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EMINENT DOMAIN - NEW YORK

Rose Park Place, Inc. v. State

Supreme Court, Appellate Division, Fourth Department, New York - May 2, 2014 - N.Y.S.2d - 2014 N.Y. Slip Op. 03070

Claimants commenced proceeding, seeking damages for diminished value of approximately 16 acres of what they characterized as “remaining land” following state’s taking of approximately 1.22 acres of land from what was their 17.3–acre parcel. Following trial, the Court of Claims entered judgment awarding claimants consequential damages with respect to what the court concluded was 12.835 acres of that parcel, which included 4.63 acres of land sold by claimants to a third party months before the taking of the 1.22 acres. State appealed.

The Supreme Court, Appellate Division held that consequential damages are unavailable relative to property that is sold prior to a planned taking and from which no land is ultimately appropriated.

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