

Supreme Court Upholds Precondemnation Inspection Rights

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The California Supreme Court has upheld and strengthened public agencies' precondemnation inspection rights. Code of Civil Procedure sections 1245.010 et seq. (Entry Statutes) authorize court-ordered entry of private property to conduct inspections, including borings and testing, to determine if property is suitable for condemnation. Property owners had convinced a lower court that such entries were "takings," and that the Entry Statutes provided an insufficient constitutional process for determining just compensation, lacking particularly a right to a jury trial. In *Property Reserve, Inc. v. Superior Court (Department of Water Resources)* (July 21, 2016, S217738) ___ Cal.4th ___ [2016 WL 3924221], the Court conducted a very thorough analysis of the issues, and validated the Entry Statutes, even reforming the statute to include a right to a jury trial. Significantly, the California Supreme Court determined that, whether or not the inspection and testing authorized by the Entry Statutes could be considered a "taking," the Entry Statutes provided a sufficient constitutional process for determining just compensation. The *Property Reserve* case effectively blunts what was a growing effort to restrict agencies' rights to condemn property for the public good.

For more information about this case, or any other questions, please **contact a DWK attorney**

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