

Bo Rodenbough Comments on Realtor Law in North Carolina Lawyers Weekly

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Brooks Pierce attorney Leigh “Bo” Rodenbough was recently quoted in North Carolina Lawyers Weekly regarding a statute that prevents real estate brokers from testifying about the “fair market value” of a property.

Under North Carolina law, if an attorney uses a licensed real estate broker as an expert witness, the broker may only provide testimony on property prices and comparative market analysis. A broker cannot provide testimony on the “fair market value” of a property; only a licensed appraiser can provide expert testimony on a property’s value.

The North Carolina Court of Appeals reinforced this law with a recent ruling. In 2013, North Carolina Department Of Transportation condemned part of a property owned by LAT Battleground Park LLC to begin construction of the Greensboro Urban Loop. LAT Battleground claimed that the \$276,000 NCDOT proposed to pay for the condemned property was \$3 million below its actual value. When sued by NCDOT for a determination of just compensation, LAT Battleground brought in a real estate broker to conduct an assessment.

The broker’s report that found that the \$15.34 million LAT Battleground property dropped in price by \$11.6 million after it was condemned by NCDOT – a difference of \$3.7 million. However, the broker repeatedly cited “fair market valuation” in the report, which prompted the trial judge to deny the use of the report in the trial.

Rodenbough, who is a real estate litigator with Brooks Pierce, stated that real estate brokers can provide useful testimony, so long as they avoid making statements about fair market value. He admitted that it can be a challenge to ensure that brokers don’t reach beyond their expertise when testifying.

“You have to carefully phrase your questions and make sure you and the witness are phrasing everything in terms of selling price rather than fair market value,” Rodenbough said. “The statute is very clear that real estate brokers cannot testify about fair market value. The best brokers are aware of that and will not answer questions that mention fair market value.”

North Carolina Lawyers Weekly subscribers can view the full article [here](#).

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