

MASSACHUSETTS Lawyers Weekly

JURY AWARDS LANDOWNER \$3,510,000 AFTER EMINENT DOMAIN TAKING

Action: Real property

Injuries alleged: Taking of land

Case name: BRK1, LLC v. MBTA

Court/case no: Bristol County Superior Court 1973-CV-00877

Jury and/or judge: Jury

Amount: \$3,510,000

Date: August 18, 2022

Attorneys: Peter E. Flynn and Jason R. Scopa
Law Offices of Peter E. Flynn, Saugus, MA (for the plaintiff).

Other information:

The plaintiff in this case bought a run-down, vacant industrial building in New Bedford in March of 2018 for \$2,100,000. Plaintiff hoped to convert and enlarge the building in order to build a self-storage facility, which is a use that is permitted by-right this New Bedford district. Efforts were made to obtain permits, but construction had not yet begun when the MBTA took the property in connection with the South Coast Rail Project.

The taking was made in June of 2019, only 15 months after the plaintiff bought the property for \$2,100,000. Payment for the taking was \$2,300,000. However, the plaintiff believed that it had acquired the property for lower than market value and that it was worth far more than what was paid to the prior owner. Over the plaintiff's objection, counsel for MBTA

was allowed to inform the jury of the purchase price paid by the plaintiffs only 15 months before the taking and have the deed marked as an exhibit. Despite that evidence being allowed, the jury awarded the plaintiff \$3,510,000 as the value on the date of the taking. An Agreement for Judgment was filed, and the plaintiff has been paid in full.