnation against town was ripe for review; landowner argued that the town's categorization of his property as wetlands precluded him from using his property in any economic manner, and thus he was entitled to compensation for the loss, landowner had previously challenged the wetlands designation, sought a comprehensive plan amendment, and sought a variance, and letter from town attorney offered to settle landowner's Bert Harris Private Property Rights Protection Act claims, by removing the wetlands designation to three lots, if landowner gave up his development rights to the remaining 37 lots.

Remand was required to allow the trial court to address town's claim that landowner's Bert Harris Act claim was time-barred, in action for inverse condemnation and a violation of the Bert Harris Private Property Rights Protection Act, where town raised the issue in its motion for summary judgment, and the trial court failed to address the issue in its order granting the town's motion.

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