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EMINENT DOMAIN - MASSACHUSETTS

Cobble Hill Center LLC v. Somerville Redevelopment Authority

Supreme Judicial Court of Massachusetts, Suffolk - April 22, 2021 - N.E.3d - 2021 WL 1568753

Property owner filed action against urban redevelopment authority, alleging that authority's taking by eminent domain of owner's land for demonstration project was not valid taking under eminent domain statute and was unconstitutional.

The Superior Court Department granted judgment on the pleadings in favor of authority. Property owner appealed. Action was transferred from the Appeals Court.

The Supreme Judicial Court, in a matter of first impression, held that:

- Eminent domain statute furnished urban redevelopment authorities with the power to take property in furtherance of a demonstration projects;
- "Demonstration," for purpose of eminent domain statute authorizing taking in furtherance of demonstration projects, meant the testing or development of a different, new, or improved means or method of elimination of urban blight;
- Authority's taking of parcel was valid as demonstration project under eminent domain statute; and
- Exercise of eminent domain power for demonstration projects under Massachusetts eminent domain statute comported with Takings Clause.

The eminent domain statute furnishes urban redevelopment authorities with the power to take property by eminent domain in furtherance of a demonstration projects in order to prevent and eliminate slums and urban blight, independent of an urban renewal plan or urban renewal project.

"Demonstration," for purpose of eminent domain statute giving urban redevelopment authorities the power to take property by eminent domain in furtherance of demonstration projects, means the testing or development of a different, new, or improved means or method of accomplishing the statutory purpose of elimination of urban blight.

Urban redevelopment authority's plan for property owner's parcel qualified as "demonstration project," so that authority's taking of parcel was valid under eminent domain statute; plan was designed to serve as model innovative approach to community development that integrated a public safety complex with private development on a single site with nearby public transit in order to eliminate urban blight.

Urban redevelopment authority's exercise of eminent domain power for demonstration projects under Massachusetts eminent domain statute comports with Takings Clause requirements that taking must be for public purpose and the landowner must receive just compensation.

Fact that an urban redevelopment authority plans to use some of the property taken pursuant to eminent domain statute as a municipal building and plans to sell some of the property for

development does not negate the public purpose of taking, for purpose of compliance with Fifth Amendment Takings Clause.

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