

## Carter Ledyard Obtains Another Favorable Trial Decision on Behalf of Suffolk County in a Condemnation Matter Involving a House Relocation

**September 17, 2021**

Carter Ledyard recently obtained another favorable decision on behalf of its client Suffolk County following a remote bench trial conducted in January 2021 via Microsoft Teams before Justice John J. Leo, Supreme Court, Suffolk County, as to the damages incurred by property owners in the Ocean Bay Park community of Fire Island whose land was acquired by the County's use of eminent domain, but who relocated their house to a nearby parcel. The trial was the seventh damages trial handled by the firm in connection with the Fire Island Inlet to Moriches Inlet (FIMI) Project, a beach stabilization project undertaken by Suffolk County, New York State, and the Army Corps of Engineers to repair and maintain sand dunes along the coastline of Fire Island damaged by Superstorm Sandy in 2012. Fire Island is a 30-mile long barrier island south of New York's Long Island.

The valuation methodology appropriate to the facts was a central issue in the case, presenting an issue of first impression in New York and rarely litigated nationally. The Court accepted the methodology used by the County's appraiser, which was based on legal instructions from Carter Ledyard and which calculates damages by valuing the acquired vacant land and adding to that the cost of moving the house to its new location. The Court rejected the methodology used by Claimants' appraiser which, among other things, failed to value the land that was acquired, included inappropriate charges in the calculation of moving costs, and applied an unsupported 80% marketability discount that substantially inflated damages. The Court also agreed with arguments presented by Carter Ledyard rejecting Claimants' assertion that condemnation blight increased damages resulting from the acquisition.

Notably, the Court found that Claimants' damages were less than what the County had already paid as an advance payment, thus entitling the County to recoup its excess payment pursuant to section 304(H) of the New York Eminent Domain Procedure Law ("EDPL").

Suffolk County was represented by Carter Ledyard partner John Casolaro, counsel Lee Ohliger, and counsel Michael Bauscher.

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