

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
(804) 786-2259

Granted Appeal Summary

Case

496 ELDEN STREET, LLC v. COMMISSIONER OF HIGHWAYS
(Record Number 250143)

From

The Court of Appeals of Virginia.

Counsel

J. Chapman Petersen and Federico J. Zablah (Chap Petersen & Associates, PLC), and Henry E. Howell, III and Benjamin L. Perdue (the Eminent Domain Litigation Group, P.L.C.) for appellant.

Nancy C. Auth and Scott W. Carpenter (Office of the Attorney General) for appellee.

Assignments of Error

1. The Court of Appeals erred in finding that no binding settlement existed between the parties because (1) the parties had agreed on just compensation is the only relevant material term for settlement in condemnation cases and (2) the *method of payment* to the landowner is not a material term, as a matter of law, due to the enactment of Virginia Code § 25.1-247.1. Opinion at 8-9; Appellee's Brief (0710- 23-4) at 11-22.
2. The Court of Appeals erred in finding the assignments of errors asserted by 496 Elden Street LLC in the Record on Appeal, e.g. the refusal to grant attorney fees to landowner, are not yet ripe for appellate review. Opinion at 8-9.
3. The Court of Appeals erred in failing to review and reverse the Circuit Court's finding that the 2022 Amendments to Va. Code § 25.1-247.1, did not apply to the Settlement reached by the Parties in October 2022, when the Amendments were procedural and remedial in nature and the awarding of such relief was not discretionary but mandatory. Record (hereafter "R.") at 1623 - 1636; 1893-1897; 2120-2125; 2129-2132; 2195-2206; Opinion at 8-9; Appellee's Brief (0734-23-4) at 7-14.
4. The Court of Appeals erred in failing to review and reverse the Circuit Court denying 496 Elden Street LLC's request for attorneys' fees and interest on the settlement amount from the date of settlement, as required under Va. Code § 25.1- 247.1. R. at 1623-1636; 1893-1897; 2120-2125; 2129-2132; 2195-2206; Opinion at 8-9; Appellee's Brief (0734-23-4) at 14-17.