

MASSACHUSETTS Lawyers Weekly

Caption

City takes landowner's Land and Building Foundation to preserve open space and mitigate flooding in the Central Business district.

\$635,000 settlement

The landowner owned land and a partially demolished brick building abutting the North River Canal in a North Shore city. The city notified the owner of its intent to take the property by eminent domain for conservation and flood mitigation purposes.

The landowner retained counsel, who notified the taking authority of its intent to file suit to challenge the taking and/or failure to pay just compensation for the taking.

Negotiations between city officials and counsel for the plaintiff extended over several years agreed that the taking would be legal and a valid public purpose in connection with the city widening the canal to mitigate flooding and establish a walkway.

However, counsel for the owner disputed some of the market information initially supplied by the taking authority's real estate consultants. There was also a continuing dispute about access and highest and best use.

The parties kept lines of communications open and shared market data and title information regarding access each believed to be most indicative of highest and best use.

A fair settlement was finally reached with the city awarding the landowner \$635,000.

The taking was recorded at the Essex County Registry of Deeds. The property owner was made whole and paid. The city was able to avoid a protracted litigation and continue with its continuing and successful flood mitigation program.

Action: Real property value

Injuries alleged: Total taking by eminent domain

Case name: Withheld

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

Amount: \$635,000

Date: November 30, 2023

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