

Bond Case Briefs

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EMINENT DOMAIN - IOWA

NDA Farms, L.L.C. v. City of Ames through Ames Municipal Electric System

Court of Appeals of Iowa - March 8, 2017 - Slip Copy - 2017 WL 935067

After city brought condemnation proceeding against property owners, seeking the appointment of a compensation commission to assess the amount of damages property owners incurred as a result of permanent 33-foot-wide easement city acquired across property owners' properties, property owners appealed decision of commission awarding \$10,700 in damages to first property owner, \$4,200 in damages for the easement to second property owner, and costs of \$1,605.17.

Following jury trial, the District Court entered judgment in favor of property owners in the amount of \$290,000, and awarded attorney fees and costs. City appealed.

The Court of Appeals held that:

- Trial court was not required to give limiting instruction to cure any prejudicial effect of testimony of city's expert witness regarding prior valuation of properties;
- Trial court's determination, that evidence of prior disciplinary action brought against property owners' expert witness, and consent order entered as result of such action, lacked probative value, was not unreasonable or untenable;
- Trial court was within its discretion to exclude evidence regarding county assessor's tax-assessed valuation of properties;
- City was not prejudiced by any error in trial court's refusal to give city's requested jury instruction, which told jury not to consider "anything which is remote, imaginary, uncertain or speculative" when calculating damages, and thus reversal was not required; and
- Jury's award of damages to property owners was not wholly unfair and unreasonable, and thus trial court was within its discretion to deny city's motion for new trial based on allegedly excessive damage award.

Trial court was not required to give limiting instruction to cure any prejudicial effect of testimony of city's expert witness, a certified real estate appraiser, regarding prior valuation of property owners' properties, at trial to determine damages property owners incurred as result of permanent easement city acquired across their properties, since it was not untenable or unreasonable for trial court to permit property owners to cross-examine appraiser about prior valuation to extent appraiser relied on or approved it, prior valuation itself was never admitted into evidence, and appraiser never testified that he relied on prior valuation in making his own valuation.

Trial court's determination, that evidence of prior disciplinary action brought against property owners' expert witness by Iowa Real Estate Appraiser Examining Board, and consent order entered as result of such action, lacked probative value, was not unreasonable or untenable, at trial to determine damages property owners incurred as result of permanent easement city acquired across their properties, since expert never admitted any wrongdoing in consent order, consent order did not detail reasons for disciplinary action, and reason for disciplinary action appeared to be related to

format of a valuation report rather than expert's method of valuing property.

Trial court was within its discretion to exclude evidence regarding county assessor's tax-assessed valuation of property owners' properties, at trial to determine damages property owners incurred as result of permanent easement city acquired across their properties, since properties' tax-assessed values were determined by special formula applicable to agricultural land, under statute which established formulas for determining actual, assessed, and taxable values of properties, and thus tax-assessed values were not relevant to determination of properties' fair market value as residential development land.

City was not prejudiced by any error in trial court's refusal to give city's requested jury instruction, which told jury not to consider "anything which is remote, imaginary, uncertain or speculative" when calculating damages, and thus reversal was not required, at trial to determine damages property owners incurred as result of permanent easement city acquired across their properties, where jury was instructed on method for determining amount of damages, method for determining fair and just compensation, and factors jury could consider in determining fair and reasonable market value of properties, and although jury was not specifically instructed to disregard any speculative or uncertain evidence, it was implicit when other instructions were read in conjunction.

Jury's award of damages to property owners was not wholly unfair and unreasonable, and thus trial court was within its discretion to deny city's motion for new trial based on allegedly excessive damage award, following trial to determine damages property owners incurred as result of permanent easement city acquired across their properties; both parties offered expert testimony, both parties' experts were qualified to give opinions as to properties' values before and after the taking based on properties' best uses, and jury was within its right to accept evidence and opinion presented by property owners' expert over evidence and opinion presented by city's expert.