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INVERSE CONDEMNATION - FLORIDA

Caribbean Condominium v. City of Flagler Beach

District Court of Appeal of Florida, Fifth District. - September 18, 2015 - So.3d - 2015 WL 5456819

In February 2010, Appellants filed suit against the City seeking relief under the Bert Harris Act. Appellants subsequently amended their complaint to include claims for inverse condemnation. In March 2012, the City filed a motion for summary judgment as to all claims. The City's motion was granted only as to the Bert Harris Act claims. The case proceeded to a non-jury trial on the inverse condemnation claims where the trial court ultimately entered judgment in favor of the City after determining that there had been no taking of Appellants' property. The trial court's judgment was affirmed in all respects.

While the appeal was pending, the City filed its motion for attorney's fees and costs. The trial court properly awarded the City attorney's fees for time expended in successfully defending Appellants' claims under the Bert Harris Act. The trial court further awarded the City its legal costs incurred from the inception of the lawsuit through May 18, 2012 — the date on which the trial court advised the parties of its intent to enter summary judgment on the Bert Harris Act claims. However, the trial court declined to award costs subsequently incurred by the City based on its conclusion that a governmental entity is not entitled to recover costs in an inverse condemnation action even where it is the prevailing party.

The District Court of Appeal affirmed the trial court's award of attorney's fees to the City. However, it found merit to the City's cross-appeal. Because the City was the prevailing party on Appellants' inverse condemnation claims, the court concluded that it was entitled to recover costs pursuant to section 57.041, Florida Statutes (2010).

District Court of Appeal holds that a governmental entity is entitled to recover costs in an inverse condemnation action where it is the prevailing party.