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San Benito COG versus Hollister Inn

In this installment of Footsteps we'll consider a court case from the Coastal Mountains of Central California, not far from my home in Stockton. The court case is related to a dispute over an access easement that was removed as part of a highway improvement project. It raises some interesting issues about the power of eminent domain and public policy related to transportation infrastructure.

Before we consider the legal issues discussed in the case, let's get some background and review the timeline of events.

Background

The dispute in this case is between San Benito COG (Council of Governments) and Hollister Inn. The San Benito COG is made up of the County of San Benito, the City of Hollister, and the City of San Juan Bautista. San Benito COG engaged in a project to improve Highway 25. The engineering design for the improvements required that San Benito COG acquire a portion of the Roberts Family parcel. The portion of the parcel to be acquired was encumbered by an access easement that connected Hollister Inn to Highway 25. As part of the project this easement would be terminated, and an alternative access from the Inn to Highway 25 would not be provided.

Timeline

November 25, 1982: The Roberts Family grants Hollister Inn an access easement over its parcel. This access easement connects the Hollister Inn parcel with Highway 25.



Map of parcels.

????: San Benito COG gives Hollister Inn and the Roberts Family notice that it would consider a resolution to condemn a portion of the Roberts Family parcel on its February 16, 2006 meeting.

February 16, 2006: At the San Benito COG meeting Hollister Inn argues that the engineering design for the project will harm its business by closing its main access to Highway 25. Plans showing an alternate easement for Hollister Inn haven't been updated by the project design team. At the meeting San Benito COG responds that the existing easement wouldn't be allowed to remain and that it won't provide an alternate access to Highway 25 over the Roberts Family property.

March 7, 2006: San Benito COG passes a resolution to condemn

the Roberts Family property and to terminate Hollister Inn's access easement.

March 10, 2006: San Benito COG files to take the property and easement by eminent domain in San Benito County Superior Court.

March 15, 2006: The San Benito County Superior Court rules in favor of San Benito COG, giving it permission to take possession of the Roberts Family property and to extinguish the Hollister Inn access easement.

January 1, 2011: The trial court issues its decision, ruling that San Benito COG abused its authority when it extinguished the access easement. It awards Hollister Inn \$223,750.00.

Legal Questions

Although four legal questions were raised on appeal, the appeals court answers only the first two. These two questions are:

1. Did San Benito COG abuse its authority by failing to adopt or even consider an alternative design that would allow Hollister Inn to keep its access to Highway 25, even if this access was in a different location?
2. Did San Benito COG have the ability to condemn an access easement over the Roberts Family parcel for the benefit of Hollister Inn?

Let's examine the appeals court answer to both of these questions.

The Court's Decision

The San Benito COG argued it didn't have the authority under California's eminent domain laws to acquire a new access easement over Highway 25 for Hollister Inn. The trial court disagreed. It determined that San Benito COG did have the authority to do this, and that it failed to do so. This was an abuse of its authority, so the trial court awarded Hollister Inn damages.

The appeals court disagreed with the trial court in this case. After a careful consideration of California's eminent domain laws, which is included in the full court decision, the appeals court ruled that San Benito COG didn't have the authority to condemn a new access easement for Hollister Inn. Why did the appeals court reach this decision?

California law doesn't allow private property to be condemned by the government for another private party. The appeals court ruled that California law would allow San Benito COG to acquire an easement for the Inn if Highway 25 was the only public road it had access to. However, the Hollister Inn parcel was connected to another public road. This was the deciding factor in the appeals court decision. Because it had access to another public road, COG was not required, and didn't have the authority under the law, to acquire an alternative easement connecting the Inn to Highway 25 by condemnation.

Because San Benito COG couldn't condemn an access easement for Hollister Inn, the appeals court determined that San Benito COG didn't abuse its authority when it failed to do so.

Lessons

What lessons can we learn from this court decision?

- Eminent domain is a messy process. It is much better for public agencies to stay out of court if they can.
- Access to a *single* public road is available under the law in some circumstances, but it may not be the public road preferred by the land owner.
- Eminent domain laws may limit the ability of a public agency to acquire private property for another private party, even if the acquisition is related to a public works project.

avoided unnecessary harm to a local tax-paying business.

This leads us to ask some interesting questions:

- At what point during the project was a land surveyor brought in to consult on the right-of-way design issues?
- How soon was the access easement identified and raised as an issue by the design team?
- Is it possible San Benito COG didn't pursue an alternative because the project engineering design was already too far along when the access easement was found or

“If you abuse that trust that allows government to condemn land, the public will respond by further curtailing the ability of local government to acquire property for the public good.”

- The court in this case was reluctant to bring too much scrutiny to San Benito COG's decision to terminate the easement. This indicates the level of trust and authority the public has placed in local governments to condemn property.

Good Law, Bad Right-of-Way Design and Acquisition Management

I think the appeals court made a good decision in this case. It carefully considered what was allowed under the eminent domain laws of California, and enforced these limitations in this case.

Having said that, I think this case stinks. I don't have all the background or details of the project, but it seems from reading the court decision that San Benito COG could have worked out the issues related to Hollister Inn's access to Highway 25 as part of the right-of-way design for this project. Had it done that successfully it would have stayed out of court and saved the tax payers money on litigation. In addition, it could have

identified as an important issue?

- Did the project planning and right-of-way design phases of the project identify impacts to local businesses? Why weren't the impacts to Hollister Inn addressed more carefully?

I understand it is sometimes necessary to condemn property for a public infrastructure project. But that power should be used rarely, and only when other options have been exhausted by the public agency. It doesn't seem like San Benito COG made a good use of its public trust in this case. If you abuse that trust enough, the public will respond by further curtailing the ability of local government to acquire property for the public good. All citizens lose in that scenario.

Note: You can visit the *Footsteps* Boundary Surveying blog to read a short discussion on the eminent domain authority given to local governments in California that was included in this court decision. <http://www.redefinedhorizons.com/footsteps/three-prerequisites-for-eminent-domain/> 