

Court Orders Condemnor to Pay Property Owner \$1,503,916 for Legal and Appraisal Fees in Haverstraw Condemnation.

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VILLAGE OF HAVERSTRAW, ROCKLAND, NEW YORK, USA, June 9, 2022 /EINPresswire.com/ -- Court



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Michael Rikon

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Rockland County Supreme Court Justice Bruce E. Tolbert issued an Order on June 8, 2022 directing the Village of Haverstraw to pay \$1,503,916 to claimants for reimbursement of legal and appraisal fees. Matter of Village of Haverstraw (Ray River Co. Inc. and Haverstraw Riverfront, Inc.), Decision and Order Index No. 8853/07.

Ray River Company, Inc. and Haverstraw Riverfront, Inc.

retained Goldstein, Rikon, Rikon and Levi, P.C. to represent them in the condemnation of their waterfront vacant land in Haverstraw, New York.

The property was appraised by the condemnor at only \$1,190,000. Claimants utilized the professional services of a zoning expert, real estate appraiser and site planner. After a seven-day trial and subsequent appeal, the award to the former property owners was stipulated to be \$5,964,790 plus interest.

Justice Tolbert stated, "EDPL Section 701 has two prongs upon which it stands. The Court must decide whether the eminent domain award was substantially in excess of the Condemnor's proof. The second prong is whether the Court deems the award to be necessary in order for the Condemnee to achieve just and adequate compensation. The Statute has a base of equity, in that it seeks to ensure just compensation. See, General Crushed Stone Co. v. State of New York, 93 NY2d 25 (1999).

The Stipulated award in the case at bar was in the sum of \$5,964,790 plus interest. The advance

payment in 2007 was in the sum of \$1,190,000. The award indicates a substantial excess in the proof, in that the award was 401% above the advance payment. This Court finds that the first prong has been clearly established. See, Matter of Town of Islip (Sikora), 220 AD2d 434 (2d Dept 1995).

Turning to the second prong, this Court finds that an additional allowance is in fact necessary. This matter fulfills this prong, on its face, based upon the extensive motion practice, litigation and appellate practice that occurred. This was not a simple matter by any means, it was in fact burdensome, time consuming and protracted litigation.

Upon review of all the papers, this Court finds that the application of EDPL Section 701 in this matter is in fact appropriate. Clearly, this Court's use of its discretionary power is well within the authority as set forth by the statute and established by the facts provided herein. The discretion used by this Court is clearly grounded in equity. See, Hakes v State of New York, 81 NY2d 392 (1993). Claimant has provided this Court with substantial proof of additional allowances for actual and necessary costs. This Court is mindful that the statute gives this Court discretionary authority which can in fact be exercised. The statute is remedial in nature, See, Matter of City of New York, Douglaston Littleneck Branch Library, 160 AD2d 696 (2d Dept 1990). The EDPL empowers the Court to award an additional allowance of "reasonable" attorney, appraiser and engineer fees actually incurred by Claimant."

After discussing the amounts requested for the expert fees, the Court discussed the amount sought for legal fees. Justice Tolbert wrote, "Accordingly, the next fee amount requested is for Counsel Fees. This Court has reviewed the requested amount and all of the documentation submitted herein. The total amount sought herein in for the sum of amount for Counsel Fees, is in the sum of \$1,424,954.93. Although this fee represents a substantial amount of income, the Court is mindful of the extensive nature of the legal work, dating back to 2007, long before this Court was even involved. The pendency of this matter was protracted for many reasons, especially the seriousness of this matter. This Court grants the full amount of Counsel Fees requested in the sum of \$1,424,954.93."

Goldstein, Rikon, Rikon & Levi, P.C. is a law firm that limits its practice to eminent domain and condemnation law. Eminent domain refers to the sovereign's power to take private property for a public use, provided that just compensation is paid. The firm offers its clients the opportunity to retain counsel highly experienced in obtaining "just compensation."

Goldstein, Rikon, Rikon & Levi, P.C. is the New York Representative for Owners' Counsel of America. Owners' Counsel of America is a selective organization, having one representative in each state, that brings together the most experienced eminent domain trial lawyers in the country to create a network of professionals dedicated to assisting property owners through their shared resources and experiences. www.grrlpc.com (<http://www.grrlpc.com>)

Regarding Lower Court Decision, Reference Index #8853/07

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