

**FDOT Road-Widening Project Encroached on Property Owner's Land, Yet the First DCA Found  
No Available Remedies**

In *Campbell v. Department of Transportation*, the Florida Department of Transportation ("FDOT") encroached on a 7,281-square-foot section of the Campbell's property, but they were left without a remedy. In March 2004, the Campbells purchased a 5.72-acre property in Duval County abutting State Road 5. FDOT later approved plans for development of the River City Marketplace, which included use of a publicly-owned right-of-way adjacent to the Campbell's property. The development required widening the road and placing multiple drainage, gas, and power lines on the publicly-owned portion of the right-of-way. In 2007, FDOT issued a final acceptance of permitted work, indicating that the permitted work was complete. The Campbells were generally aware of the road-widening project, but only visited their property three times between 2005 and 2014.

In 2015, the Campbells sought to develop their property into a storage facility. They discovered that the right-of-way was insufficient because the permits to build it were based on an incorrect FDOT survey; the right-of-way actually encroached on a 7,281-square-foot portion of the landowners' property. The Campbells met with FDOT, who determined the cost to move the right-of-way, but never made an offer to the Campbells for the taking.

The Campbells sued under inverse condemnation for having their property taken for public use without compensation. An FDOT manager later testified that FDOT issued multiple work orders for routine maintenance of the right-of-way, including fixing potholes, litter pick-up, tree trimming, and cleaning ditches. As a result, the court declared that the property vested in FDOT four years after it began maintaining it—May 22, 2011. Under Florida law, when a road is constructed by a governmental entity, and the road is maintained continuously and uninterrupted for four years, the road is "dedicated" to the public, vesting title and easement rights in the governmental entity.

The First DCA also found the Campbell's inverse condemnation claim was time-barred because property owners must bring the claim within four years of the physical invasion of their property. Here, the first physical invasion of the property was in November 2005 when trees were cleared. The Campbells had four years from November 2005 to file their claim or else they would be estopped because of the statute of limitations. Because they did not file their claim until April 2015, the court concluded that the Campbell's claim was time-barred.