

Bond Case Briefs

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EMINENT DOMAIN - PENNSYLVANIA

Department of Transportation v. Bentleyville Garden Inn, Inc.

Commonwealth Court of Pennsylvania - October 1, 2021 - A.3d - 2021 WL 4483462

Pennsylvania Department of Transportation (PennDOT) condemned portion of condemnee's property, which was adjacent to condemnee's remaining property put to hotel use, and petitioned for appointment of board of viewers.

PennDOT subsequently appealed as excessive board's award of \$2,908,000 to condemnee. After trial on merits of PennDOT's appeal, jury awarded condemnee \$355,000, and the Court of Common Pleas denied condemnee's motion for judgment notwithstanding the verdict (JNOV) or a new trial. Condemnee appealed.

The Commonwealth Court held that:

- Eminent Domain Code permitted consideration of hotel's depressed value to calculate after-taking valuation of condemnee's remaining property;
- Hotel's loss of revenue before, during, and after PennDOT's construction of highway exit was relevant to establish damages to condemnee's remaining property;
- Consideration of hotel's revenue data from more than one year after taking to determine value of condemnee's remaining property conformed with Eminent Domain Code;
- Assumption made by PennDOT's expert that building highway exit did not affect access or visibility to condemnee's remaining property was not supported by record; and
- Belief that oil and gas industry was solely responsible for hotel's revenue decline following taking was contrary to the evidence.