



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

Fairfax County Courthouse
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JUDGES

December 29, 2022

RETIRED JUDGES

Mr. J. Chapman Petersen, Esquire
Chap Petersen and Associates, PLC
3970 Chain Bridge Road
Fairfax, VA 22030

Ms. Courtney B. Harden, Esquire
BrigliaHundley, PC
1921 Gallows Road, Suite 750
Tysons Corner, VA 22182

Re: Commissioner of Highways v. 496 Elden Street, LLC, et al.
Case No. CL-2020-20253

Dear Counsel:

This matter comes before the Court on Defendant’s Motion to Enforce a Settlement Agreement. The case presents two issues to the Court, viz., was there a settlement agreement, and, if so, should the Plaintiff be required to pay the agreed sum to the landowner, his attorney, or to the Clerk of the Court.

On December 21, 2020, Petitioner Commissioner of Highways (“Petitioner”) filed a condemnation action in connection with the Elden Street widening project in the Town of Herndon. Petitioner filed a Certificate of Take with the Clerk of this Court and deposited \$269,179.00 as an estimate of the just compensation owed. On August 25, 2021, Petitioner filed a Petition for Condemnation. On September 17, 2021, Respondent 496 Elden Street, LLC (“Respondent”) filed an Answer seeking just compensation. At this point, the negotiations between the parties began in earnest.

OPINION LETTER

The parties exchanged a series of emails negotiating the Fair Market Value of the property and other procedural issues. It is clear from the email exchanges¹, however, that on September 30, 2022, the parties settled the Fair Market Value at \$322,000.

The issue now becomes to whom should the proceeds be paid. I find that the proceeds should be paid to Respondent’s counsel or Respondent directly.

In relevant part, Virginia Code §25.1-247.1 states:

Notwithstanding any other provision of this chapter, upon any settlement or final determination resulting in a judgment for the owner, whether funds have been paid into the court or are outstanding, all such funds due and owing shall be payable to the owner or, if the owner consents, to the owner’s attorney within 30 days of the settlement or final determination...”

Va. Code § 25.1-247.1. “The primary purpose of statutory interpretation is ‘to ascertain and give effect to legislative intent.’” See *Holloway v. Commonwealth*, 72 Va. App. 370, 375 (2020) (quoting *Brown v. Commonwealth*, 284 Va. 538, 542 (2012)). The duty of the courts is “to interpret ‘the entire statute—i.e., the entirety of a single legislative enactment as it appears in the Acts of Assembly as a whole—to place its terms in context’ and to ‘interpret the several parts of a statute as a consistent and harmonious whole so as to effectuate the legislative goal’”. See *Phillips v. Rohrbaugh*, 300 Va. 289, 300 (2021) (quoting *Eberhardt v. Fairfax Cnty. Emps. Ret. Sys. Bd. Trs.*, 283 Va. 190, 194-95 (2012)).

Actually, I find that this situation does not present a difficult matter of interpretation. Presuming, as I must, that the General Assembly chose its words carefully, *Virginia Electric and Power Company v. State Corporation Commission*, 300 Va. 153, 163 (2021), it is clear that the General Assembly in § 25.1-247.1 intended to carve out a different method of payment after a settlement has been reached.

Respondent’s Motion is granted and Petitioner is hereby ordered to pay \$322,200 either to Respondent directly, or his attorney Mr. Petersen. An order reflecting this decision is attached.

Sincerely,



Robert J. Smith
Judge, Fairfax County Circuit Court

¹ The parties are well-versed in the facts and the numerous emails they exchanged. A recitation here of each email is not necessary for this opinion.

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMISSIONER OF HIGHWAYS,)
)
 Petitioner,)
 v.)
)
 496 ELDEN STREET, LLC, ET AL,)
)
 Respondent.)
)

Case No: CL-2020-20253

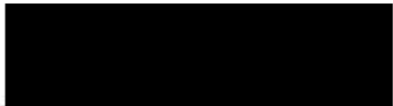
ORDER

WHEREAS this matter came before the Court on the Respondent’s Motion to Enforce a Settlement Agreement, and

WHEREAS the Court has found that there was a Settlement Agreement, it is

ORDERED that the Petitioner pay the agreed settlement amount directly to the landowner or to counsel for the Respondent.

ENTERED this 29th day of December 2022.



JUDGE ROBERT J. SMITH

ENDORSEMENT OF THIS ORDER BY COUNSEL OF RECORD FOR THE PARTIES IS WAIVED IN THE DISCRETION OF THE COURT PURSUANT TO RULE 1:13 OF THE SUPREME COURT OF VIRGINIA.