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EMINENT DOMAIN - FLORIDA

General Commercial Properties, Inc. v. State Dept. of Transp.

District Court of Appeal of Florida, Fourth District - October 14, 2015 - So.3d - 2015 WL 5948530

Department of Transportation (DOT) brought eminent domain proceedings against landowner. After final judgment was entered awarding an amount for the parcel, landowner sought attorney's fees based on the DOT's offer to purchase the land made seven years prior to initiating eminent domain proceedings at an amount significantly lower than the judgment amount. The Circuit Court awarded fees based on percentage of difference between final judgment and pre-suit offer made closer to commencement of eminent domain proceedings. Landowner appealed.

The District Court of Appeal held that attorney's fee would be calculated using the later offer.

Department of Transportation's offer to purchase landowner's property seven years before initiation of eminent domain proceedings was not the "first written offer" under eminent domain statute, which provides for an award of attorney's fees to a landowner based on a percentage of the difference between amount of final judgment and first written offer. The offer was made in an arms-length negotiation during department's early acquisition program before project was funded or plans were finalized and before department was certain landowner's property would be needed, and offer was extended on condition that it not be used to determine attorney's fees in a subsequent condemnation proceeding.