

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - CONNECTICUT

City of Hartford v. CBV Parking Hartford, LLC

Supreme Court of Connecticut - September 11, 2018 - A.3d - 330 Conn. 200 - 2018 WL 4288900

Property owners sought judicial review of city's statement of compensation in a condemnation proceeding.

The Superior Court increased the amount of compensation and ordered payment of interest. City appealed, and the appeal was transferred to the Supreme Court.

The Supreme Court of Connecticut held that:

- City's challenge of trial court's application of doctrine of assemblage was not moot;
- Trial court applied the proper standard in considering the doctrine of assemblage;
- Record supported determination that assemblage was reasonably probable, absent condemnation; but
- Trial court lacked authority to set rate of interest other than default rate after entry of judgment.

The doctrine of assemblage permits a property owner to introduce evidence in a condemnation proceeding that the fair market value of its land is enhanced by its probable assemblage with other parcels, which in turn could permit a higher and better use.

City's appeal challenging the trial court's valuation of land in condemnation proceeding based on contention that the doctrine of assemblage did not apply was not rendered moot based on trial court's reference to per square foot valuations, as purported alternative ground for supporting the valuation, where trial court did not adopt the per square foot valuations or the mean of the two valuations, but instead adopted a figure provided by appraiser whose report relied on the concept of assemblage.

Trial court applied the proper standard in considering the doctrine of assemblage, evaluating whether assemblage of the parcels subject to condemnation reasonably would have occurred in the absence of condemnation; trial court was not required to recite the talismanic phrase "in the absence of condemnation" when reciting the governing law, court cited the governing case law regarding assemblage, and court discussed appraiser's determination that assemblage was reasonably probable and that, "if the city did not take the parcel, the market would respond."

Record supported trial court's determination that assemblage of parcels subject to condemnation was reasonably probable, absent condemnation, as basis for increased valuation in appeal from city's statement of compensation in a condemnation proceeding; appraiser testified that development of the area around the parcels for construction of a ballpark would have sparked market interest in developing the parcels, development proposal reflected an intent to use the assembled parcels for redevelopment, and the sole owner of company whose subsidiaries owned the parcels testified that he had viewed the parcels best used as assembled with adjoining properties for development and had undertaken substantial measures to eliminate every obstacle to assemblage.

Trial court lacked authority to set a rate of interest other than the statutory default rate after the court rendered judgment of compensation in property owners' appeal from city's statement of compensation in a condemnation proceeding; statute governing the rate recoverable in condemnation cases unambiguously dictated that the default rate applied when the judgment of compensation did not include a rate of interest, determining all components of compensation for a taking at the time of judgment was essential so that a reviewing court could adequately determine whether the compensation was just, and any inadvertent failure of the trial court to set a rate of interest could have been addressed by motion to open the judgment.