

MASSACHUSETTS Lawyers Weekly

LANDOWNER SETTLES EMINENT DOMAIN CASES – TWO TOTAL TAKINGS - \$7,200,000 SETTLEMENT

Action: Real property – Eminent Domain

Injuries alleged: Total takings

Case Name: Withheld

Court/case no: N/A

Jury and/or judges: N/A

Amount: \$7,200,000

Date: July 17, 2023

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

The landowner owned two vacant lots in a north shore city totaling approximately 80 acres. The City notified the owner of City's intent to take both parcels by eminent domain for conservation purposes and to avoid the possibility of hundreds of residential units being constructed in an area in which the City sought to preserve open space. Upon such notice, the landowner retained counsel, who notified the taking authority of its intent to file suit to challenge the takings and/or failure to pay just compensation for the takings.

Negotiations between city officials and counsel for the plaintiff were lengthy but not contentious. It was agreed that the taking was legal and for a valid public purpose in connection with the City's community preservation program. It was also agreed that City's procedures were compliant with M.G.L. c. 79. However, counsel for the owner disputed some of the market information initially applied by the taking authority's real estate appraiser. The parties kept lines of communications open and shared market data each believed to be most indicative of fair market value.

Negotiations continued for several months with engineering and development plans being provided to the City regarding the Highest and Best Use of the properties. A fair settlement was reached with the City awarding the landowner \$5,850,000 for one parcel and \$1,350,000 for the other and agreed total compensation of \$7,200,000. The takings were recorded at the Essex County South Registry of Deeds. The property owner was made whole and promptly paid. The City was able to avoid litigation and continue with its very successful open space preservation program.