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Highest and best use disputed in taking

\$4,305,490 Verdict

A five-member Fairfax County condemnation jury awarded the owner of the former Merrifield Sunoco site, Caren Spinner, and the long-term tenant, Sunoco Inc. (R&M), a total of \$4,305,490 for the taking of a portion of the property to widen Lee Highway and Gallows Road in the Merrifield area of Fairfax County.

The property owner presented expert testimony from an appraiser and a real estate broker that the highest and best use of the site was continued use as a gasoline/service station and convenience store.

The property owner's expert witnesses testified that comparable properties sold in 2006 for between \$4.4 million and \$6 million. The Virginia Department of

Transportation presented expert testimony from an appraiser that the highest and best use of the site was for assemblage with adjoining parcels for redevelopment as a bank site.

VDOT's expert witness testified that the service station building had no contributing value to the property, although the parties agreed that the gasoline storage tanks and fuel pumps did have a value.

As required by statute for eminent domain trials, the jury viewed the property. After deliberating five hours, the jury awarded the property owner and the long-term tenant more than \$1.85 million above VDOT's initial deposit and just compensation appraisal and \$1.5 million above VDOT's appraiser's valuation at the trial.

[09-T-102]

Type of Action: Eminent domain

Injuries Alleged: Just compensation for taking

Name of Case: Commonwealth Transportation Commissioner of Virginia v. Barney Fineblum and Charles Santos, Trustees of the Jack Schrier Irrevocable Trust, Caren Schrier Spinner, and Sunoco, Inc.

Court: Fairfax Circuit Court

Case No.: CL2008-5457

Verdict Date: June 11, 2009

Tried Before: Jury

Name of Judge: Jan Brodie

Offer: \$2,812,790

Verdict/Settlement: Verdict

Amount: \$4,305,490

Property Owners' Attorneys:
Joseph T. Waldo and Stephen J. Clarke, Norfolk; Jack R. Wilson III, Chesterfield