
EMINENT DOMAIN - INDIANA

State v. Franciscan Alliance, Inc.

Court of Appeals of Indiana - November 28, 2023 - N.E.3d - 2023 WL 8226129

State brought condemnation proceeding to acquire landowner's 0.632-acres strip of undeveloped property, which was adjacent to neighbor's property used as a pharmacy, to transform a road into part of an interstate corridor.

The Superior Court entered a jury verdict that awarded landowner $680,000 and neighbor $1.5 million. State appealed.

The Court of Appeals held that:

- Landowner and neighbor were not entitled to damages for alleged inconvenience associated with traffic flow and increased travel distance;
- Neighbor was not entitled to award of attorney's fees; and
- Eminent domain statute providing for 8% prejudgment interest applied.

Landowner of 0.632-acres strip of undeveloped property and neighbor that owned adjacent property used as a pharmacy were not entitled to damages for alleged inconvenience associated with traffic flow and increased travel distance, in State's condemnation proceeding to acquire landowner's strip of property to transform a road into part of an interstate corridor; landowner and neighbor still had access to the new interstate, and though the construction project would have added approximately one to three miles of travel distance to reach their property, it was not severe enough to be considered an effective elimination of ingress and egress rights.

Neighbor that owned property used as a pharmacy, which was adjacent to landowner's 0.632-acres strip of undeveloped property, was not entitled to award of attorney's fees under statute providing that recovery of a defendant's litigation expenses, including reasonable attorney's fees was limited to when amount of damages awarded was greater than amount specified in plaintiff's last offer of settlement, in State's condemnation proceeding to acquire landowner's strip of property to transform a road into part of an interstate corridor; as only the value of landowner's strip was compensable, and it was solely owned by landowner, there were no longer any damages for neighbor to recover.

Eminent domain statute that provided for an 8% prejudgment interest, rather than general statute governing interest payments on final judgments that provided for a 6% prejudgment interest, applied in State's condemnation proceeding to acquire landowner's 0.632-acres strip of undeveloped property, which was adjacent to neighbor's property used as a pharmacy, to transform a road into part of an interstate corridor.

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