

# **Bond Case Briefs**

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## **EMINENT DOMAIN - NEW YORK**

### **HBC Victor LLC v. Town of Victor**

**Supreme Court, Appellate Division, Fourth Department, New York - March 22, 2024 - N.Y.S.3d - 225 A.D.3d 1254 - 2024 WL 1227054 - 2024 N.Y. Slip Op. 01625**

Following annulment of town's prior determination authorizing condemnation of vacant commercial real property, owner of property brought action against town under Eminent Domain Procedure Law (EDPL) to annul town's determination authorizing the condemnation of the property.

The Supreme Court, Appellate Division, held that:

- Town established legitimate qualifying public purpose or use of property, and
- Public purposes articulated by town's comprehensive plan were not merely incidental to private benefits arising from condemnation and were sufficient to support condemnation action.

Town established legitimate qualifying public purpose or use of owner's vacant commercial real property, as supported condemnation of property; one of town's stated public purposes was to facilitate economic redevelopment project that would permit vacant and underutilized property to be turned into space appropriate for lease to international department store and grocer, both of which had expressed interest in becoming tenants, and town's proposed use of a portion of the building for an 11,000-square-foot community and recreation space was a viable public purpose.

Public purposes articulated by town's comprehensive plan were not merely incidental to private benefits arising from condemnation and were sufficient to support town's condemnation action against owner of vacant commercial real property; despite property owner's contention that public use proposed for part of property to be leased by town was illusory, town initially stated at public hearing that it had not yet determined what it would do with that portion of the property, town subsequently narrowed its public use in its determination and findings to a community and recreation center space to provide for and enhance town's public services as part of creating a vibrant, sought-after retail, community and recreation destination on the property.