

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - GEORGIA

YKH Realty, LLC v. Georgia Department of Transportation

Court of Appeals of Georgia - October 8, 2024 - S.E.2d - 2024 WL 4440461

Department of Transportation (DOT) issued declarations of taking for two parcels due to road construction and deposited estimated just compensation for the takings.

Holders of security interests in the parcels moved to set aside the takings and, as an alternative, to consolidate the DOT's petitions, which occurred by consent order, and also challenged the DOT's valuation by timely filing an appeal.

Record landowner filed an untimely notices of appeal contesting the valuation in each pre-consolidation case. The Superior Court granted the DOT's motion to dismiss the untimely appeal, and granted DOT's motion for partial summary judgment on claims for consequential damages. Record landowner and secured parties appealed.

The Court of Appeals held that:

- Secured parties' appeal preserved record landowner's valuation challenge for appeal, even though landowner did not file a timely notice of appeal or join the secured parties' appeal;
- DOT's removal of a 12-foot paved access lane did not result in any special damages to condemnees;
- Genuine issue of material fact regarding whether and to what degree the installation of curbing which allegedly narrowed entrance portals substantially impeded access to property precluded summary judgment; and
- Genuine issue of material fact as to whether or not the increased slope and grade of entrances to property amounted to a substantial impairment of access precluded summary judgment.