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INVERSE CONDEMNATION - NEW MEXICO

Santa Fe Pacific Trust, Inc. v. City of Albuquerque

Court of Appeals of New Mexico - June 30, 2014 - P.3d - 2014 WL 3048175

Santa Fe Pacific Trust (SFPT) owned property in downtown Albuquerque, which two mayors targeted as a potential location for an events arena. Because of considerable publicity surrounding the proposed condemnation, which never came to fruition, and because of various concrete steps taken by the administration of the City of Albuquerque to see the arena project through, SFPT claimed that it lost potential sales and leases of the Property. It filed a complaint against the City asserting claims for inverse condemnation and deprivation of due process.

The Court of Appeals held that SFPT failed to demonstrate entitlement to an inverse condemnation claim under federal law, noting that mere fluctuations in value during the process of governmental decision-making are incidents of ownership that cannot be considered as a taking in the constitutional sense.

In addition, the Court adopted the *Jackovich* two-part inquiry for determining whether planning and publicity related to a potential condemnation establish a public entity's liability for inverse condemnation under state law.

In this case, the Court concluded that, while SFPT established the City's present concrete intention to condemn, SFPT failed to show that the City took any action that substantially interfered with the use and enjoyment of the property.