Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - HAWAII

County of Kaua'i v. Hanalei River Holdings Limited

Supreme Court of Hawai'i - May 16, 2017 - P.3d - 2017 WL 2121115

County brought condemnation action against owners of three parcels of land.

The Circuit Court granted county's motion to withdraw part of its deposit of estimated just compensation, granted county's motion for partial summary judgment on issue of severance damages later entered judgment on jury's finding of fair market value, and granted county's motion regarding proper amount of blight of summons damages.

Owners appealed. The Intermediate Court of Appeals affirmed in part. Owners' application for writ of certiorari was accepted.

The Supreme Court of Hawaii held that:

- One owner was not entitled to severance damages;
- Three unities involved in determining entitlement to severance damages are factors, not essential elements;
- County's deposit of estimated just compensation became conditional, for purposes of blight of summons damages, when one alleged owner waived all interests in deposit; and
- County was able to withdraw portion of its deposit of estimated just compensation.

Owner of parcel being condemned by county and of easement over separate area of land to operate boatyard was not entitled to severance damages in condemnation action; owner lacked unity of use, as owner's permits to operate boatyard were revoked year before condemnation action was instituted, physical unity was lacking, as parcel and easement were separated by other lots, and unity of title was lacking, as different individual owned area of land containing easement.

When determining whether a claimant is entitled to severance damages in a condemnation action, the three unities, which are the unity of title, physical unity, and unity of use, should be evaluated and weighed against one another as factors, and should not be viewed as essential elements; a lack of physical unity will not be dispositive of a claim for severance damages.

County's deposit of estimated just compensation became conditional, for purposes of calculating blight of summons damages, when county did not immediately agree to release funds after possible owner of parcels waived all interests in deposit and consented to disbursement of deposit to other two owners involved in condemnation action, rather than when deposit was initially made or when county objected to disbursement to just two owners; county did not enumerate any restrictions when deposit was initially made, possible owner had previously asserted that she owned involved property, and other two owners were entitled to withdraw funds when possible owner had waived her interest.

A deposit of estimated just compensation does not become conditional, for purposes of calculating blight of summons damages, when a condemning authority objects to a condemnee's motion to withdraw funds based on the fact that the condemnee's entitlement to such funds is not clear.

County was able to withdraw $1.03 million from its $5.89 million deposit of estimated just compensation in condemnation action against landowners, where county moved to withdraw funds before funds had been disbursed to landowners, county's motion was made in good faith, as it was based on updated appraisal that one landowner had impliedly requested by challenging county's initial appraisal as being stale, and landowners' burden of having their properties condemned was alleviated because they were able to withdraw $4.6 million prior to final determination of just compensation.

The court in an eminent domain proceeding has the discretion to permit a governmental entity to withdraw a portion of a deposit of estimated just compensation when the deposit has not been disbursed to the landowner, the government acted in good faith in seeking to adjust the estimate to accurately reflect the value of the property on the date of the summons, and the adjustment will not impair the substantial rights of any party in interest.