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EMINENT DOMAIN - MISSOURI

Ferguson v. City of Sunrise Beach

Missouri Court of Appeals, Southern District, In Division - April 1, 2025 - S.W.3d - 2025 WL 972195

Past and current landowners of eight separate lots brought nuisance and negligence claims against city, alleging that city's wastewater treatment facility discharged improperly treated wastewater that flowed onto their properties and into nearby cove, causing loss of use and enjoyment of properties.

After jury returned verdicts for all landowners on their negligence claims and for several landowners on their nuisance claims, the Circuit Court denied city's motions for judgment notwithstanding the verdict and for new trial or remittitur. City appealed.

The Court of Appeals held that:

- Inverse condemnation was exclusive remedy for landowners, and
- Landowners were entitled to remand to amend their petition to plead inverse condemnation claim.

Inverse condemnation was exclusive remedy for landowners whose properties were allegedly damaged by city's wastewater treatment facility's discharge of improperly treated wastewater that flowed onto their lands; landowners' claims for damages amounted to claim that entity with power of eminent domain took privileges away from them regarding their use and enjoyment of their properties, such that loss of use of their properties from odor and other impacts of nuisance was not damages, but rather was part of analyzing what properties were fairly worth as factor to be considered when valuing properties for inverse condemnation purposes.

Landowners were entitled to remand to amend their petition to plead claim of inverse condemnation in their action against city alleging that city's wastewater treatment facility discharged improperly treated wastewater that flowed onto their properties and caused loss of use and enjoyment of properties; landowners chose to assert nuisance and negligence claims against city not as matter of trial strategy, but because they mistakenly believed that their tort claims, with valid waiver of city's sovereign immunity, could be brought in lieu of inverse condemnation claim, and simple fairness required that they be given meaningful day in court.

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