

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

State v. Moore Outdoor Properties, L.P.

Court of Appeals of Texas, El Paso - November 13, 2013 - S.W.3d - 2013 WL 6002035

State filed a petition for condemnation of a parcel of land located along Interstate 30 in Fort Worth for a highway construction project. Moore Outdoor Properties, L.P., owned the land. A large billboard structure was located on the property. Arrington purchased the billboard structure, permit, and leasehold rights from Moore at a price of \$1,268,454.3 Moore retained ownership of the land underneath the billboard structure and Arrington leased the land for 99 years with an option to extend the lease for four 50 year periods.

Following a hearing, the Special Commissioners awarded \$334,194 jointly to Moore and Arrington for the total condemnation. Arrington counterclaimed for inverse condemnation for the State's taking of its leasehold property interests and sought to recover compensation.

The State responded that it is not required to compensate Arrington for the billboard structure because it is personal property, not real property, and that a sign permit does not create a property right, and therefore, it is not required to compensate Arrington for this interest.

Arlington argued that its interests in the sign permit, billboard structure, and leasehold form an intertwined property interest or aggregate asset which would be sold together in the market. It reasons that the combined "leasehold property interests" are compensable in a condemnation proceeding.

The jury found that the fair market value of Arrington's property interests on the date of the taking was \$969,243, which it awarded, and the appeals court affirmed.