

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

United States v. 4.620 Acres of Land, more or less, in Hidalgo County, Texas

United States District Court, S.D. Texas, McAllen Division - December 20, 2021 - F.Supp.3d - 2021 WL 5999388

United States brought eminent domain action to take 4.620-acre tract of land in fee simple with certain reservations.

United States moved to exclude testimony of expert, and property owner moved for summary judgment.

The District Court held that:

- Reliability of expert's appraisal was not affected by discrepancy of week to month between date of taking and expert's effective date;
- Expert opinion and report were unreliable to extent expert did not consider all elements that contributed to value of property and all elements that detracted from it to arrive at unitary market value for single piece of property acquired;
- Whether expert's questionable damage model and 40% diminution calculation were credible based on disputed sale evidence and damage modeling was issue for jury;
- Rebuttal report did not have to be stricken on basis of post-deadline supplement of one additional piece of data to timely original report;
- Court had jurisdiction over issue of whether landowner was entitled to some measure of just compensation for bollard fence improvement that United States previously had wrongfully placed upon land at issue;
- Tucker Act did not jurisdictionally bar compensating landowner for bollard fence improvement; and
- Landowner was not entitled to value of bollard wall that United States previously had placed on that property.