

# **Bond Case Briefs**

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## **EMINENT DOMAIN - ILLINOIS**

### **City of Chicago v. Eychaner**

**Appellate Court of Illinois, First District, Third Division - January 21, 2015 - N.E.3d - 2015 IL App (1st) 131833**

The City of Chicago exercised its power of eminent domain to take Fred Eychaner's property and transfer it to the Blommer Chocolate Company. Eychaner filed a traverse and motion to dismiss, challenging the taking as unconstitutional, which the trial court denied. After a trial on just compensation, a jury valued Eychaner's land at \$2.5 million.

Eychaner appealed, arguing: (i) the City may not use eminent domain to take property in a conservation area in the name of economic redevelopment; (ii) the trial court should have granted Eychaner's motion in limine to bar reference to the property's planned manufacturing district (PMD) zoning; (iii) the trial court erred in excluding evidence of how and why the City included Eychaner's land in the PMD because it was relevant to the issue of whether there was a reasonable probability of rezoning; (iv) the City should not have been allowed to add new appraisers that Eychaner had originally retained; (v) the trial court should have allowed appraiser Michael MaRous to testify regarding his opinion that there was a reasonable probability of rezoning; (vi) the trial court should have stricken MaRous's testimony for violating the court's in limine order when he identified Eychaner as his original employer; and (vii) the jury's \$2.5 million verdict was the result of a mistaken belief that there was no reasonable probability of rezoning.

The Appellate Court held that:

- Under long-standing precedent, the City may use eminent domain to take property in a conservation area to prevent future blight;
- The trial court erred in refusing to exclude reference to the land's PMD zoning (thus the Appellate Court declined to address the relevancy of how and why the PMD zoning came about);
- Eychaner was not prejudiced when the City chose to call witnesses he had formerly retained but had chosen not to call at trial;
- The trial court erred in limiting MaRous's testimony; and
- Because of the trial court's curative instruction, no prejudice arose from MaRous's identifying Eychaner as his original employer.

Accordingly, the court reversed and remanded for a new trial on just compensation.