



November Case Law Update November 30, 2019

A summary of court opinions decided during the month of November affecting planning in Wisconsin¹

Wisconsin Supreme Court Opinions

[No planning-related cases to report.]

Wisconsin Court of Appeals Opinions

Transparency Required in the Condemnation Process

[Christus Lutheran Church of Appleton v. Wisconsin Department of Transportation](#) involved a challenge to the jurisdictional offer made by the Wisconsin Department of Transportation (WisDOT) in an attempt to condemn a portion of Christus Lutheran's property located in Greenville in Outagamie County for an expansion of State Highway 51. WisDOT offered \$403,200 for the property which was \$270,000 more than the appraised value of the property. The appraisal prepared by a consultant for WisDOT concluded that no severance damages would occur as a result of the project. WisDOT officials, however, determined the acquisition involved additional impacts including severance damages and determined that the higher offer was warranted.

Christus Lutheran filed the present action arguing that WisDOT's jurisdictional offer failed to follow statutory requirements. Wisconsin's eminent domain statutes require that the jurisdictional offer must be based on an appraisal of "all property to be acquired." Wis. Stat. § 32.05(2)(a). WisDOT's jurisdictional offer included compensation for severance damages but the appraisal concluded that no severance damages would occur. Upon review, the Wisconsin Court of Appeals held that the appraisal failed to satisfy the "all property" requirement and as a result WisDOT's jurisdictional offer was invalid.

In the decision, the Court recognizes that the eminent domain statutes "endeavor to provide the property owner with transparency regarding the condemnation process." If WisDOT, based on its review of an appraisal, believes additional statutory items of just compensation warrant inclusion in the jurisdictional offer, it must obtain a new appraisal that substantiates that belief and provides an opinion as to the value of those interests.

The case is recommended for publication in the official reports.

U.S. Court of Appeals for the 7th Circuit Opinions

[No planning-related cases to report.]

¹ Previous Case Law Updates are available at:
<https://wisconsin.planning.org/policy-and-advocacy/law-updates/case-law-updates/>