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EMINENT DOMAIN - NEW JERSEY

Township of Jackson v. Getzel Bee, LLC

Superior Court of New Jersey, Appellate Division - January 31, 2025 - A.3d - 2025 WL 350037

Township brought condemnation actions against two separate condemnees, seeking to use eminent domain powers to take condemnees' properties in order to carry out land-swap contract with developer, under which contract township would acquire land owned by developer to use as open space in exchange for land township already owned combined with condemned properties.

The Superior Court, Law Division, entered identical orders authorizing condemnation and appointing condemnation commissioners. Condemnees appealed, and their appeals were consolidated.

The Superior Court, Appellate Division held that:

- Condemnation of properties lacked public purpose required for valid exercise of eminent domain power under Eminent Domain Act;
- Prior action by homeowners association challenging validity of land-swap contract did not collaterally estop condemnees from challenging, under Act, township's condemnation;
- Land-swap contract between township and developer was invalid as to two properties owned by condemnees; and
- Remand to township for evidentiary hearing to address condemnees' challenge to condemnation of their properties was not warranted.

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