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An \$18,000,000 Claim is Withered Down to \$0

Regency Outdoor Advertising, Inc. v. The City of Los Angeles

Background of the Case

Regency claimed that it suffered damages as a direct result of the planting of palm trees (the “Gateway LAX project”) along Century Boulevard. Regency stated that the palm trees caused an obstruction/loss of visibility to four of its billboards (the “Billboards”) and therefore it was unable to rent these Billboards. The plaintiff’s initial damage claim was over \$18,000,000. However, after the intensive and diligent discovery orchestrated by Ms. Amy Gonzales, the City Attorney, Regency’s appraiser revised her total damages down to \$6,150,000.

City Retains Sanli Pastore & Hill

The City retained SP&H to:

- 1) Provide expert witness analysis to determine whether Regency suffered any economic damages or loss of goodwill value as a result of the Gateway LAX project; and
- 2) Determine whether Regency engaged in reasonable efforts to mitigate its damages, if any, and/or preserve its goodwill, if any.

SP&H assembled a team consisting of Nevin Sanli, ASA, president, two experienced analysts and one researcher. The SP&H team worked diligently and efficiently in performing many tasks including:

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- Research (industry, economic, and competitive);
- Providing support for discovery;
- Assisting in writing declarations;
- Inspections and photos of the Billboards (a total of 4 billboards and 6 faces) and comparable billboards;
- Creating and managing PowerPoint presentations; and
- Deposition and trial preparation.

During discovery, SP&H provided Ms. Gonzales assistance by preparing deposition questions, information requests, reviewing previous depositions for follow-up questions, inspecting the allegedly damaged Billboards and taking photos of other billboards (some owned by Regency) throughout the Los Angeles basin.

All this work and research was necessary for the City to present credible opinions and deposition and trial testimony and to effectively undermine Regency's and their expert's credibility.

Mr. Sanli, in his declaration dated October 22, 2001, stated:

“Regency suffered no damages as a result of the project”

“It is clear that Regency was capable of continuing the operation of the Billboards subsequent to the project. By not continuing to market the Billboards, Regency failed to mitigate its potential damages as required by law.”

In a second declaration dated October 27, 2001, Mr. Sanli stated:

“...Regency of its own volition took the Billboards out of inventory or simply ceased marketing them. Regency did not attempt to market the Billboards at lower rates, nor did Regency attempt to apply for a modification from the Los Angeles Municipal Code's sign regulations, which potentially would have allowed Regency to alter or slightly move the Billboards such that they could be seen more clearly.”

During a bench trial, Mr. Sanli testified that:

- 1) If there was a loss, the loss was not caused by the taking;
- 2) Even if there were a taking, Regency's damages were \$0; and
- 3) Regency was not entitled to compensation even if there was a taking because of its failure to mitigate.

All of Mr. Sanli's opinions were well documented and substantiated. Ms. Gonzalez and SP&H worked very well as a team preparing intensely for trial. Ms. Gonzales' court papers and her direct and cross-examination of all witnesses was very effective. SP&H's PowerPoint

presentation had over 40 exhibits. In contrast, Regency’s case presentation failed to impress the judge.

Ruling

On March 6, 2002 Judge Jean Matusinka issued her ruling:

“The plaintiff has failed to prove that loss of visibility decreased the fair market value of it’s [sic] property by reliable, non hearsay and non speculative evidence.”

“Loss of visibility is not compensable where the loss is caused by the construction of a public improvement on land not taken from the landowner.”

During trial Judge Matusinka determined that, among other deficiencies, the documents relied upon by the plaintiff’s expert were inadmissible. This ruling essentially excluded the plaintiff’s expert opinion as her opinion was now unsubstantiated.

Furthermore, the judge stated that even if the loss of visibility impacted the value of the Billboards, the loss is not compensable because the palm trees that were planted as part of the Gateway LAX project were a public improvement on the City’s own land.

The plaintiff’s legal effort in an attempt to win over \$18,000,000, an amount that would have significantly impacted the City’s budget, utterly failed.

The City Attorney and SP&H proved that team work, thorough research and analysis of facts and circumstances, can thwart substantial but unsubstantiated claims that so often cause financial difficulties for government entities and, ultimately, taxpayers.

For questions on the Regency v. LAX case or other work by SP&H please contact Nevin Sanli, ASA, or Tom Pastore, ASA, at (310) 571-3400. In Northern California, please ask for Forrest Vickery at (916) 614-0530.