



CAN I APPEAL MY EMINENT DOMAIN CASE IN OHIO?

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Have you heard? Thanks to a [recent decision](#) made by the Ohio Supreme Court (OSC), some of the most common threshold challenges and issues that come up when we pursue cases of eminent domain (ED) are getting the much-needed attention they deserve!

Having done a fair amount of real estate litigation in and around Ohio, I've watched as eminent domain rules have evolved—even before 2007, when [Ohio's statutes were amended](#) to a significant degree.

At the time, one of the major changes to the statute involved a conscious effort to improve a landowner's right to pursue an immediate appeal; particularly if the trial court should choose to reject the original landowner's so-called 'necessity challenge' (for more information, see statute R.C. 163.09(B)(3)).

What is a necessity challenge? This is when a landowner *challenges the necessity of a proposed ED [taking](#) for a given infrastructure or public use project.*

The [2021 case](#) per eminent domain in Ohio therefore explored whether such filings with the state should be *stayed on appeal*, specifically in cases where the property owner in question loses that threshold necessity challenge and wants to take the issue up with Ohio's Court of Appeals.

As a result, the Ohio Supreme Court decided in April that if appeal proceedings are in progress, then all cases must be stayed! NO litigator in Ohio is justified if they choose to 'march on' with their trial court valuation process, should their case be appealed by the original landowner.

Jeremy S. Young

Shareholder

614.723.2030 | jyoung@ralaw.com

