
EMINENT DOMAIN - COLORADO

Carousel Farms Metropolitan District v. Woodcrest Homes, Inc.

Supreme Court of Colorado - June 10, 2019 - P.3d - 2019 WL 2414999 - 2019 CO 51

Metropolitan district, that was created by developer, petitioned the court for condemnation of a certain parcel of land.

After immediate possession hearing, the District Court granted the district's request to take immediate possession. Landowner appealed. The Court of Appeals reversed in part, vacated in part, and remanded. Metropolitan district petitioned for review.

The Supreme Court held that:

- Takings questions present mixed questions of law and fact, with public use determinations reviewed de novo, overruling *City & County. of Denver v. Block 173 Associates*, 814 P.2d 824, *and Public Service Company of Colorado. v. Shaklee*, 784 P.2d 314;
- Metropolitan district's condemnation of parcel of land that developer sought to subdivide created a public benefit, for purposes of determining whether the taking was necessary for the intended public use, and thus valid; and
- Statute that prohibited taking of private property for transfer to a private entity for the purpose of economic development did not apply to taking of parcel for public use.

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Metropolitan district's condemnation of parcel of land that developer sought to subdivide created a public benefit, for purposes of determining whether the taking was necessary for the intended public use, and thus valid, even though developer would have also benefited from the taking and the district was only formed after developer failed in negotiations with land owner; the parcel to be taken would have been used for public right of ways, storm drainage, and sewer improvements, and the district properly exercised its power of eminent domain to prevent holdout landowner from thwarting the assembly of adjacent properties that would have benefited the public.

Statute that prohibited taking of private property for transfer to a private entity for the purpose of economic development did not apply to taking of parcel for public use, even if developer would also benefit from the taking; the condemned property was never transferred to someone else when the metropolitan district that initiated the condemnation proceeding condemned the parcel and then kept it, and even it somehow did transfer the parcel, the only entity involved was a public one, the district, which had the power of eminent domain.

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