

Bond Case Briefs

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EMINENT DOMAIN - NEW JERSEY

100 Paterson Realty, LLC v. City of Hoboken

Superior Court of New Jersey, Appellate Division - November 6, 2013 - Not Reported in A.3d - 2013 WL 5925711

City engaged in a pattern of conduct that made it clear that it desired to purchase developer's property for use as parkland. This conduct included a number of property designations, negotiations, and reports which occasioned considerable uncertainty and delay, but none of which resulted in an actual rezoning of the property.

Developer finally concluded that the city's commitment to creating new parkland and the council's prior actions, evidenced to him the city's hostility to the plaintiff's development application, and therefore rendered fruitless any continued attempt to develop the property.

Developer sued, alleging that the city's actions deprived him of the property's beneficial use, thus resulting in an inverse condemnation for which just compensation must be paid. Alternatively, he sought just compensation for deprivation of beneficial use on the theory of a temporary taking.

The court found that, while the city's actions may have resulted in the plaintiff's inability to develop the projects he was proposing, they did not otherwise deprive him of the beneficial use of the property, as tenants continued to occupy the building.

The judge further determined that plaintiff was not deprived of the beneficial use of its property such that a de facto taking had occurred. With respect to plaintiff's argument that it should be compensated for temporary taking of the Property as a result of its application being tabled, the judge concluded that plaintiff had not been deprived of all of the beneficial use of the property, reasoning that the six or seven months involved were not significant.