

Bond Case Briefs

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EMINENT DOMAIN - ILLINOIS

City of Chicago v. Eychaner

Appellate Court of Illinois, First District, First Division - May 11, 2020 - N.E.3d - 2020 IL App (1st) 191053 - 2020 WL 2322731

City brought action to condemn landowner's property through eminent domain and landowner filed traverse and motion to dismiss, challenging constitutionality of the taking.

The Circuit Court, following jury trial, found that city could use eminent domain to take landowner's property and ordered just compensation, which was later affirmed on appeal but remanded for new trial on just compensation. On remand, the Circuit Court entered judgment based upon new jury award for just compensation, denied landowner's posttrial motion with regard to taking's constitutionality, and denied landowner's motion to reconsider original traverse motion. Landowner appealed.

The Appellate Court held that:

- Law-of-the-case doctrine bound Appellate Court to prior appellate decision regarding constitutionality of taking;
- Landowner did not meet timeliness elements required to grant motion for reconsideration;
- Appellate Court mandate did not prevent the Circuit Court from hearing motion for reconsideration before second trial commenced; and
- Landowner failed to demonstrate that newly discovered evidence would change outcome to warrant granting motion for reconsideration.

Landowner failed to demonstrate that newly discovered evidence of new zoning and financing circumstances of city's plan to redevelop would change outcome of constitutionality of taking of landowner's property to warrant granting motion for reconsideration of original traverse and motion to dismiss; city's tax increment finance redevelopment plan that Appellate Court relied on to affirm taking remained in effect at time motion to reconsider was filed, new zoning aspects of city's plan to allow broader economic redevelopment beyond strict industrial uses and tax increment plan together carried out city's purpose to promote economic revitalization in area, and area around landowner's property continued to qualify as conservation area that ran risk of blighting without intervention by city.