Administrative Office of the Courts

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Supreme Court orders city of Albuquerque property dispute back to trial court

SANTA FE – The state Supreme Court today ordered a district court to reconsider how much the city of Albuquerque must pay for condemning a strip of commercial property for a road construction project.

In a unanimous decision, the Court determined that a district court in 2015 wrongly dismissed an inverse condemnation claim brought by the property owner, SMP Properties, LLC, seeking compensation from the city for lost rental income on land used for freight truck terminals.

The Court concluded that there were unresolved factual issues in the case that should be decided at trial, including whether a city employee's actions before the actual condemnation damaged the value of the property and, if so, how that should be assessed for purposes of compensating the landowner.

The property owner contended that it lost rental payments because a trucking company, SAIA Motor Freight Line, terminated its lease after learning of the planned land condemnation from the city's right-of-way coordinator about a year before the property was acquired by the city. SMP was unaware of the condemnation plan until SAIA decided not to renew its lease and vacate the property in 2012.

The district court ordered the payment of $143,850 to SMP as compensation for the condemned property, but that did not reflect the loss of the SAIA lease. Through the condemnation proceeding, the city acquired a 30-foot-wide, 0.36-acre strip across SMP's property to connect an existing street to a new road along the North Diversion Channel.

Had SAIA remained on the property, the city's acquisition of the land would have required the trucking company to spend $50,000 to $60,000 to remove fuel tanks it had installed and the company would have lost the full use of four terminal doors it leased.

"If the termination of the SAIA lease was directly attributable to Albuquerque's precondemnation activity, it would be compensable even if Albuquerque did not actually follow

through with its partial physical taking in this case," the Court wrote in an opinion by Justice David K. Thomson.

The Court affirmed a decision by the Court of Appeals that the property dispute should return to the district court. However, the justices disagreed with the Court of Appeals on the method for assessing potential damages to SMP's property.

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To read the decision in *City of Albuquerque v. SMP Properties, LLC*, No. S-1-SC-37343, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/493371/index.do