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EMINENT DOMAIN - NEW YORK

Chynn v. County of Suffolk

Supreme Court, Appellate Division, Second Department, New York - April 20, 2022 - N.Y.S.3d - 2022 WL 1160930 - 2022 N.Y. Slip Op. 02541

Claimants brought actions seeking just compensation and direct damages for loss of oceanfront properties condemned by county as part of extensive project to reconstruct beaches and restore dune network on several barrier islands that were damaged during hurricane.

Following joint bench trial, the Supreme Court, Suffolk County, entered judgments awarding first claimant $1,750,000 and second claimant $1,830,000 as just compensation for the taking of real property. County appealed.

The Supreme Court, Appellate Division, held that:

- Upward adjustment of 3% to value of claimants' homes to account for changing market conditions was not warranted;
- Downward adjustment of 2% to market value of claimants' homes based on market conditions was not warranted; and
- Upward adjustment of 5% to market value of claimants' homes to account for condemnation blight was not warranted.

Upward adjustment of 3% per year to market value of claimants' homes to account for changing market conditions between date of the common comparable sale and vesting date was not warranted in condemnation proceeding seeking just compensation for claimants' loss of oceanfront properties condemned by county as part of extensive project to reconstruct beaches and restore dune network on several barrier islands that were damaged during hurricane, although claimants' expert appraiser testified that review of market conditions in the area showed that market had been increasing during relevant period; expert also testified that he did not have any data or other evidence to support proposed market conditions adjustment.

Downward adjustment of 2% to market value of claimants' homes based on market conditions was not warranted in condemnation proceeding brought by claimants seeking just compensation for loss of oceanfront properties condemned by county as part of extensive project to reconstruct beaches and restore dune network on several barrier islands that were damaged during hurricane; county's expert appraiser based determination that downward adjustment was warranted on sales survey created by real estate company, but there was no way to determine how mean and median values reported in survey were calculated, and there was no data to support expert's theory that the housing market in relevant area was similar to that in survey during relevant period.

Upward adjustment of 5% to market value of claimants' homes to account for condemnation blight was not warranted in condemnation proceeding seeking just compensation for claimants' loss of oceanfront properties condemned by county as part of extensive project to reconstruct beaches and restore dune network on several barrier islands that were damaged during hurricane; claimants failed to establish that any affirmative conduct by county unreasonably interfered with or further

depressed value of subject properties sufficient for condemnation blight theory to apply.

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