

# **Bond Case Briefs**

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## **EMINENT DOMAIN - FEDERAL**

### **Barlow v. United States**

**United States Court of Appeals, Federal Circuit - November 22, 2023 - 86 F.4th 1347**

In rails-to-trails case, owners of property abutting railroad line filed suit against United States, seeking compensation for alleged Fifth Amendment taking effected by Surface Transportation Board (STB) issuing notice of interim trail use (NITU) for railroad line, pursuant to National Trails System Act, thereby allowing railroad and Illinois Department of Natural Resources (DNR) to negotiate railbanking and interim trail use agreement for railroad line.

The Court of Federal Claims granted government summary judgment. Property owners appealed.

The Court of Appeals held that:

- Right-of-way agreements conveyed easements to railroad limited to railroad purposes;
- Deeds that included words “for railroad purposes” conveyed easements to railroad;
- Railroad at most held easements on property for which deeds were lost; and
- Owners held fee simple interests to centerline of property for which deeds were lost.