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EMINENT DOMAIN - INDIANA

City of Kokomo v. Estate of Newton

Court of Appeals of Indiana - December 18, 2019 - N.E.3d - 2019 WL 6885081

Company owner's estate, which owned two contiguous parcels of land, filed exceptions to appraisers' assessment of $143,000 in damages for city's taking of one of the parcels. Estate sought $305,600 in damages, both for the taking and for resulting damages to the adjacent parcel.

City moved for a directed verdict. The Superior Court denied the motion. Following a jury trial on the issue of damages, the Superior Court entered judgment in favor of estate for $305,600 in damages plus interest, as well as $25,000 in litigation expenses. City appealed.

The Court of Appeals held that:

- Estate was entitled to damages only for city's condemnation of one parcel, not for damages to adjacent parcel, and
- Estate was not entitled to litigation damages.

Company owner's estate, which owned two contiguous parcels of property on which company operated, was entitled to damages only for city's condemnation of one parcel, not for damages to adjacent parcel, which was not condemned, although company incurred relocation expenses and suffered lost profits after it was forced to relocate following city's taking of other parcel; estate, which owned both parcels, was a separate entity from company, neither company nor owner's son, who served as estate's personal representative and company's sole shareholder, were ever joined as parties to estate's action challenging appraisers' assessment of damages for city's taking of parcel, and it was company, not estate, which sustained damages as a result of being forced to relocate.

Estate was not entitled to litigation expenses in its action challenging appraisers' assessment of damages for city's taking of a parcel of land it owned, where damages award was less than settlement amount city had offered one year prior to trial.

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