Bond Case Briefs

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EMINENT DOMAIN - CALIFORNIA

People ex rel. Department of Transportation v. Presidio Performing Arts Foundation

Court of Appeal, First District, Division 5, California - November 3, 2016 - Cal.Rptr.3d - 2016 WL 6554353

Department of Transportation (Caltrans) filed a lawsuit against performing arts foundation for declaratory relief regarding the value of its eminent domain claim. Foundation cross-complained for money due and owing.

The Superior Court entered judgment for Caltrans after bench trial. Foundation appealed.

The Court of Appeal held that:

- Foundation suffered a loss of "goodwill" from the taking of its lease, and
- Assuming foundation was required to quantify its loss of goodwill, it adequately did so.

Under the eminent domain business goodwill compensation statute, compensation for the loss of goodwill involves a two-step process: first, the court determines entitlement: that is, whether the party seeking compensation has presented sufficient evidence of causation, unavoidability, and no double recovery; and if the party meets this burden, the matter proceeds to a second step, in which a jury, unless waived, determines the amount of the loss.

Since the conditions set forth in the eminent domain business goodwill compensation statute all pertain to the "loss" of "goodwill," the initial obligation to establish entitlement to compensation requires a showing, as a threshold matter, that the business had goodwill to lose.

Nonprofit performing arts foundation suffered a loss of "goodwill" from the taking of its lease under the eminent domain business goodwill compensation statute, even though the foundation was not making a profit even before the taking, where the foundation's annual operating loss increased, the foundation was displaced to a new building with fewer structural advantages and less favorable lease terms, the taking imposed frequent and significant disruptions to the foundation's operations, which led to a loss of students, employees, donors, and awards, and the shortfall in expected cash flow after the taking could not be attributed to tangible assets or any factor other than a decline in goodwill.

Even assuming that a nonprofit performing arts foundation was required to quantify its loss of goodwill from the taking of its lease in the bench trial phase of the inquiry under the eminent domain business goodwill compensation statute, the foundation adequately did so in showing how much the foundation's annual operating loss increased, and showing that the shortfall in expected cash flow after the taking could not be attributed to tangible assets or any factor other than a decline in goodwill.