
EMINENT DOMAIN - GEORGIA

Kitchens v. Lincoln County

Court of Appeals of Georgia - June 26, 2023 - S.E.2d - 2023 WL 4170459

Land owners filed an action for a temporary and permanent injunction against county after county demanded they remove a gate that impeded access to a portion of a road that had previously been condemned by the federal government.

The Superior Court granted county's motion for summary judgment on the basis of sovereign immunity. Land owners appealed.

The Court of Appeals held that county's conduct amounted to a claim of inverse condemnation that waived its sovereign immunity.

County's conduct in threatening to remove or damage a gate on land owners' property to access a road to which it allegedly had no ownership interest created a condition that amounted to a claim of inverse condemnation that waived county's sovereign immunity and allowed land owners to seek injunctive relief; the disputed property had previously been condemned by the federal government and the county had not established title by prescription.

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