

# **Bond Case Briefs**

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## **EMINENT DOMAIN - MISSOURI**

### **St. Louis County v. River Bend Estates Homeowners' Ass'n**

**Supreme Court of Missouri, En Banc - September 10, 2013 - S.W.3d - 2013 WL 4824030**

County filed condemnation petition, and court-appointed condemnation commissioners awarded damages to property owners. Owners filed exceptions to award and requested jury trial. After jury assessed damages for owners of \$1.3 million, the Circuit Court added \$650,000 for heritage value to jury's verdict. County appealed.

Holdings: The Supreme Court of Missouri held that:

- Parties' stipulation to the substance of nine unrecorded bench conferences eliminated any prejudice to county, and inaudible parts of trial transcript were not prejudicial to county;
- Heritage value statute was irrelevant to jury's task of determining fair market value of subject property, and, therefore, exclusion of evidence of heritage value statute from jury's consideration was proper;
- Purported statement by owner during hearing before condemnation commissioner, about amount for which he would have settled during negotiations with county, was not admissible at jury trial as a prior inconsistent statement or an admission against interest;
- Evidence regarding price that an owner of adjacent property received when, years after selling some of that property to real estate developer, he sold the portion of the property he had retained for his residence was inadmissible;
- Proposed opinion testimony by two city employees regarding effect that challenges to the development of subject property would have on its value was subject to the discovery rule regarding disclosure of expert testimony regarding facts known and opinions developed in anticipation of litigation;
- Substantial evidence supported jury's award of \$1.3 million as the fair market value of subject property; and
- Heritage value statute, requiring additional compensation of 50 percent of fair market value of property that has been owned by a family for 50 or more years, does not violate state constitution.

Heritage value statute did not violate constitutional prohibition against using public funds for a private benefit. Primary object of the expenditure in the statute was to compensate a class of persons whose property was acquired through eminent domain for the benefit of the public, and, therefore the compensation authorized by that statute was legal, notwithstanding that it also involved as, an incident, an expense that, standing alone, would not be lawful.