

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - NEBRASKA

Sanitary and Improvement District No. 596 of Douglas County v. THG Development, L.L.C.

Supreme Court of Nebraska - February 16, 2024 - N.W.3d - 315 Neb. 926 - 2024 WL 649268

County sanitary and improvement district (SID) filed petition in county court seeking condemnation of portion of landowner's property that was outside SID boundaries.

After landowner was awarded \$56,390 for the taking, landowner appealed.

The District Court entered judgment upon jury verdict and denied landowner's motion for new trial. In second case, SID sought to levy a special assessment, and landowner counterclaimed for declaratory relief. The District Court granted landowner's motion for summary judgment in part and denied motion for attorney fees. Landowner appealed in first case, SID appealed and landowner cross-appealed in second case, and appeals were consolidated.

In a case of first impression, the Supreme Court held that:

- Landowner did not strictly comply with statute governing notice of constitutional questions;
- As matter of first impression, SID does not have statutory authority to levy a special assessment on property outside its boundaries;
- Any error in admission of special benefits evidence in condemnation case was not reversible error;
- Trial court acted within its discretion in admitting expert testimony about value of remaining property in condemnation case;
- Mistrial of condemnation case was not warranted based on closing comment of SID counsel;
- Special assessment case did not involve frivolous or bad faith claims warranting attorney fees against SID; and
- Eminent domain statutes did not authorize attorney fees for special assessment case; disapproving *Simon v. City of Omaha*, 267 Neb. 718, 677 N.W.2d 129.