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EMINENT DOMAIN - MONTANA

Flathead Properties, L.L.C. v. Flathead County

Supreme Court of Montana - December 31, 2024 - P.3d - 2024 WL 5252097 - 2024 MT 323

Landowner brought inverse condemnation action against county, alleging that court-ordered removal of landowner's bridge, which landowner built pursuant to county permit that was later held void ab initio in litigation under Montana Lakeshore Protection Act, constituted a taking requiring just compensation.

The District Court granted county's motion to dismiss for failure to state a claim. Landowner appealed.

The Supreme Court held that:

- As matter of first impression, landowner stated a claim for inverse condemnation, and
- Landowner stated a claim for a regulatory taking.

Landowner stated a claim for inverse condemnation against county by alleging that landowner built bridge to portion of its lakeshore property in reliance on permit deliberately issued by county, that permit was later held to be void ab initio in litigation under Montana Lakeshore Protection Act, that landowner obtained a vested property right in bridge as a physical structure under remedial provision of Act, that landowner removed bridge pursuant to court order, that county created a public improvement through bridge via increase in property values, and that removal of bridge caused damages to landowner's property.

Landowner stated a claim for a regulatory taking against county by alleging that landowner built bridge to portion of its lakeshore property in reliance on permit deliberately issued by county, that permit was later held to be void ab initio in litigation under Montana Lakeshore Protection Act, that landowner obtained a vested property right in bridge as a physical structure under remedial provision of Act, that bridge added value to landowner's property, that removal of bridge pursuant to court order deprived landowner of all use of bridge, and that landowner relied on permit to expend money and construct bridge.

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