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EMINENT DOMAIN - NORTH DAKOTA

Cass County Joint Water Resource District v. Erickson

Supreme Court of North Dakota - October 9, 2018 - N.W.2d - 2018 WL 4869002 - 2018 ND 228

County joint water resource district brought eminent domain action against owners of two lots needed for construction of levee.

Following a bench trial, the District Court ordered condemnation, determined the amount of just compensation, and awarded lot owners attorney fees and costs. Lot owners appealed, and county joint water resource district cross-appealed.

The Supreme Court of North Dakota held that:

- Evidence was sufficient to support trial court's finding that the market value of two lots as of the date of the taking by the district was $48,200;
- The trial court did not violate the "project influence rule";
- Compensation awarded lot owners did not have to be greater than the amount offered by the county before the trial court could award lot owners attorney fees and other costs, overruling *City of Bismarck v. Thom*, 261 N.W.2d 640; and
- Evidence was sufficient to support trial court's award of $114,346.47 for attorney fees and costs incurred by lot owners.

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