

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

Summerour v. City of Marietta

Court of Appeals of Georgia - July 8, 2016 - S.E.2d - 2016 WL 3675726

City filed a condemnation petition to acquire landowner's property. The court-appointed special master condemned the property and awarded landowner \$225,000.

Both parties filed appeals and special exceptions to the special master's return with the trial court. The trial court affirmed the special master's award. Landowner obtained a certificate of immediate review from the trial court and filed an application for interlocutory appeal.

The Court of Appeals held that:

- City's offers to landowner did not comply with summary requirement in eminent domain statute, and
- City ran afoul of eminent domain statute's directive that negotiations occur expeditiously.

City's offers to landowner did not comply with statute, requiring a condemning authority to establish an amount which it believed to be just compensation and to make a prompt offer to acquire the property for the full amount so established prior to initiation of negotiations. City's offers did no more than note that city had engaged real estate appraiser to conduct appraisal of landowner's property, current appraised value of the property, value of the business located on the property, total value of the property, and city's desire to purchase the property for the total value of the property identified in the offers.

Summary envisioned by statute, requiring condemning authority to provide landowner with summary of the basis for the amount it established as just compensation, requires, at a minimum, information sufficient, as part of the prompt offer required by statute, prior to the initiation of the negotiations, to provide the landowner with the ability to meaningfully evaluate the offer. Simply informing the landowner that the property has been appraised and that the amount offered is the appraised amount fails to convey the sum and substance of the basis of the offer.

City's offer to landowner, which contained a summary of the city's appraiser's report, complied with summary requirement in statute, requiring condemning authority to provide landowner with summary of the basis for the amount it established as just compensation.

Fact that condemning authority's summary to landowner was not provided until nearly four years into the parties' negotiations demonstrated that condemning authority ran afoul of eminent domain statute's directive that such negotiations occur expeditiously and bore on the issue of whether condemning authority acted in bad faith to compel an agreement on the price to be paid for the property, and as such, city did not comply with statute.