

6.11.2009

Seattle Washington Eminent Domain Attorney

## ***Spokane Airports Lose Eminent Domain Battle***

Any time eminent domain decisions come down from the Washington State Court of Appeals or Supreme Court it's interesting to take a look and discuss the outcome and how it might affect future eminent domain actions, both from a takings perspective and from a valuation (just compensation) perspective. It may be that it's just interesting to me because I'm a Washington eminent domain attorney. But that's okay since I'm the one that writes this blog!

This case starts out like almost every other Washington eminent domain case does, a (well supposed in this case) public entity wishes to procure some property for what it deems a public project and goes out and gets it, either through negotiating under the threat of condemnation or by instituting a condemnation action. Here, the Spokane Airport Board, a pseudo-agency created by the City of Spokane and Spokane County created to run the airport, decided to build a new airport tower. To comply with FAA regulations, they were informed they needed to create a line of sight that was currently obstructed by a number of buildings, some owned by Spokane Airways.

This is where it takes an interesting turn. After the City and County passed a resolution for eminent domain, the Airport Board took the property via eminent domain. An order of public use and necessity was signed, and an order of immediate possession was signed. RMA agreed to be out by March 20. While this was going on, RMA attempted to exercise some of the provisions of its lease with the Board, particularly one that provided they were to receive new space at the airport for their operation. The judge refused to dismiss these contract claims, so the Board tried to take the contract rights as a part of its eminent domain powers.

But the court said "uh-uh," finding that eminent domain only took the possessory interest granted by the lease, not all of the remaining underlying provisions (like what the Board had to do in the event eminent domain was necessary). The Board appealed to the Supreme Court, wherein RMA filed a supplemental brief arguing the Board doesn't have any authority to condemn, and the entire action should be dismissed.

The courts analysis, which is sound, found in favor of RMA. Eminent domain statutes are construed very strictly. Those statutes allow for the creation of joint ventures for cooperative action, but maintain that eminent domain actions must be made in the name of the governmental entity that granted the power to the joint venture (in the case, the Board). Because the actions were not brought in the name of the City and County, the Court of Appeals dismissed the action.

*Christopher Small is a Seattle eminent domain lawyer and Washington eminent domain lawyer emphasizing helping landowners get the full amount of just compensation they are entitled to. Having your property taken by the government is a trying experience, and it is important to have someone on your side with the knowledge, expertise, and experience to fight for your rights and recognize where the government has short changed you. Call us today for a free consultation.*

*Posted by CMS at 11:10 AM 0 comments*