

Jury Awards Brooks Pierce's Clients Over \$6 Million in Condemnation Case

10.13.2012

Under the North Carolina and United States Constitutions, the state of North Carolina has the right to take private property for public purposes through the exercise of the power of "eminent domain". The state's Department of Transportation exercises that power virtually every day to take private land in order to build public highways. The catch is, the NCDOT must pay the property owner "fair market value" -- in the words of the Constitution, "just compensation" -- for the land taken. When the state and the property owner cannot agree on fair market value, the state has the power to take the property and does so by filing a lawsuit against the property owner. The only issue in that lawsuit is, what amount is the property owner entitled to receive as just compensation for the land taken by the state?

When the North Carolina Department of Transportation ("NCDOT") selected a route for the Wilmington/Highway 17 Bypass (Interstate 140) that ran the new highway through the center of land that had been in their family since the 1800s, Dr. Joseph Goodman and Margaret Goodman Shelton did not take the NCDOT's offer. Instead, they reached out for help to Jim Williams, Bob King and Brian McMillan of Brooks Pierce.

Joe Goodman and his sister Margaret Shelton owned a 391-acre tract of land in northern Brunswick County. After first selecting a route for the Highway 17 Bypass that would have placed it near but not on the Goodman property, the NCDOT changed the route and selected a new path for the highway that ran the Bypass through the center of the Goodman/Shelton property. The new highway consumed over 40 acres of the Goodman/Shelton tract and, in the view of Joe, Margaret and their lawyers, had a significant negative impact on the value of the remaining 350 acres. Joe and Margaret declined the NCDOT's offer to buy their land. In March 2010, the NCDOT filed a condemnation lawsuit in which it took the land.

The condemnation lawsuit went to trial on September 17, 2012, in Brunswick County. Joe and Margaret were represented at trial by Jim, Bob and Brian. Between the date of taking in March 2010 and the trial in 2012, the Brooks Pierce team identified and worked with a team of experts and consultants to prepare and present the property owners' case. Brooks Pierce utilized the services and expertise of: an acoustical consultant to address the impact of noise from the new highway on the development potential of the remainder; a civil engineer to evaluate and compare the development potential of the property "before the taking" and "after the taking", and to speak to the problems that the new highway created for any future buyer of the land; a local real estate developer to provide evidence of the problems that he had encountered in trying to develop

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nearby land adjacent to an interstate highway and to talk about the development potential of the Goodman/Shelton land, "before" and "after"; a real estate and development consultant to talk to the jury about the impact of highway proximity on the subject tract's potential for development; and a real estate appraiser to provide "before" and "after" opinions of the fair market value of the Goodman/Shelton tract.

The experts who testified for Joe Goodman and Margaret Shelton at trial expressed the opinion that the new highway had heavily damaged and thus significantly devalued the remaining 350 acres of land. The appraisers who testified at trial for the NCDOT expressed the opinions that the new highway had virtually no impact on the value of the remainder and that Joe and Margaret were entitled to between \$1,363,000 and \$1,482,100 in damages.

The jury in Brunswick County sided with Joe and Margaret -- and with Jim, Bob and Brian -- and awarded our clients \$6.3 million as "just compensation" for the land taken and for the damage to the remaining land.

PEOPLE

Robert King III

Brian McMillan