

Carter Ledyard Obtains Favorable Trial Decision on Behalf of Suffolk County in a Condemnation Matter Involving Novel and Complex Issues

September 13, 2021

Carter Ledyard recently obtained a favorable amended decision on behalf of its client Suffolk County following a bench trial 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 sixth 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. The case involved complex legal and methodological issues that had not been previously addressed by state courts in New York.

While the Court's initial decision was also favorable to the County, it contained certain errors that led to an inflated land value and thus inflated damages. Carter Ledyard filed an uncommon motion, pursuant to CPLR 4404(b), seeking a corrected decision, which the Court granted in part. Ultimately, the Court awarded Claimants less than a quarter of the damages that they sought in excess of the damages estimated by the County's appraiser.

The Court accepted the methodology put forth by the County's appraiser, which was to calculate 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 marketability discount that substantially inflated damages. The Court also agreed with Carter Ledyard in rejecting Claimants' argument that condemnation blight depressed the value of the acquired property. Suffolk County was represented by Carter Ledyard partner John Casolaro, counsel Lee Ohliger, counsel Michael Bauscher, and counsel Madelyn White.

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