

EMINENT DOMAIN AND VALUATION

Published Appellate Decisions

A successful result at trial does not always mean that our representation ends.

Nossaman has a strong track record in the appellate courts. We have represented clients in cases that have preserved trial victories and established new law in California.

REPRESENTATIVE CASES

Los Angeles County Metropolitan Transportation Authority v. Continental Development Corp. (1997) 16 Cal.4th 694. The California Supreme Court overruled its prior decision in *Beveridge v. Lewis* and changed 100 years of lower court precedents in holding that all benefits can be off-set against severance damage and not merely special benefits, as had been the law prior to the decision in *Continental Development*.

Southern California Rapid Transit District v. Bolen (1992) 1 Cal.4th 654, cert. denied sub. nom. ***Atchison, Topeka and Santa Fe Ry. Co. v. Southern California Rapid Transit Dist.*** 505 U.S. 1220, 120 L.Ed. 2d 901, 112 S.Ct. 3031. Upheld validity of special assessments to finance transit stations.

Los Angeles County Metropolitan Transportation Authority v. VCC Alameda, et al. (2011) 52 Cal.4th 1100. Represented Metro in litigation involving the condemnation of commercial property related to the expansion of a bus depot facility. The case involved complex issues relating to a challenge of the right to take that resulted in litigation before the California Supreme Court. In addition, this case involved complex valuation issues including claimed severance damages and loss of business goodwill. Also advised Metro in connection with eminent domain issues in a related Chapter 11 bankruptcy proceeding.

Emeryville Redevelopment Agency v. Harcros Pigments, Inc. (2002) 101 Cal.App.4th 1083. Represented owner of an industrial pigment plant in an eminent domain action in which the jury awarded compensation in the amount of \$12.5 million. The appellate decision clarified California law on various valuation procedures, including entitlement to goodwill.

Rolfe v. California Transportation Commission (2002) 104 Cal.App.4th 239. Represented California Transportation Ventures in challenge brought by petitioners attempting to prohibit the condemnation of a parkland. The trial court granted our motion for judgment on the pleadings. The decision was affirmed by the Court of Appeal.

People of the State of California, by and through the Department of Transportation v. B.H. & B.M. Woodson Family Trust, et al. (2001) 93 Cal.App.4th 954. Nossaman represented the property owner in this eminent domain action filed by Caltrans. Nossaman won a jury verdict for our clients in the full amount requested, the owners of a mobile home park condemned to make room for a freeway widening. Despite the jury's siding completely with our clients, the trial judge refused to award attorneys' fees and other litigation expenses. Nossaman appealed. In a published opinion, the Court of Appeal reversed the trial court, holding that our clients should have been awarded attorneys' fees because of Caltrans' unreasonable settlement position.

Perrin v. Los Angeles County Transportation Commission (1996) 42 Cal.App.4th 1807. Construction of rail rapid transit line in street held not to constitute actionable impairment of access.

Brumer v. Los Angeles County Metropolitan Transportation Authority (1995) 36 Cal.App.4th 1738. Represented LA County Metropolitan Transportation Authority in inverse condemnation action filed by property owners alleging that the Authority's construction of a transit project caused a substantial impairment of access to the owners' property. The trial court determined that the property owners did not suffer a substantial impairment of access, and the Court of Appeal affirmed the trial court's decision, holding that the Authority's construction was a proper exercise of its police power that was not compensable.

County of Contra Costa v. Pinole Point Properties (1994) 27 Cal.App.4th 1105. A Nossaman attorney represented property owner at trial and on appeal in a condemnation action in which the property owner was awarded in excess of \$6 million for the taking of unimproved land. The published appellate decision clarified California law on the use of a prior inconsistent appraisal for impeachment of an appraiser at trial. This rule was later codified by the legislature in a 2002 amendment to C.C.P. § 1255.060.