

Bond Case Briefs

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EMINENT DOMAIN - INDIANA

Indiana Land Trust #3082 v. Hammond Redevelopment Commission

Court of Appeals of Indiana - January 31, 2025 - N.E.3d - 2025 WL 351997

Landowners brought action against city, its mayor, city redevelopment commission, and commission members, alleging eminent domain action against landowners' property constituted abuse of process because the taking was for private, false ends.

The Superior Court granted defendants' motion to dismiss for failure to state a claim. Landowners appealed.

The Court of Appeals held that:

- Trial court was not collaterally estopped from finding that risk of inconsistent orders on same issues from two different courts warranted dismissal of landowners' action against defendants;
- Landowners could pursue their abuse of process claim separately from eminent domain action;
- Landowners stated abuse of process claim; and
- Issue of whether mayor and commission members were immune from prosecution under Indiana Tort Claims Act (ITCA) could not be resolved at motion to dismiss phase.

Landowners could pursue their claim against city, its mayor, city redevelopment commission, and commission members, alleging eminent domain action constituted abuse of process, separately from eminent domain action; compensation allowed under eminent domain action did not include all damages available from tort claim for abuse of process, as attorney fees were limited to \$25,000 in eminent domain action but were not limited as such for abuse of process claim, and trial judge in eminent domain action acknowledged that landowners would not be prejudiced by pursuing their abuse of process claim in another forum when it denied landowners' motion for leave to file abuse of process counterclaim on ground that counterclaim was not type of pleading allowed in eminent domain action.

Landowners stated abuse of process claim against city, its mayor, city redevelopment commission, and commission members, based on city's eminent domain action, where landowners alleged that eminent domain action brought by city against landowners was substantively improper on the basis of fraud and bad faith, that proceeding was subterfuge to convey property for private use, that taking was for discriminatory private purposes, for private gain, and motivated by spite, and that taking was solely to take property for private development by political contributors.