



CASE COMMENT

Camp Development Corporation v. GVTA, 2009 BCSC 819

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On June 19, 2009, the BC Supreme Court ruled on an application by Camp Development Corporation ("Camp") for leave to amend its pleadings in respect of a challenge to the expropriation of its lands by the Greater Vancouver Transportation Authority (the "GVTA"). Eighty-nine acres of Camp's lands were expropriated by the GVTA in June 2005 in connection with the Golden Ears Bridge transportation project.

At issue in this case were two sets of amendments to Camp's statement of claim. The first set of amendments dealt with questions of the validity of the expropriation. The second set of amendments sought a return of part of the expropriated lands on the basis that there had been an unlawful disposal of the lands contrary to section 21 of the *Expropriation Act* (the "Act").

The Court refused to permit the first set of amendments to Camp's pleadings because they were statute-barred pursuant to section 51 of the Act, which provides that legal proceedings to challenge the validity of an expropriation cannot not be brought after land vests.

The second set of amendments are more interesting for the purposes of this discussion, as those amendments sought a return of part of the expropriated lands on the basis that there had been an unlawful disposal of the lands contrary to section 21 of the Act.

Section 21 of the Act provides that if, within two years after filing a vesting notice, the expropriating authority determines that the land is no longer required for its purposes, the authority must not, without the approval of the approving authority, dispose of the land without first offering it to the owner from whom the land was taken. Based on section 21, Camp alleges that the GVTA had a statutory duty to offer to sell the excess land back to Camp and the GVTA breached that duty by failing to do so. Interestingly, the Court permitted this second set of amendments to Camp's pleadings, notwithstanding that the GVTA did not actually "dispose" of the excess lands in the traditional sense of the term.

Therefore, at trial, the BC Supreme Court will examine the scope of the meaning of "dispose" under section 21 and whether the obligations under section 21 are triggered when lands expropriated are disposed to the expropriating authority itself or are not used in connection with the purpose for which they were originally taken.

Because this case deals only with the amendments to Camp's pleadings, it is silent as to the timing of alleged disposition. Depending on when this disposition is alleged to have occurred, the Court may also have to examine whether, after two years from vesting, an expropriating authority is at liberty to dispose of land without first offering the lands to the former owner.

Stay tuned...