

CONDEMNATION, EMINENT DOMAIN AND LANDOWNER RIGHTS

The taking of private property by a governmental entity or public utility for public use – commonly referred to as eminent domain or condemnation – is a unique legal proceeding which often pits the power and prowess of the state and federal agencies, public authorities, cities and utilities against landowners in a battle that often seems difficult to win.

Joseph H. Bocoock of Bocoock Law PLLC has a proven track record – both at the negotiation table and in the courtroom – of protecting the rights of commercial and private landowners and maximizing the “just compensation” due to them under the law. Joe Bocoock has been honored for his work in the field of eminent domain and condemnation law by the publishers of *The Best Lawyers in America* and holds the distinction of being selected by *Best Lawyers* as the “Oklahoma City Eminent Domain and Condemnation Lawyer of the Year” for 2014 and 2018.

BOCOOCK’S ROLE IN MAXIMIZING “JUST COMPENSATION”

Bocoock’s clients are typically businesses, large groups of landowners, individuals and families who own raw land being held for development, farm and ranch land, manufacturing facilities, office buildings and shopping centers and who face condemnation proceedings by such entities as departments of transportation, turnpike authorities, state and municipal governments, utility companies, rural water districts, and schools and universities.

Bocoock also assists landowners in obtaining compensation for damages to the value of their commercial land or other property caused by the actions of a governmental entity or utility through the process of inverse condemnation.

While some threats of condemnation can be challenged on the basis of valid public use or necessity, the vast majority of condemnation cases focus on the issue of just compensation due the landowner. Bocoock works closely with clients, landowner groups, appraisers, real estate agents, engineers, location and development professionals, and other experts to thoroughly assess the value of property taken as well as injury or damages to the remaining property. Bocoock is well-versed in the various techniques used by condemning authorities to get landowners to settle for a lower amount, and knows how to successfully anticipate and counter those moves. Bocoock’s approach involves counseling clients throughout every possible phase of the condemnation process, advising them of their options and opportunities for maximizing their monetary recovery and non-monetary benefits every step of the way.

Bocoock first attempts to reach an agreement with the acquisition service that makes initial contact with the landowner to purchase the land and access rights. Few landowners are familiar with the dynamics of that process and understand what can and what cannot be realistically accomplished depending on the kind of “take” that is required.

If early negotiations fail and a condemnation action is filed, Bocoock then guides clients through the complex Commissioners' Award process whereby three commissioners are appointed to inspect the property, assess the just compensation for the taking based on instructions from the court, and then render an award. The amount of that award is important for two reasons. First, the landowner is entitled to immediately be paid the award even if he decides to contest the amount at a later jury trial. Second, if the subsequent jury verdict exceeds the award by 10% or more, the landowner is also entitled to be paid a reasonable attorney's fee, expert appraisal fee and expert engineering fee. The jury will never know the amount of the commissioners' award under any circumstances, and it is irrelevant in the determination of value. There are strict rules about communications with the commissioners and sometimes complicated issues concerning the instructions given to them.

Prior to a jury trial to determine the fair value of the loss, extensive discovery is often needed in conjunction with the careful, thorough preparation of a case. This process typically employs engineers and leading Members of the Appraisal Institute to carefully and cogently explain to a jury the true value of the land taken and how the taking adversely impacts the use of the remaining land not taken. Often, this explanation involves adverse impacts to an operating business and employs state-of-the-art graphics and photographic technology to hammer home the truth. Bocoock has an undefeated track record in securing decisive verdicts well in excess of commissioners' awards.

The representation of landowners in eminent domain proceedings requires Bocoock to battle powerful government entities and utilities with seemingly limitless resources for lawyers and experts. Subject opponents such as the Oklahoma Department of Transportation, Oklahoma Turnpike Authority, and public utility companies are worthy adversaries often fighting you with your tax dollars, turnpike fees or utility payments.

NAVIGATING THE CONDEMNATION PROCESS

Throughout this process, Bocoock uses his expertise to help guide landowners and business owners through an ever-changing maze of legal issues as the niche area of condemnation law continues to evolve. He is often asked such questions as:

1. Do they have a right to take my land?
2. Who should be my first contact in the condemnation process?
3. What kinds of property are threatened by eminent domain?
4. Should I settle my condemnation dispute?
5. Can I be compensated for damage caused to the remaining part of my land?
6. What is the role of the commissioners?
7. Who will pay my legal and other expenses?

8. Do I have a right to a trial?
9. What creative solutions can avoid a trial and maximize my compensation?
10. What resources are available to protect my rights?
11. Am I entitled to relocation benefits?

ADDITIONAL RESOURCES FOR LANDOWNERS

Bocock is proud of his record of success in representing landowners in condemnation and eminent domain disputes. For a representative listing of landowner lawsuits he has handled throughout Oklahoma, go to the “Downloads” section of this website and click on “Condemnation_ED Cases.”

Also, see the “Downloads” section of this website for a City of Oklahoma City memorandum entitled “Condemnation of Private Property for Redevelopment.”