

SUPREME COURT OF INDIANA

Wagler v. West Boggs Sewer District, Inc.

898 N.E.2d 815 (Ind. 2008) · No. 14S00-0710-CV-397 · Decided December 24, 2008

SUMMARY

The Indiana Supreme Court affirmed a trial court’s condemnation and appropriation order allowing West Boggs Sewer District to acquire sewer easements. The court held that Indiana Code provisions granting condemnation authority to public utilities could be harmonized with the general eminent-domain statute, and that the sewer district’s offers satisfied the statutory good-faith requirement because they were based on independent appraisals and used the required uniform form letter. The court also upheld consolidation of the condemnation actions and rejected the property owners’ due-process challenge.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Sullivan, Justice; Shepard, Chief Justice; Dickson, Justice; Boehm, Justice; Rucker, Justice
JURISDICTION	Indiana
DECIDED	December 24, 2008
DOCKET	14S00-0710-CV-397
DISPOSITION	affirmed
PROCEDURAL POSTURE	Property owners appealed trial-court orders condemning and appropriating land for sewer easements. The Court of Appeals stayed enforcement of the appropriation order and relieved the owners of the appeal-bond requirement. The Indiana Supreme Court accepted transfer, vacated those portions of the Court of Appeals' order, and affirmed the trial court's judgment on the merits.
STANDARD OF REVIEW	Consolidation is reviewed for manifest abuse of discretion. The court reviewed the statutory-authority and good-faith-offer issues under the applicable statutory-construction and legal-sufficiency standards; the opinion does not expressly state a separate standard of review for those issues.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential.

PARTIES

Randall and Marla Wagler, et al. v. West Boggs Sewer District, Inc.

TOPICS

eminent domain

statutory interpretation

summary judgment

civil procedure

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Indiana Code section 8-1-8-1(a) granted West Boggs condemnation authority despite the omission of private sewer and sewage-treatment entities from Indiana Code section 32-24-4-1(a).
2. Whether West Boggs made a good-faith offer as required by Indiana condemnation law when it first sought donations, then made offers based on independent appraisals using uniform form letters.
3. Whether the trial court properly consolidated the condemnation cases and granted summary judgment without violating the property owners' due-process rights.

HOLDINGS

1. West Boggs had statutory authority to condemn land for sewer easements because Indiana Code section 8-1-8-1(a) expressly grants condemnation authority to public utilities engaged in the collection, treatment, purification, and disposal of liquid and solid wastes. The omission of sewer purposes from Indiana Code section 32-24-4-1(a) did not prohibit that authority.
2. West Boggs made a good-faith offer as a matter of law because it based the offer on an independent appraisal and used the uniform form letter required by Indiana Code section 32-24-1-5(c). Its prior effort to obtain donated easements did not negate good faith, and the appraisal was not invalid merely because it did not account for every unique property characteristic.
3. The trial court properly consolidated the condemnation cases and did not violate the property owners' due-process rights by granting summary judgment after they failed to respond. The cases presented common questions of law and fact, and the owners had ample notice and multiple opportunities to respond.

KEY QUOTATIONS

“So long as two statutes can be read in harmony with one another, we presume that the Legislature intended for them both to have effect.” (818)

“To read the absence of additional authority in I.C. § 32-24-4-1 as a prohibition on the exercise of condemnation authority would require the Court to read a conflict into the two statutes rather than harmonizing them.” (819)

“Because West Boggs hired an independent appraiser and it used the appraisal in the Offer Letters prior to the commencement of condemnation proceedings, West Boggs's offer was in good faith as a matter of law.”

“As such, the Property Owners were not denied their due process rights. They had an opportunity to respond but did not do so.” (822)

FACTUAL BACKGROUND

West Boggs Sewer District obtained authority and environmental approval to construct a sanitary sewer system in rural areas of Daviess and Martin Counties. After unsuccessful efforts to obtain easements by donation, West Boggs hired an independent appraisal firm, valued the easements, and sent uniform offer letters based on the appraisals to owners who did not donate easements. West Boggs then filed condemnation proceedings, and the trial court granted summary judgment and ordered appropriation after the property owners failed to respond to the motions.

PROCEDURAL HISTORY

West Boggs initiated condemnation proceedings against property owners who had not accepted its easement offers. The trial court consolidated the related cases, granted summary judgment for West Boggs after the owners failed to respond, entered findings and orders of appropriation, and denied a stay pending appeal. A divided Court of Appeals stayed the appropriation order and waived the bond, but the Indiana Supreme Court assumed jurisdiction, vacated that action, and considered the merits of the remaining Wagler case. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Poehlman v. Feferman, 717 N.E.2d 578, 582 (Ind. 1999)
- Glick v. Department of Commerce, 180 Ind. App. 12, 387 N.E.2d 74, 78 (1979), trans. denied
- State v. Universal Outdoor, Inc., 880 N.E.2d 1188, 1191 (Ind. 2008)
- Board of Trustees of Indiana Public Employees' Retirement Fund v. Grannan, 578 N.E.2d 371, 375 (Ind. Ct. App. 1991), trans. denied
- Burd Management, LLC v. State, 831 N.E.2d 104, 108 (Ind. 2005)
- Unger v. Indiana & Michigan Electric Co., 420 N.E.2d 1250, 1260 (Ind. Ct. App. 1981), rehearing denied
- Lake County Parks and Recreation Board v. Indiana-American Water Co., Inc., 812 N.E.2d 1118, 1124 (Ind. Ct. App. 2004)
- Oxendine v. Public Service Co. of Indiana, Inc., 423 N.E.2d 612, 620 (Ind. Ct. App. 1980)
- Wampler v. Trustees of Indiana University, 241 Ind. 449, 172 N.E.2d 67, 71 (1961)
- Bodem v. Bancroft, 825 N.E.2d 380, 382 (Ind. Ct. App. 2005)