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EMINENT DOMAIN - NORTH CAROLINA

Agapion v. United States

United States Court of Federal Claims - September 5, 2023 - Fed.Cl. - 2023 WL 5735895

Landowners filed rails-to-trails takings cases, under Fifth Amendment, claiming federal government's rail banking program, pursuant to National Trails System Act, effected taking of their property abutting and underlying portions of abandoned railroad line following Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU) to facilitate railroad's sale of its interest in easement to city as recreational trail sponsor through non-warranty deed for 3.1 mile stretch of railroad corridor.

After parties stipulated to landowners' fee ownership of encumbered property, three-day valuation bench trial was held on their request for $7,357,492.00 in damages plus interest, and landowners filed post-trial brief and motion for partial summary judgment as to applicable interest rate.

The Court of Federal Claims held that:

- Survey attached to non-warranty deed governed dimensions of city's new easement;
- Landowners were deprived of full use of property burdened by city's new easement;
- Expert's valuation methodology overcompensated landowners;
- Expert's appraisal review was not facially unreliable;
- Landowners were entitled to just compensation of $6,394,457.00; and
- Landowners were entitled to interest payments compounded annually.

Landowners' loss of their reversionary right to unencumbered fee ownership of property underlying railroad corridor easement fully deprived them of right to exclusive use of their property including right to maintain structures in easement that city obtained from railroad, facilitated by Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU) under National Trails System Act, and thus, owners' expert correctly based his valuation findings for just compensation for taking on owners' complete loss of legal rights to use property encumbered by city's new easement, since city had exclusive authority to dictate use of entire corridor for recreational trail, and STB had exclusive authority to dictate use of entire corridor for potential rail-line reactivation.

Landowners were entitled to just compensation of $6,394,457, rather than $7,357,492 that they requested, for taking effected by Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU) to facilitate railroad's transfer of abandoned railroad easement to city for recreational trail, under National Trails System Act, since owners' expert included cost to construct privacy wall into compensable damages total for each property, in order to ostensibly cure reduction in property's value attributable to loss in privacy from presence of easement, but inclusion of cost to cure would have overcompensated owners.

Landowners were entitled to interest payments compounded annually on their just compensation of $6,394,457 for taking effected by Surface Transportation Board's (STB) issuance of notice of interim trail use (NITU) to facilitate railroad's transfer of abandoned railroad easement to city for recreational trail, under National Trails System Act, since interest would account for delay between

time of taking and payment for taking.

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