

DISTRICT OF COLUMBIA COURT OF APPEALS

Greene v. District of Columbia

56 A.3d 1170 (D.C. 2012) · Decided December 6, 2012

SUMMARY

The District of Columbia Court of Appeals affirmed a judgment awarding Mary Rose Greene approximately \$1.85 million for the partial condemnation of her property in the Skyland Shopping Center revitalization project. The court held that severance damages may be screened by the trial court when reasonable minds could not differ regarding unity of use, and that reasonably foreseeable integrated use may support such damages. On the facts presented, Greene offered no evidence that the taken and untaken parcels had a reasonably foreseeable unity of use, and the trial court did not abuse its discretion in limiting her appraiser's testimony.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Easterly, Associate Judge; Beckwith; Easterly; Oberly
JURISDICTION	District of Columbia
DECIDED	December 6, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment entered after a jury trial determining just compensation for the District of Columbia's partial condemnation of Greene's property.
STANDARD OF REVIEW	The court reviewed the legal question concerning the trial court's authority to screen severance-damages claims de novo and reviewed limitations on the scope of expert testimony for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Mary Rose Greene v. District of Columbia

TOPICS

- eminent domain
- damages
- expert testimony
- evidence
- real estate

PRACTICE AREAS

- eminent domain
- real estate
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly acted as a gatekeeper and excluded evidence of severance damages because Greene lacked evidence of a reasonably foreseeable unity of use between the taken and untaken parcels.
2. Whether the trial court abused its discretion by limiting Greene's appraiser's testimony to valuation founded on completed comparable sales and excluding an additional comparable sale and alternative valuation methods.

HOLDINGS

1. A trial court may screen a severance-damages claim and exclude it as a matter of law when reasonable minds could not differ regarding the absence of the required unity of use. Unity of use is ordinarily a mixed question of law and fact for the jury, but the court may decide the issue when the material facts are undisputed.
2. Reasonably foreseeable integrated use between the taken and untaken parcels, rather than actual present integrated use alone, is sufficient to support a severance-damages claim if the integrated use would affect the remainder's current market value.
3. The trial court did not abuse its discretion by excluding an additional comparable sale that could have been discovered through due diligence and by excluding alternative valuation techniques that the expert admitted were not primary or stand-alone methods and did not alter his opinion.

KEY QUOTATIONS

"We adopt this rule for the District of Columbia." (56 A.3d at 1177-78)

"Thus, had Ms. Greene come forward with some evidence that District's taking deprived her of a reasonably foreseeable integrated use of her taken land with her untaken land, thereby diminishing the untaken land's current market value, Ms. Greene would have been entitled to present a claim of severance damages to the jury." (56 A.3d at 1179-80)

"Accordingly the trial court did not err in determining that Ms. Greene had no claim to severance damages as a matter of law." (56 A.3d at 1182)

FACTUAL BACKGROUND

Mary Rose Greene assembled approximately eight and a half acres of contiguous, wooded, undeveloped land near the Skyland Shopping Center. The District condemned approximately seven acres for a revitalization project, leaving Greene with approximately one and a half acres that included public-street access. Greene's litigation expert valued the taken property at \$9,561,000 using a development concept plan and sought additional compensation based on alleged severance damages to the untaken parcel. The jury accepted the District's appraiser's valuation of \$1,850,000.

PROCEDURAL HISTORY

The District filed a condemnation action in the Superior Court under D.C. Code § 16-1311. After extensive pretrial litigation concerning severance damages and expert valuation evidence, the Superior Court excluded severance-damages evidence and limited Greene's appraiser to testimony founded on four completed comparable sales. A jury valued the taken property at \$1,850,000, and the trial court entered judgment for that amount. Greene appealed.

DISPOSITION

affirmed

CASES CITED

- Anderson v. Abidoye, 824 A.2d 42, 44 (D.C. 2003)
- Duk Hea Oh v. National Capital Revitalization Corp., 7 A.3d 997, 1009-11 & n. 21 (D.C. 2010)
- Bauman v. Ross, 167 U.S. 548, 569, 574 (1897)
- Aaronson v. United States, 79 F.2d 139, 140 (D.C. Cir. 1935)
- Sharp v. United States, 191 U.S. 341, 352-54 (1903)
- United States v. 27.93 Acres of Land, 924 F.2d 506, 515-16 (3d Cir. 1991)
- Washington Metropolitan Area Transit Authority v. One Parcel of Land in Montgomery County, Maryland, 691 F.2d 702, 704-05 (4th Cir. 1982)
- Baetjer v. United States, 143 F.2d 391, 395 (1st Cir. 1944)
- United States v. Certain Land Situated in Detroit, 450 F.3d 205, 209 (6th Cir. 2006)
- Cole Investment Co. v. United States, 258 F.2d 203, 205-06 (9th Cir. 1958)
- City of San Diego v. Neumann, 6 Cal. 4th 738, 25 Cal. Rptr. 2d 480, 863 P.2d 725, 733, 737 (1993)
- City of Menlo Park v. Artino, 151 Cal. App. 2d 261, 311 P.2d 135, 142 (1957)
- District of Columbia v. Acme Reporting Co., 530 A.2d 708, 712 (D.C. 1987)
- United States v. Petty Motor Co., 327 U.S. 372, 377 (1946)
- Wagner v. Georgetown University Medical Center, 768 A.2d 546, 554 n. 9 (D.C. 2001)
- District of Columbia v. Helen Dwight Reid Educational Foundation, 766 A.2d 28, 33 n. 3 (D.C. 2001)
- Weiner v. Kneller, 557 A.2d 1306, 1311-12 (D.C. 1989)
- Stockard v. Moss, 706 A.2d 561, 566 (D.C. 1997)
- Franco v. District of Columbia, 39 A.3d 890, 893-94 (D.C. 2012)