

# **Bond Case Briefs**

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## **EMINENT DOMAIN - CONNECTICUT**

### **Barton v. City of Norwalk**

**Appellate Court of Connecticut - February 23, 2016 - A.3d - 163 Conn.App. 190 - 2016 WL 597384**

Property owner brought action against city, alleging that city inversely condemned his building when it took the building's parking lot by eminent domain. The Superior Court entered judgment in favor of property owner. City appealed.

The Appellate Court held that:

- Property owner was not judicially estopped from asserting his position regarding valuation of property at issue;
- City's taking of parking lot resulted in the substantial destruction of owner's ability to use and enjoy the neighboring building, supporting claim of inverse condemnation, but
- Offer of compromise statute did not apply to authorize award of interest to owner.

Property owner who previously asserted in eminent domain proceedings that condemned parking lot should be valued according to its "highest and best use" as a mixed use development, and who had received just compensation for it on that basis, was not judicially estopped in subsequent inverse condemnation action involving a neighboring property from assuming that it was still a parking lot when he asserted the neighboring property's value prior to the taking. The positions were not clearly inconsistent or contradictory in the context of the two actions, and owner derived no unfair advantage.

City's taking of property owner's parking lot by eminent domain resulted in the substantial destruction of owner's ability to use and enjoy the neighboring building, thus supporting determination that city inversely condemned owner's building. 90 percent of owner's building was effectively unleaseable due to lack of parking, and building's value dropped from \$1.1 million to \$200,520, which expert testified could be lower than the value of the land if vacant and available for development.

Offer of compromise statute did not apply to authorize award of interest to property owner in his action against city, alleging that city inversely condemned his building when it took the building's parking lot by eminent domain, even though, after offering to settle claims in exchange for \$500,000 with interest, plus up to \$20,000, plus all necessary permits to use the property for its intended use as a mixed use retail/office building, owner actually recovered \$899,480 with interest and no permits. Even if owner could properly include nonmonetary demands in his offer of compromise, owner's recovery was different from, not equal to or greater than, his demand.