

Town takes parcel; owner sues for fair market value; \$880,000 settlement

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The plaintiff ran a marina and boat maintenance facility at the Belden Bly Bridge on Route 107 along the Saugus River. When a small parcel directly across the river became available in 2007, the plaintiff purchased the lot with the thought of developing it and/or putting it to use for storage and/or retail operations compatible with the marina. The property consisted of 21,557 square feet of land that abutted the river and was improved with a run-down retail building and storage area.

On June 8, 2018, in connection with a public project to replace the aging bridge, MassDOT made a total, fee simple taking of the property and tendered a pro tanto payment to the plaintiff for \$380,000. The plaintiff engaged counsel to file suit under G.L.c. 79, asserting that the compensation awarded by the agency was unjust and substantially below the fair market value of the property on the date of taking. A key piece of evidence favoring the plaintiff was the fact that, before the taking was made, the town of Saugus, in order to encourage more development, adopted a Waterfront Mixed Use Overlay District that arguably could benefit the value of the property.

A local real estate attorney and zoning expert was engaged by the plaintiff. He was prepared to testify as to the uses that would be available to the site under the new overlay district and the reasonable prospect of overcoming any obstacles to developing the property. With that backdrop, the plaintiff's expert real estate appraiser was expected to testify that the property's highest and best use at the time of the taking was a retail/commercial development or, perhaps, a residential development under G.L.c. 40B. It was the appraiser's expert opinion that the property's fair market value as of the date of taking was somewhere between \$750,000 and \$1 million.

After lengthy negotiations, the taking authority agreed to pay an additional \$500,000, which brought the plaintiff's total compensation to \$880,000. An agreement for judgment was filed by the parties, and the plaintiff was paid in full.

Action: Real property/eminent domain

Injuries alleged: Compensation for total taking below fair market value

Case name: SBC Properties, LLC v. MassDOT

Court/case no.: Essex Superior Court/No. 2177-CV-00440

Jury and/or judge: N/A (settled)

Amount: \$880,000

Most helpful expert: Richard M. Magnan of Saugus, lawyer

Date: Jan. 22, 2024

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