

Bond Case Briefs

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EMINENT DOMAIN - OKLAHOMA

State ex rel. Dept. of Transp. v. Caliber Development Co., LLC

Court of Civil Appeals of Oklahoma, Division No. 2 - January 5, 2016 - P.3d - 2016 WL 74793 - 2016 OK CIV APP 1

Department of Transportation sought condemnation of land for highway expansion, and landowner sought jury trial. The District Court entered judgment on jury verdict for landowner and awarded costs and attorney fees. Department appealed.

The Court of Civil Appeals held that:

- Slide-back appraisal theory relied on by state's expert conflicted with constitutionally specified manner for determining just compensation;
- Department was not entitled to a second continuance;
- Trial court could refuse to give Department's proposed instruction explaining that Department was required to pay amount of commissioners' award before it could take property; and
- Attorney fee award was not abuse of discretion.

Slide-back appraisal theory relied on by state's expert in concluding that highway expansion did not "take" property since valuable highway frontage or corners slid back to new location and just compensation depended on valuation of "backland" remaining after expansion conflicted with constitutionally specified manner for determining just compensation, since it was not limited to determining value of the property taken and did not offset any benefits to the landowner only against any injury to the property not taken.

Trial court in eminent domain case could refuse to give Department of Transportation's proposed instruction explaining that Department was required to pay amount of commissioners' award before it could take property. Court instructed jury to base valuation on conditions known as of date that Department paid commissioners' award and not on conjecture, speculation, or guesswork, and that instruction resolved Department's concern.

Attorney fee award to landowner was not abuse of discretion in eminent domain case resulting in jury award of double amount awarded by commissioners for highway expansion, despite 1200 hours of attorney time by six different attorneys. Continuance at request of Department of Transportation added to amount of fees, landowner needed to depose Department's expert three times because he was not fully prepared, and landowner did not cause the duplication of effort.