

# Why Power Lines Aren't as Important as a Company's Right to Property

by Isaac Benmergui, Esq on March 3, 2014

One would think that a city has 'control' over its parts. When it comes to real estate law, that's not exactly true. Here we have a case between Alliance and the city of Idaho Falls involving a recent initiative to expand the power system of Idaho Falls Power, the city's own electric company. It sounded like a good idea at the time, actually: the expansion had begun back in 1972 and was essentially reactivated just back in 2007, and it would definitely make it possible for electricity to be routed more effectively throughout the city. One would think that all companies, buildings, homes and everything else utilizing electricity would benefit from this –



Unless you're a company like Alliance facing condemnation of buildings due to necessity to build more electric transmission lines! Can a city do this? Can a municipality effectively *take down* buildings for the purpose of building more effective power lines? The answer is 'no.' Alliance took the case to court, seeking declaratory and injunctive relief. Allegedly, the city didn't have the authority to condemn property solely on that basis. The district court agreed.

This, of course, was taken to the higher court, the Supreme Court, for deliberation, seeking an appeal. The city of Idaho addressed the situation with the justices, believing that it was within their authority to do such a thing. The city wasn't thinking of the larger authority, though: the *state*. Idaho never granted such authority, nor did the authority the city already has implied such a thing. Moreover, the purpose of creating *more* power lines isn't necessarily essential to accomplishing the main goal, as in there may be alternatives; that, of course, is something the city never addressed.

Needless to say, the Supreme Court affirmed the judgment of the lower court effectively. Condemned property was reversed, and Alliance received their favorable decision.

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