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EMINENT DOMAIN - LOUISIANA

Southland Engine Company, Inc. v. State through Department of Transportation and Development

Court of Appeal of Louisiana, Third Circuit - December 21, 2022 - So.3d - 2022 WL 17825562 - 2022-205 (La.App. 3 Cir. 12/21/22)

Property owners and business operating on property brought action against Department of Transportation and Development (DOTD), asserting claims of negligence and inverse condemnation arising from decrease in business allegedly caused by construction project.

The District Court granted summary judgment in favor of DOTD. Landowners and business appealed.

The Court of Appeal held that:

- Any damage suffered by property owners and business was not peculiar to them and thus could not support inverse condemnation claim, but
- Genuine issues of material fact as to whether design-build contractor hired by DOTD to deliver project design and construction for highway reconfiguration acted negligently in staging project and caused unreasonable delay in construction process, as well as whether DOTD was liable for any such negligent delay, precluded summary judgment on general negligence claim.

Any damage suffered by property owner and by power-equipment business operating on property was not peculiar to them, and thus such damage could not support inverse condemnation claim arising out of construction project which resulted in altered access to property from adjacent highway, allegedly causing difficulty and confusion for customers of business attempting to access property, even though owner and business alleged that their customers in particular had difficulty accessing premises because they were frequently driving large trucks or pulling trailers; same complaints regarding access difficulty were made by principals of the four other businesses affected by project, and one of those businesses also alleged damage based on customers driving large trucks or pulling trailers.

Genuine issues of material fact as to whether design-build contractor hired by Department of Transportation and Development (DOTD) to deliver project design and construction for highway reconfiguration acted negligently in staging project and caused unreasonable delay in construction process, as well as whether DOTD was liable for any such negligent delay, precluded summary judgment on adjacent property owner and business's general negligence action against DOTD.