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EMINENT DOMAIN - OHIO

State Ex Rel. Ohio History Connection v. Moundbuilders Country Club Company

Supreme Court of Ohio - December 7, 2022 - N.E.3d - 2022 WL 17479895 - 2022-Ohio-4345

State-funded lessor of land containing prehistoric earthworks petitioned to appropriate a leasehold estate for creation of public park, and lessee counterclaimed for breach of lease/contract.

The Court of Common Pleas entered a decision and order granting lessor's petition to appropriate, and dismissing lessee's counterclaims. Lessee appealed. The Court of Appeals affirmed. Lessee sought discretionary review.

The Supreme Court held that:

- Objective standard governed question whether lessor provided written good-faith offer to purchase lessee's interest;
- Lessor complied with requirement that it provide written good-faith offer; and
- Lessee failed to rebut presumption that creation of public park constituted public use and that taking was necessary for such use.

Whether state-funded lessor of land containing prehistoric earthworks complied with requirement that it provide lessee a written good-faith offer to purchase lessee's interest before commencing appropriation action was governed by objective standard, inquiring whether lessor acted reasonably under the circumstances in addition to considering whether it acted honestly, which was consistent with dictionary definitions of "good faith" and "bad faith."

State-funded lessor of land containing prehistoric earthworks complied with requirement that it provide a written good-faith offer before commencing appropriation action by hiring two real-estate appraisal companies and submitting to lessee a written offer to purchase lessee's interest for amount not less than the highest quoted value, even though offer was based on misunderstanding on part of lessor's executive director with regard to what quoted value actually represented; it was not objectively unreasonable to obtain two appraisals, lessee made no claim that either appraiser was unqualified or untruthful, and no complex legal issue would have been reasonably apparent to director, since attorney ordered appraisals, and appraisers were told to provide value of leasehold interest.

Lessee of land containing prehistoric earthworks failed to rebut presumption that state-funded lessor's planned creation of public park constituted a public use and that taking of lessee's interest was necessary for such use; lessee's contention that government would not adequately preserve the site and that government merely wanted site to acquire international recognition called for speculation and artificially narrowed lessor's purpose, and decision to create public park on land at issue did not arbitrarily single out a parcel for different, less favorable treatment than neighboring ones, but instead park would help preserve and ensure perpetual public access to one of the most significant landmarks in Ohio.

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