

Eminent Domain 2011: Essential Updates and Issues

TOPICS TO BE COVERED:

- **Anda and Stigma Value:** In *Anda*, the Minnesota Supreme Court was faced with how to value property determined to be contaminated after the government took possession. The Court considered three important questions: (1) the proper date of valuation in a quick-take proceeding, (2) what evidence of contamination is admissible in a condemnation proceeding, and (3) whether a condition, such as contamination, that exists on the date of the taking but is not discovered until afterwards can be considered in valuing the taken property. We will discuss the Court's answer to these important questions.
- **DeCook and Regulatory Taking Update:** In *DeCook* (decision pending) the Minnesota Supreme Court was asked to determine whether the restrictions arising from airport safety zones amount to constitutional taking or damage of private property requiring just compensation. We will discuss how the case was framed and provide analysis.
- **Award of Attorney's Fees:** As part of the 2006 legislative amendments, an award of attorney's fees and costs can be permissive or mandatory if certain thresholds are met. But questions remain about the limits, if any, to fees that can be recovered. We will discuss how district courts are dealing with the issues.
- **Construction Interference:** One of the hottest areas of eminent domain is compensation for construction interference. Competing thoughts will be offered on when a landowner is entitled to such severance damages and how damages should be calculated.
- **Minimum Compensation:** As part of the 2006 amendments, the legislature set a level of "minimum compensation" for a landowner that must be relocated. Five years later, there is little guidance on what the statutes require. We will explore competing views on what minimum compensation means and how it should be calculated.
- **Business Fixtures:** For commercial clients, how to properly value and recover compensation for business fixtures can make the difference between being made whole and bearing the cost of a public project. The panel will explore the law on compensation for business fixtures and what an appraiser needs to properly value those fixtures separate from the real estate.
- **Valuation Testimony:** One of the critical aspects of an eminent domain action is the testimony of the appraiser. A well prepared appraiser witness is a key to maximizing your client's recovery. This section covers how to make sure your appraisal witness is fully prepared when taking the stand.
- **The Before and After Rule:** We will explore the competing policies behind the often litigated application of the rule, how the rule is and should be applied, and how the scope of the rule is expanding.



Friday, May 6

8:30 a.m. to 4:00 p.m., HCBA office.

600 Nicollet Mall, #390, Minneapolis, 55402.

6.0 CLE credits applied for.

FEATURING:

- Michael Mergens, Course Chair, *Larkin Hoffman Daly & Lindgren, Ltd.*
- Stuart Alger, *Leonard Street and Deinard PA*
- Ginny Bell, *Maslon Edelman Borman & Brand LLP*
- Leland Frankman, *Leland J. Frankman Law Office*
- Corrine Heine, *Kennedy & Graven, Chartered*
- Kirk Kleckner, *ValuationUSA*
- Marc Manderscheid, *Briggs and Morgan PA*
- Monte Mills, *Greene Espel PLLP*
- Jon Morphew, *Schnitker & Associates PA*
- Mike Ring, *Assistant Dakota County Attorney*
- Louis Robards, *Assistant Hennepin County Attorney*
- Dan Rosen, *Parker Rosen LLC*
- Howard Roston, *Malkerson Gunn Martin LLP*
- Kirk Schnitker, *Schnitker & Associates PA*
- Gary Van Cleve, *Larkin Hoffman Daly & Lindgren Ltd.*



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