

Case Highlight

SCS Carbon Transport v. Malloy, et al.
Nos. 20230149 & 20230162-20230176

Judgment confirming right of entry for pre-condemnation examination and survey was not equivalent to a perpetual easement, because the authorized purposes all had a definite end point.

To establish a violation under either takings provision, challengers must demonstrate they have a property interest that is constitutionally protected.

Statute permitting pre-condemnation entry for survey and examination illustrates a longstanding background principle of state property law and reflects the original public meaning of state constitution's takings provision.

The entry statute limits the entry to the authorized purpose or mission of determining the location and necessary scope of private property taken to serve the greatest public benefit at the lowest cost in terms of private injury.