

Bond Case Briefs

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EMINENT DOMAIN - PENNSYLVANIA

In re General Municipal Authority of City of Nanticoke

Commonwealth Court of Pennsylvania - March 27, 2023 - A.3d - 2023 WL 2637071

Condemnees brought separate preliminary objections to amended declarations of taking of their respective properties by city's general municipal authority, which declarations were for construction of multi-use building.

The Court of Common Pleas overruled condemnees' objections and, after condemnees filed notices of appeal, directed condemnees to file concise statements of errors. After trial judge's retirement, Tina Polachek Gartley, J., issued supporting opinion.

The Commonwealth Court held that:

- Provisions of the Municipality Authorities Act (MAA) allowing takings for partial public uses, uses not exclusively designated as public or non-public, and uses for industrial development did not facially violate federal or state constitutional protections;
- Trial court allowed amendment of declarations after condemnees brought preliminary objections, and thus, amended declarations were not improperly filed;
- Absent any prejudice resulting from listing of incorrect location for examination of minutes of meeting by authority authorizing declarations, declarations were validly authorized;
- Any inadequacy in description of condemnee's property in original declaration was rectified by amended declaration; but
- Remand was required for trial court to hold de novo hearing and to make findings of fact and conclusions of law.