

Bond Case Briefs

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EMINENT DOMAIN - COLORADO

Regional Transportation District v. 750 West 48th Ave., LLC

Supreme Court of Colorado - September 14, 2015 - P.3d - 2015 WL 5315555 - 2015 CO 57

Regional Transportation District filed a petition in condemnation and acquired from landowner property for a light rail project. The District Court appointed a commission of freeholders to determine property's reasonable value. Property owner appealed pretrial and instructional rulings by trial court and certain evidentiary rulings of commission, and the Court of Appeals affirmed. Property owner petitioned for certiorari review, which was granted.

The Supreme Court of Colorado held that:

- Supervising judge's explicit denial of motion to exclude expert witness testimony on relevance grounds precluded commission from sustaining relevance objection at hearing and deeming the evidence inadmissible, and
- Supervising judge had power to instruct commission at end of hearing to disregard certain evidence which the commission had deemed relevant and admissible during the hearing.

Although a condemnation compensation commission may rule on evidence if the judge has not already done so, when a judge issues a definitive ruling on the admissibility of evidence, either on a motion or through instructions, the commission is bound to follow the judge's ruling.

Supervising judge's explicit denial, on relevance grounds, of property owner's motion in condemnation compensation proceeding to exclude expert witness testimony regarding the alternate average-value and income-based approaches to industrial property valuation precluded commission of freeholders from sustaining property owner's relevance objection at hearing and deeming the evidence inadmissible absent any request that the judge revisit her previous in limine ruling.