

SUMMARY OF MAJOR EMINENT DOMAIN CASES & LEGISLATION

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California

City of Escondido v. Pacific Harmony Grove Dev., 2021 Cal. App. LEXIS 706 (Aug. 26, 2021)

Background: The city filed an eminent domain action to acquire a strip of land for a road extension. The road extension had long been on the city's circulation element of its general plan, and a city ordinance required any owner developing property to dedicate public improvements to conform to the general plan. In the condemnation action, the city argued that the strip of land had nominal value (\$50,000) since it would have been required to be dedicated as part of any future development. The owner claimed the road was not necessary, as it could utilize an existing road which had sufficient capacity, and therefore the strip of land should be valued based on its industrial highest and best use, resulting in compensation of nearly \$1 million. The trial court concluded that the strip of land should be valued at its unimproved value since it would have been required to be dedicated as part of any future development, and such a dedication requirement was constitutional (it was roughly proportional and rationally related to any future development impacts). The court also concluded that the "project-effect rule" did not apply, since the dedication was not put in place to impact the value of the property, but instead to mitigate the traffic burdens created by a future development. The owners appealed.

Issue: What valuation methodology applies with property dedications — dedication doctrine or the project influence rule?

Holding: The dedication requirement was constitutional, as the City did the work to demonstrate the dedication requirement was proportional to the impacts. The project influence rule did not apply because the dedication requirement arose as part of the general plan and circulation element, which were in place long before the date of probable inclusion.

Foley Investments, LP v. Alisal Water Company dba Alco Water Service, 2021 Cal.App. LEXIS 1026 (Nov. 16, 2021)

Background: When a water main underneath an apartment complex burst and caused damage to the complex, the property owner sued Alco Water Service ("Alco") for inverse condemnation and tort claims. Additionally, this case provides an application of the Fire Protection Immunity under Public Utilities Code section 774. Alco's general water service practice involves running water mains under city streets and property owners are responsible for the service lines that connect at the property boundaries and run into the property. However, in this case, conditions of development for the apartment complex required internal fire hydrants, which necessitated the installation of a water main through the property. Alco and the property owner entered into a private contract where Alco would install the water main and the property owner granted the easements for such installation. This water main served the fire hydrants and additional service laterals that provided water to the residents of the apartment building. Alco only billed the property owner for the water service, not the individual tenants.

Issue: Whether the water utility was operating its facilities for the "public use" and therefore potentially liable for inverse condemnation damages.

Holding: The Court of Appeal affirmed the finding of no inverse condemnation liability. First, the water main was installed pursuant to a private contract and Alco did not use its eminent domain authority. Second, this water line was intended to serve an individual need — meeting the flow requirements for the fire hydrants that only served this one property — and it did not provide service to the public at large. Further, while approximately 400 people lived at the property, there were only 81 units and only one water customer, the property owner. Finally, as this was an installation under private contract, the risk-spreading policy considerations underlying inverse condemnation were inapplicable. Therefore, the court concluded the water main served a private use and inverse condemnation liability was inapplicable.

Illinois

City of Mascoutah v. Ill. Comm'n, 2021 IL App (5th) 200386 (2021 Ill. App. LEXIS 428)

Facts: Petitioner, City of Mascoutah, petitioned the court for direct review of an order of the Illinois Commerce Commission's denial of a petition to approve the acquisition of easements for the construction of a power line, part of which was outside the city limits. The commission deemed the proposed use not in the public interest and denied the petition.

Issue: What is the proper method of obtaining review of an Illinois Commerce Commission order?

Holding: The level of review depends upon which statute the order of the Commission pertained to. Here, the denial of the use of eminent domain was based on section 11-117-1(2) of the municipal code. The Court of Appeal determined that direct review was not conferred and instead the City would have to petition for a writ of certiorari in the circuit court in order to review an order of the Commission.

Indiana

Krause-Franzen Farms, Inc. v. Tippecanoe Sch. Corp., 2021 Ind. App. LEXIS 209 (2021 WL 2643915)

Facts: A school corporation looked into options to remediate problems associated with a middle and elementary school, including land acquisition. In order to secure financing for a school, it approved selling bonds and putting the cost on a debt schedule.

Issue: Whether the school corporation exceeded its authority as to the "necessity" of the acquisition, because it did not currently have the funds necessary to finance the acquisition and development of the middle school.

Holding: Even though financing was not in place (bonds), there was a present necessity, not a future, speculative need, due to the capacity concerns, security concerns, transportation issues, and aging facilities to warrant a taking of the property for the school.

Louisiana

Robert v. State, 2021 La. App. LEXIS 1223 (2021 WL 3573312)

Facts: Plaintiffs own property along a canal that is a non-riparian waterway. By statute, a six-foot buffer was required to any waterway fronting levee, and it prohibited the placement of any object within this buffer. The statute provides a notice and waiting period before the governing authority can remove the objects. Plaintiffs claimed this was a regulatory taking under state and federal law and a claim of inverse condemnation because it deprived them of all economically beneficial use of the property.

Issue: Was this a per se regulatory taking?

Holding: The statute, on its face, did not deny plaintiffs of all economically beneficial or productive use of the land and was therefore not a per se regulatory taking. However, there are genuine issues of material fact that warrant remanding to determine whether this was still a taking.

Baca v. Sabine River Auth., 2021 La. App. LEXIS 886 (2021 WL 2283067)

Facts: Property owners argued that the construction of the dam caused changes to the downstream river and resulted in catastrophic flooding. They claimed flooding had occurred in the past and was likely to occur in the future.

Issue: Whether prior acts of flooding constituted knowledge sufficient to start the period of prescription prior to the current inverse condemnation claim and if summary judgment on this basis was accurate.

Holding: Where flooding in prior instances was so significant to incite lawsuits, that established that the plaintiffs knew or should have known of the increased risk of flooding and actual flood events more than three years prior to the current lawsuit being filed. The Court found no material distinction to plaintiff's arguments that the flooding was caused by the construction of the dam vs. the operation of the dam.

Mississippi

Johnson v. Adams Cty., 2021 Miss. App. LEXIS 271 (2021 WL 2548601)

Facts: A quick take action was instituted to allow for the widening of a very dangerous road. An order of immediate possession was granted and the property owners appealed that order to the Mississippi Supreme Court.

Issue: Whether an order granting a quick take is immediately appealable.

Holding: The quick take order is not a final, appealable order that would grant an appellate court jurisdiction, and there were no other legal mechanisms that would make such an appeal proper.

Nebraska

Sanitary & Improvement Dist. No 67 of Sarpy Cty. V. State of Neb. Dep't of Roads, 309 Neb. 600 (2021 Neb. LEXIS 95)

Facts: The Nebraska Department of Transportation made road improvements that altered direct access to a community serviced by a sanitary and improvement district (SID). The SID brought suit for inverse condemnation, alleging that it was the owner, through dedication, of the streets and roads that were damaged by the rerouting of the highway.

Issue: Whether a Sanitary and Improvement District was a “person” sufficient to have standing to bring an inverse condemnation lawsuit?

Holding: The SID was not an entity that qualified as a legal person for purposes of constitutional protection and the case for inverse condemnation was properly dismissed. The SID was created through statute and only had the powers conferred upon it. The SID was not granted the power to hold an interest in property outside of its public function. As such, it did not act as a person.

New Mexico

State v. Wilson, 2021 N.M. LEXIS 24 (2021 WL 2310061)

Facts: The State issued various public health orders that placed restrictions on businesses, including occupancy limited and closures. This is a consolidation of various cases brought by businesses and business owners for takings based on the public health orders.

Issue: Do the State’s COVID-19 public health orders support a claim for compensation under the New Mexico constitution, statutory law, or the Public Health Emergency Response Act?

Holding: The public health orders are not takings that require compensation.

- The public health orders are a reasonable exercise of the police power.
- There is no regulatory taking under Lucas.
- No compensation under NM statutory law because plaintiffs failed to exhaust administrative remedies.

New York

Matter of PSC, LLC v. City of Albany Indus. Dev. Agency, 2021 NY Slip Op 06907 (no WL citation)

Facts: A municipal redevelopment agency condemned holdout property used as a parking lot in a downtown area known as “The Dead Zone,” and “the parking lot district.” The taking was part of a larger redevelopment proposal to build residential apartments, a hotel, retail, office space, and parking by a private developer.

Issue: Did the taking conform to New York’s requirements for public use or purpose?

Holding: The court affirmed the taking and rejected the owner’s objection. Even though the agency did not yet have specific plans for the area or for the project — it had publicly requested development proposals, but no developers had responded — the court concluded that the public use was sufficiently stated. The court found no error in the agency’s determination

that the properties are blighted and that the taking of the one-acre parcel was necessary to develop the remaining seven acres already owned by the private developer and that the redevelopment would serve a public purpose. The court held that the agency is not required to know the specific redevelopment plan in order to use its power of eminent domain and may condemn the property to gain full title in order to permit economic redevelopment. The court also rejected procedural and environmental reporting challenges to the taking.

Matter of Gabe Realty Corp. v. City of White Plains Urban Renewal Agency, 2021 NY Slip Op 04134, 195 A.D.3d 1020, 151 N.Y.S.3d 143 (no WL citation)

Facts: A municipal redevelopment agency adopted resolutions to acquire property within a designated urban renewal area. The agency concluded the property was blighted. This conclusion was based on a 25-year-old urban renewal plan. The agency asserted that the public benefits from the taking could be determined in the future after the taking.

Issue: Does the property qualify as blighted? Is public use determined at the time of the taking, or at some other time?

Holding: The court invalidated the taking, holding that the existence of public use and purpose must be determined at the time of the taking and not based on speculative future benefits. The court held that the agency's blight assertions were conclusory and the 25-year-old urban renewal plan lacked detail or documentation about the current state of the property. The court noted that it would not be a "rubber stamp" on blight, despite New York's relaxed rules for blight determinations, and that the agency's "bare pleading" of substandard condition of the property did not satisfy the agency's obligation to show an adequate factual basis for its finding of blight. If blight could not be relied upon to support the taking, the court also noted that future public benefit is not sufficient.

North Dakota

City of W. Fargo v. McAllister, 2021 ND 136 (2021 N.D. LEXIS 136; 2021 WL 3083466)

Facts: The City passed a resolution determining it was necessary to construct a sewer improvement project and attempted to use its quick-take power to acquire immediate possession of the property. The parties stipulated to a judgment with the determination of some costs reserved for a later date. The parties also stipulated for an order certifying the judgment as final. The property owner appealed the judgment allowing the use of the quick-take power.

Issue: Was it proper to determine the judgment final before the final determination of the remaining costs was made? Was the appeal proper or not?

Holding: The judgment should not have been certified as final, and none of the parties have demonstrated how the appeal was not a standard interlocutory appeal. The district court needed to articulate in writing the reasons for supporting its decision to certify, not just recite the language of the rule. The fact that the costs and disbursements was not yet resolved meant the judgment could not be final. The appeal was improper.

Oregon

Walton v. Neskowin Reg'l Sanitary Auth., 2021 Ore. App. LEXIS 1157 (314 Ore. App. 124)

Facts: A property owner brought an inverse condemnation claim for the physical occupation of a sewer line on their property. The Defendant filed a motion for summary judgment that the six-year SOL barred the claim, since the sewer line was installed sometime before 1995. The trial court granted the MSJ. Plaintiff appealed and argued that (1) applying a SOL to a constitutional claim (i.e., a takings) is unconstitutional, (2) that the SOL began running when the defendant refused to pay "just compensation" and not when the physical occupation occurred, and (3) the six years for the SOL was improper.

Issue: Whether the SOL against the claim for inverse condemnation is valid and when the SOL begins to run.

Holding: Affirming the trial court and upheld the MSJ based on the SOL argument. First, the court stated that applying SOL to constitutional claims is valid. Second, the trigger for a SOL is not a demand for payment of just compensation, but when the physical occupation began. Third, the plain text of the statute made is clear that the SOL is six years.

Pennsylvania

In re Condemnation of Powell, 2021 Pa. Commw. LEXIS 505 (2021 WL 2793374)

Facts: A mobile emergency medical department authority attempted to condemn property for the installation of electric transmission lines to support a neighboring building under construction. The property owner argued that the authority did not have the power of eminent domain to condemn for electrical transmission lines, and the description of the property was inadequate to determine if it was reasonably required for a public purpose.

Issue: Whether the authority had the power of eminent domain to condemn for the specific purposes of electrical transmission lines and if the description of the property used was adequate.

Holding: The statute that gave some power of eminent domain to the authority must be strictly construed, and a strict construction indicated the authority did not have the power of eminent domain for the purpose of erecting electric power lines. The property description attached to the declaration makes it impossible for the property owner to determine where the easement to be condemned is located and whether the taking was actually an easement or a full take. As such, the description was inadequate to determine whether the land taken is only for the extent reasonably required for the public purpose.

State Route 00700, Section 21H v. Bentleyville Garden Inn, Inc., 2021 Pa. Commw. LEXIS 562 (2021 WL 4483462)

Facts: The jury awarded damages for the part taken, but failed to award any severance damages, despite evidence of damage to the remainder property. The court denied the property owner's motion for judgment notwithstanding the verdict or for a new trial. On appeal, the owner argued that the jury verdict was unlawful for two reasons: (1) that the DOT expert's opinion was based upon an erroneous assumption that the eminent domain code did not permit an accounting of the hotel's depressed revenue to inform the calculation of the after-taking value of the real property and (2) the jury verdict cannot be sustained on the theory that a decline in the oil and gas industry was solely responsible for the hotel's loss of revenue because the DOT's evidence did not support such a finding and the owner's evidence refuted that possibility.

Issue: Whether the trial court was correct in denying the motion for judgment notwithstanding the verdict or a new trial.

Holding: Because the jury verdict cannot be reconciled with the requirements of the eminent domain code, the denial of the post-trial motion was improper and the matter remanded for a new trial. The ED code expressly allows the use of the income approach to determine the fair market value of income-producing real property. However, the income approach cannot be used to establish the value of a leasehold interest of any tenant conducting a business on the real property subject to the condemnation.

South Carolina

Ray v. City of Rock Hill, 2021 S.C. LEXIS 87 (2021 WL 3378945)

Facts: Plaintiff owned a property under which a terra cotta pipe ran that allowed water to flow from a City catch basin to the back of her property (without an easement). This caused subsidence and damage. She noticed her front porch steps sinking in 2008. The water entered the catch basin through three City-owned stormwater pipes.

Issue: Whether the City engaged in an affirmative, positive, aggressive act as part of the claim for inverse condemnation that warranted survival of a summary judgment motion. Whether there was an issue with the statute of limitations.

Holding: When the City reconnected the pipes, that was not a "failure to act" (based on a refusal to comply with a demand), but rather an affirmative, positive, aggressive act sufficient to overcome the summary judgment issue. Additionally, there is no claim for damage prior to the reconnection of the pipes, because the SOL would have started to run on that issue in 2008 upon the discovery of the sinking steps.

Texas

Ball v. City of Pearland, 2021 Tex. App. LEXIS 7635

Facts: The property owners sought a determination that they had a right to repurchase property that was taken by eminent domain in 2002 because they claimed a 2003 statute that provided a limited right to repurchase applied retroactively. The 2003 statute allowed a right to repurchase property taken by eminent domain if the public use for which it was taken was cancelled, no progress was made towards that public use within 10 years, or within 10 years the property is no longer needed for such use or a substantially similar one. In an amended pleading, the property owner also argued that there was a remainder right to the property vested in themselves. The trial court determined the property owner had no interest in the property and that the statute did not apply to them, and dismissed the entire suit.

Issue: Whether the 2003 statute applied retroactively to allow a right to repurchase or if a failure to apply it retroactively deprived the property owner of just compensation.

Holding: The property owners had no future interest in the property because the prior final judgment vested fee simple title to the surface estate with the City and there was no reservation or retention of rights to the surface by the property owners. The language of the final judgment was clear. As to the 2003 statute, because the legislation explicitly stated a date in the future on which it would become effective and explicitly stated that it applied only to a “real property interest acquired by the governmental entity on or after the effective date of this Act.” Thus, where the language of the statute is clear that it will only apply prospectively, a court will not make it apply retroactively.

San Jacinto River Auth. v. Lewis, 2021 Tex. App. LEXIS 5545

Facts: During Hurricane Harvey in late August 2017, the San Jacinto River Authority (SJRA) released water from a reservoir. A property owner alleged this released water flooded his home downstream and brought an inverse condemnation claim on November 3, 2017 based on the Texas Constitution. The property owner then filed an amended petition that included a statutory takings claim (that had a 180 day filing requirement) during a variety of procedural matters, including an interlocutory appeal and a stay. The SJCA argued on appeal that the statutory takings claim was time barred and the district court did not have subject matter jurisdiction to hear the constitutional claim.

Issues: Was the statutory claim time barred and was there subject matter jurisdiction to hear the constitutional claim?

Holding: The amended petition had not been filed within the 180 day period and it did not “relate back” to the original petition. When the petition was filed and only raised constitutional inverse condemnation claims, it was not filed in a court of competent jurisdiction because the Harris County civil courts at law had the exclusive jurisdiction over constitutional inverse condemnation claims. Thus, because the amended petition was outside the filing period and there was no subject matter jurisdiction over the original claim, the amended petition did not relate back.

Wisconsin

Southport Commons, LLC v. Wis. DOT 2021 WI 52 (2021 Wis. LEXIS 86) (2021 WL 2325008)

Facts: The department of transportation relocated a frontage road, which in turn changed the flow of water and allowed water to collect on a property owner’s land. This created additional wetlands and impeded the property owner’s ability to develop. The damage occurred in 2009, and the property owner filed a notice of claim in 2017. The statutory law required a claim to be brought within three years.

Issue: Whether under Wisconsin inverse condemnation law the claim period for damage caused by a highway or railroad grade commences upon the “occurrence” of the damage or the “discovery” of the damage.

Holding: Under this statutory scheme, the notice of claim period in section 88.87(2)(c) begins to run when the damage happens or takes place. “Occurred” does not mean “discovered” in this context.

Federal Cases

Cedar Point Nursery v. Hassid, 2021 U.S. LEXIS 3394

Facts: A California regulation allowed labor organizations the right to access, for a certain amount of hours and days, agriculture property in order to solicit support for unionization. The property owners sought to enjoin this activity as an easement taken without compensation.

Issue: Whether a California regulation granting labor organizations a right of access to agriculture employer's property for purposes of soliciting support for unionization was an unconstitutional per se physical taking. Specifically, whether an uncompensated appropriation of an easement that is limited in time effects a per se physical taking.

Holding: California's union organizing access regulation is a per se physical taking. The issue of duration bears only on the amount of compensation, not whether or not there has been an invasion.

PennEast Pipeline Co., LLC v. New Jersey, 2021 U.S. LEXIS 3564 (2021 WL 2653262)

Facts: A pipeline company applied for a certificate of public necessity and convenience from the Federal Energy Regulatory Commission (FERC) to build a pipeline. The company intended to use the power of eminent domain granted by FERC to acquire the right of way. Some of the necessary land was owned in part by the State of New Jersey.

Issue: Can the federal government constitutionally confer on pipeline companies the authority to condemn necessary rights of way in which a state has an interest?

Holding: A private pipeline granted the power of eminent domain under the Natural Gas Act may condemn property owned by the State of New Jersey. While nonconsenting states are generally immune from suit, the states surrendered this immunity from the exercise of federal eminent domain power when they ratified the Constitution.

Golf Vill. North, LLC v. City of Powell, 2021 U.S. App. LEXIS 28845 (2021 6th Cir.)

Facts: Plaintiffs were property owners who were developing a planned community. In its suit, the property owner alleged that the City took its property without compensation by building an entrance to a new municipal park on the property owner's private street system and refusing to appropriate certain private streets that the City intended the public to use. Later, the City filed a quick take action to acquire the property for a public use. Even though the state quick-take action had not been completed, the property owner filed a motion to amend its federal complaint to assert a Fifth Amendment takings claim, given the Knick decision. The City moved to dismiss the federal suit, which was granted.

Issue: Whether the property owner plead factual content that the City appropriated a right of access for the public to two of the streets within the community.

Holding: The district court properly dismissed the takings claim for failure to state a claim because Plaintiffs failed to allege a violation of the right to exclude due to the fact that they did not allege the City appropriated, for members of the public, a right of access to their property. The property owner needed to demonstrate that the City authorized and licensed the public's use of the streets and therefore deprived the property owner of the right to exclude. The property owner failed to allege that they are no longer able to exclude the public from accessing the property.

RLR Invs., LLC v. City of Pigeon Forge, 2021 U.S. App. LEXIS 20681 (2021 WL 2932686)

Facts: The City decided to construct a riverside pedestrian walkway and initiated condemnation proceedings. The City applied for an order of possession, which was granted. The property owner filed a complaint in federal court and alleged that the Tennessee state court opinion was unconstitutional and asked for the federal court to enjoin the state court's order. The Federal District court determined there was no subject-matter jurisdiction under the Rooker-Feldman doctrine.

Issue: In evaluating the scope of the Rooker-Feldman doctrine, does it apply to bar federal actions commenced after the grant of interlocutory relief in a state court proceeding? Does the Exxon opinion modify the application of the Rooker-Feldman doctrine as applied through Pieper?

Holding: The federal district court affirmed, as the Rooker-Feldman doctrine prohibited the federal court from hearing a suit based on an interlocutory order. The Rooker-Feldman applied to cases brought by state-court losers complaining of injuries caused by a state-court judgment rendered before the federal district court proceedings commenced. The court determined that the Pieper and Exxon decisions could coexist.

L.K.L. Assocs. v. Union Pac. R.R. Co., 2021 U.S. App. LEXIS 33429 (2021 WL 5227586) (10th Cir. Nov. 10, 2021)

Facts: Union Pacific (UP) possessed an easement granted under the General Railroad Right-of-Way Act of 1875 over land owned in fee by a separate property owner. UP entered into a lease with the property owner and its lessee because some of the operations of the lessee intruded into the right of way. In 2014, there was a Supreme Court opinion that stated the railroad right of way, like that of UP's, was a nonpossessory easement and the property owner and lessee stopped paying rent to UP. The property owner and lessee filed suit against UP to have the leases rescinded and receive restitution of rent already paid.

Issue: The primary issue was the extent of rights granted to UP under the railroad right of way easement — specifically whether the easement granted UP exclusive rights and whether this permitted UP to enter into leases for uses/encroachments into the right of way.

Holding: The court held the grant of easement for a railroad right of way under the General RR Right of Way Act of 1875 allows Union Pacific to exclude everyone, including the grantor and fee owner; the leases were invalid because neither of the leases or the underlying business furthered a railroad purpose; the rescission claims were time-barred; and the railroad could exercise its right to exclude without identifying a particular purpose as exclusion from the railroad corridor is itself a railroad purpose. The court analyzed the underlying grant of easement to determine the scope of rights at issue here and concluded that the rights of UP were to an exclusive easement and that it could make other uses of the ROW so long as such uses were for railroad purposes. The court went on to conclude that the leases with the property owner and lessee were more about accommodating the existing uses than being for a railroad purpose. Therefore, the leases were invalid because they were not for incidental railroad uses. However, the court further concluded that the easement rights to UP were exclusive, such that UP could enforce a clear right of way and prohibit any uses. Thus, while the property owner and lessee had the leases invalidated as they requested, the claims for back rent were time-barred, and UP could actually demand that they remove all encroachments within the ROW.

LEGISLATION UPDATES

Act No. 2021-16 (H.B. 357) (Hawaii): Establishes a two-year statute of limitations for an inverse condemnation claim brought against the State.

2021 IL H.B. 3864 (Illinois): Repeals the Blighted Area Redevelopment Act and makes conforming changes to the Eminent Domain Act.

2021 TX H.B. 4658 (Texas): Revises the rules for a right of entry for survey purposes by a common carrier pipeline. Provides rules on notice and restrictions on scope of right of entry.

2021 TX H.B. 2730 (Texas): Adds provisions to the landowner's bill of rights that a property owner may file a written complaint alleging misconduct by easement or right of way agents acting on behalf of the entity exercising eminent domain. Adds provisions that a condemning entity's initial offer must include additional information about damages, the appraisal, the conveyance instrument, etc. Adds rules on the required terms for instruments of conveyance of certain easements (pipelines or electrical transmission). Provides other revisions to the eminent domain law as well.

2021 TX S.B. 157 (Texas): Revises some of the eminent domain reporting requirements for public school districts and municipalities/counties with a population under 25,000.

2021 UT S.B. 2002B (Utah): Creates some commercial project entity eminent domain limitations. For a commercial project entity that existed as a project entity before January 1, 1980, if it has not taken a final vote to approve the filing of an eminent domain action prior to November 10, 2021, it may no longer exercise the eminent domain authority.

Infrastructure Investment and Jobs Act (P.L. 117-58): The bipartisan infrastructure bill provides for \$1.2 trillion in federal spending over the next five years. The funding will be allocated to roads, bridges, major infrastructure projects, transit, rail, broadband upgrades, airports, ports, waterways, electric vehicles, improving power and water systems, and environmental remediation. Some of the funds are allocated to existing programs, just now with higher funding levels and other parts of the funds will be allocated to create entirely new programs.

Pending

2021 CA S.B. 696: Introduced 2/19/2021; authorizes a district to finance units in a mixed-income housing development that are allocated to the district pursuant to regional housing needs allocations and authorized eminent domain to acquire the real property

- 9/9/2021 read second time in Senate and amended. Re-referred to Committee on Governance and Finance

2021 TX H.B. 107B: Introduced 8/7/21; relates to border security enhancement projects and grants the power of eminent domain

- 8/23/21 sent to House Committee on Appropriations

2021 TX H.B. 28C: Introduced 9/20/2021; relates to border security enhancement projects and grants the power of eminent domain

HB 271 (North Carolina Eminent Domain Constitutional Amendment): The amendment may appear on the ballot in North Carolina as a legislatively referred constitutional amendment on November 8, 2022. The amendment would add language to the state constitution that eminent domain can only be used to take private property for a public use and to provide for the payment of just compensation with right of jury trial.