

Bond Case Briefs

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EMINENT DOMAIN - CALIFORNIA

City of Perris v. Stamper

**Court of Appeal, Fourth District, Division 2, California - August 9, 2013 - Cal.Rptr.3d - 13
Cal. Daily Op. Serv. 8814 - 2013 Daily Journal D.A.R. 10, 711**

City filed eminent domain action to acquire land for truck route through light industrial land, and appraised the take as undevelopable agricultural land on theory that it would not approve any development unless landowners gave or dedicated truck route land to the city.

After bifurcation and court trial on legal issues, the Superior Court entered judgment for city regarding dedication issue. Following stipulated judgment as to appraisal, landowners appealed.

The Court of Appeal held that:

- Landowners had right to jury trial on issues of fact bearing on fair market value;
- Court could not consider city's promises of future concessions and assurances when considering whether taken area was roughly proportionate to parcel's potential traffic impacts;
- Dedication requirement was a free-standing requirement which was not attributable to the road construction project for purposes of statute prohibiting evidence of increase or decrease in value attributable to the project; and
- Testimony by city manager and engineer was expert testimony.

When condemned property would have to be dedicated as a condition of developing the larger parcel of which the condemned property is a part, the condemned property must be valued at its current use because it could never be used for any other purpose.

Owners of light industrial land had a right to a jury trial on certain factual issues bearing on the fair market value of their land which city took to establish truck route, including whether it was reasonably probable that city would require the take to be dedicated as a condition of developing the entire parcel, and whether the extent of the take was roughly proportionate to the entire parcel's impacts on traffic in the event the entire parcel was developed for light industrial uses.