
EMINENT DOMAIN - VERMONT

Nesti v. Vermont Agency of Transportation

Supreme Court of Vermont - January 6, 2023 - A.3d - 2023 WL 125249 - 2023 VT 1

Landowner brought action against Vermont Agency of Transportation, seeking damages and injunctive relief and alleging claims for takings, trespass, private nuisance, ejectment, and removal of lateral support arising out of reconstruction of road which allegedly caused stormwater runoff to form a ravine on landowner's property.

The Superior Court dismissed ejectment and lateral support claims for failure to state a claim, and the Court granted summary judgment for Agency. Landowner appealed.

The Supreme Court held that:

- Takings claim was subject to six-year statute of limitations for civil actions;
- Six-year statute of limitations for civil actions applied to landowner's trespass claim;
- Six-year statute of limitations for civil actions applied to landowner's private nuisance claim; and
- Even assuming continuing tort doctrine applied to trespass and nuisance claims, Agency did not commit any tort within six-year limitations period after reconstruction of road.

Six-year statute of limitations for civil actions, rather than 15-year statute of limitations for bringing actions to recover lands, applied to landowner's trespass claim against Vermont Agency of Transportation arising out of road reconstruction which allegedly caused stormwater runoff to form a ravine on landowner's property.

Six-year statute of limitations for civil actions, rather than 15-year statute of limitations for bringing actions to recover lands, applied to landowner's private nuisance claim against Vermont Agency of Transportation arising out of road reconstruction which allegedly caused stormwater runoff to form a ravine on landowner's property.

Vermont Agency of Transportation did not commit any tort within six-year limitations period after reconstruction of road, and thus, even assuming continuing tort doctrine, it would not apply to save landowner's trespass and nuisance claims against Agency arising out of road reconstruction which allegedly caused stormwater runoff to form a ravine on landowner's property.

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