

Bond Case Briefs

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EMINENT DOMAIN - WEST VIRGINIA

West Virginia Department of Transportation, Division of Highways v. Pifer

Supreme Court of Appeals of West Virginia - November 19, 2019 - S.E.2d - 2019 WL 6258109

Department of Transportation, Division of Highways (DOH), filed petition to condemn portion of landowners' property for public use in connection with highway-interchange public improvement project.

Following jury verdict awarding landowners \$2,000 for the taking, \$1,800 for the temporary construction easements, and \$175,165 in condemnation blight damages, the Circuit Court entered judgment and denied DOH's motion for new trial and to alter or amend judgment. DOH appealed.

The Supreme Court of Appeals held that:

- Date of taking, for purpose of determining fair market value of subject property, was date DOH filed condemnation petition;
- As a matter of first impression, a landowner may seek damages for condemnation blight as an element of just compensation;
- Condemnation blight damages in amount of \$175,165 was not speculative; and
- Landowners were only entitled to prejudgment interest on their total award of just compensation from date condemnation petition was filed.

Date of taking, for purpose of determining fair market value of subject property, was date condemnation petition was filed by Department of Transportation, Division of Highways (DOH), seeking to condemn portion of landowners' property for public use in connection with highway-interchange public improvement project, even though jury verdict form did not specifically state date of take, where trial court asked jury if landowners suffered condemnation blight prior to date condemnation petition was filed, jury answered question in affirmative, and such damages, by their very definition, were suffered in anticipation of the take.

In a condemnation proceeding, a landowner may seek damages for condemnation blight as an element of just compensation for the taking of private property for public use.

Condemnation blight damages, as element of just compensation, in amount of \$175,165 was not speculative, in condemnation proceeding by Department of Transportation, Division of Highways (DOH), seeking to condemn portion of landowners' property for public use in connection with highway-interchange public improvement project, even though final scope of project required only partial taking of small amount of landowners' property, as opposed to original plan which severely impacted property; DOH announced project more than decade before it commenced condemnation proceeding, landowners operated independent gasoline service station on property, and threat of condemnation brought to halt any negotiations with larger gasoline distributors to rent property.

In condemnation proceeding by Department of Transportation, Division of Highways (DOH), seeking

to condemn portion of landowners' property for public use in connection with highway-interchange public improvement project, landowners were only entitled to prejudgment interest on their total award of just compensation from date condemnation petition was filed, even though landowners' just compensation award included damages for condemnation blight suffered prior to filing of petition, since statute governing condemnation proceedings clearly provided that interest was to be paid on award from date of filing of petition.