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EMINENT DOMAIN - HAWAII

City and County of Honolulu by and through Honolulu Authority for Rapid Transportation v. Victoria Ward, Limited

Supreme Court of Hawai'i - December 29, 2023 - P.3d - 2023 WL 9017006

Transportation authority filed complaint seeking to condemn approximately two acres within master planned community in order to construct portions of fixed rail system and rail station, and developer filed answer and complaint seeking to recover just compensation and severance damages for property interests taken or damaged.

After transportation authority obtained order of possession through quick-take procedure, numerous summary judgment motions were filed, and the Circuit Court largely granted the motions, but denied in part transportation authority's motion to strike two exhibits. Developer filed nine notices of appeal, and transportation authority filed single notice regarding five orders, and, following transfer to the Supreme Court, filed motion to dismiss developer's appeals for lack of subject matter jurisdiction.

The Supreme Court held that:

- Genuine issue of material fact as to whether "locally preferred alternative" in city ordinance established definite plans to build the station within master planned community precluded summary judgment on that issue;
- Genuine issue of material fact as to whether transportation authority forced developer to enclose a stairwell due to safety concerns precluded summary judgment on developer's claim for damages due to that structural modification;
- Genuine dispute of material fact as to whether master planned community developer presented a reasonable argument for a probable future use of property as condominium tower precluded summary judgment on developer's claim that highest and best use of property was for condominium tower;
- Supreme Court lacked jurisdiction to review transportation authority's cross-appeal of order denying motion to strike affidavit;
- Damages could include the "cost to cure," including building replacement parking spots to ameliorate the effects of the taking, only if that value was less than the diminution in fair market value of the property between the "before" condition and the "after" condition;
- Genuine issue of material fact as to whether master planned community development's parcels were sufficiently united such that developer could recover severance damages for one parcel based on taking of other parcel precluded summary judgment;
- Transit-oriented development overlay plan, which allowed greater development density in master planned community, was a special offsetting benefit, as opposed to a general benefit; and
- Court properly exercised its discretion when pausing the accrual of statutory interest, on money which transportation authority had deposited, for the duration of landowner's interlocutory appeals.

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