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EMINENT DOMAIN - VIRGINIA

Town of Iron Gate v. Simpson

Court of Appeals of Virginia, Lexington - September 17, 2024 - S.E.2d - 2024 WL 4205418

Landowner filed declaratory judgment action alleging inverse condemnation, claiming that town allowed a stormwater drainage pipe to flood the property.

The Allegheny Circuit Court overruled town's demurrer, and following a bench trial on liability and a jury trial on just compensation, awarded damages and attorney's fees. Town appealed.

The Court of Appeals held that:

- Town's failure to provide a transcript of hearing on motion for recusal precluded review of claim that judge erred in refusing to recuse himself;
- Landowner's petition adequately alleged that town damaged her property for a public use;
- Court appropriately exercised its discretion in limiting town's ability to cross-examine appraisal expert with evidence of town's rejected offer to fix leaky stormwater drainage pipe;
- Statute requiring an award to "reimburse" a landowner for attorney's fees "actually incurred" in the inverse condemnation proceeding allowed landowner to recover attorney's fees; and
- Statute allowed landowner to recover appellate attorney's fees.

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