



NY Appeals Court rules in favor of former property owners in Long Beach Superblock Condemnation

March 09, 2015 - Front Section

The New York State Appellate Division has upheld the State Supreme Court's 2012 determination that two former property owners within the Long Beach "Superblock" are owed \$5.5 million in additional compensation, as well as interest which to date has accrued to \$3.1 million, for their condemned properties based on the value of those parcels being part of a larger development.

In 2006, the City of Long Beach acquired, via condemnation, five undeveloped parcels of oceanfront property which had been owned by Louis Bombart and Steve Silverberg since the late 1970's. The properties are within the last remaining block of undeveloped oceanfront city land in New York State -- a 6-acre area known as the "Superblock".

"While the property owners paid taxes and insurance on these properties, development had continually been blocked for decades, first when the city cut off ingress and egress to these parcels in the 1980s and then by a construction moratorium on the Superblock site in the 1990s," said Mark Mulholland, of Ruskin Moscou Faltischek (Uniondale, NY).

"Throughout the years there had been numerous private Superblock proposals that were based on the assemblage of properties, and in fact the City of Long Beach itself had solicited proposals for Superblock development as a single site," Mulholland noted. "The Supreme Court, and ultimately the Appellate Division, concurred with our argument that the highest and best use of these parcels should be determined as part of an assembled site."

In its decision, the Appellate Division recognized the property owners' argument that "...a claimant is entitled to the fair market value of its property for its highest and best use even though that use is in connection with adjoining properties, provided there is a reasonable probability that the condemned property would be combined with other tracts in the reasonably near future." (Matter of Metropolitan Transp. Auth., 86AD3d 314, 320, quoting *Olson v United States*, 292 US 246, 256).

In 2012 the Supreme Court ordered an additional \$5.5 million to be paid to the former owners on top of the initial \$3 million advance payment, as well interest which continues to accrue at 6%; this decision was upheld by the Appellate Division January 14, 2015. With the award of legal fees, the former property owners are now owed more than \$10 million from the City of Long Beach.

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