

Bond Case Briefs

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EMINENT DOMAIN - NEW JERSEY

Township of Manalapan v. Gentile

Supreme Court of New Jersey - June 2, 2020 - A.3d - 2020 WL 2844223

Township commenced condemnation proceedings. Township moved for judgment at the close of evidence. The Superior Court granted the motion in part, but allowed the question of fair market value to go to jury.

The Superior Court entered judgment on jury's verdict, awarding landowners \$4.5 million, and denied township's post-trial motions for judgment notwithstanding the verdict and for a new trial. Township appealed. The Superior Court, Appellate Division, affirmed, and township's petition for certification was granted.

The Supreme Court held that:

- Trial court erred by allowing jury to consider testimony that the highest and best use of the subject property would require zoning variance without first confirming probability of securing that variance, and
- Because there was no finding that zoning variance would likely be granted, jury should not have been permitted to evaluate property on any basis other than its highest and best use in accordance with current zoning ordinances.