

Small Town Jury Trials

How the size of a community can cause unexpected delays

BY MICHAEL F. YOSHIBA, ESQ.



Jury trials in condemnation cases are required upon demand by a property owner, and are an integral part of the eminent domain process in determining the appropriate amount of just compensation. According to the California Constitution, “Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner...” The process allows property owners and the condemning agency to present their respective cases to a selected panel of community members.

The jury trial process is relatively uniform nationwide. A jury is selected, opening statements are made, just compensation evidence is introduced. Then, closing arguments are made, the jury is instructed on the applicable law, deliberates and then renders its verdict. But are trials that are conducted in large cities and small towns the same? Almost never.

Conflicting Interests

In the United States, potential jurors must be citizens who are at least 18 years old, able to understand English, live within the court’s jurisdiction, have not been convicted of a felony, are not under a conservatorship, are not on active military duty, and are not on a grand jury or another trial jury. However, it is frequently difficult to find qualified jurors in small town condemnation cases, due to a greater potential for discovering conflict of interest issues that preclude people from serving. For example, government agency employees often constitute a large group of citizens in a small town. In these cases, more often than not, potential jurors are employees of the same government agency that is seeking to condemn the property.

Despite the difference in the size of the community, infrastructure projects in small towns and large cities begin with the same right of way acquisition process. However, in small towns there are often more community concerns regarding a proposed project and more input at the planning hearings and the City Council meetings concerning balancing hardship between the public and private stakeholders. Also, there will likely be fewer comparable sales to use in appraisals, and the incidents of project-influenced sales will be higher. There will be fewer potential sites for relocation of persons and businesses as well. Condemnation of private property in small towns often magnifies the unpopularity of the eminent domain process.

Within the Mojave Desert portion of the San Bernardino County lies Barstow, a small desert community of about 23,000 located roughly halfway between Los Angeles and Las Vegas. The city is bisected by the Interstate 15 freeway, which has one principal off-ramp in town that provides easy freeway access to local convenience stores and fast food restaurants on Main Street.

In 2000, the State Department of Transportation (DOT) needed to acquire property for right of way to reconfigure the Main Street off-ramps. The DOT's Right of Way Department identified two full-take single-family residential properties needed for this project. The

“The attorneys and the trial witnesses were forced to use their motel rooms for trial preparation.”

property owners and a tenant retained legal counsel and demanded that the case proceed to a jury trial in Barstow.

Small Details, Great Challenges

Now, the Barstow courthouse has only two courtrooms assigned to handle all civil case matters for this desert region. This case was originally assigned to Courtroom #2, but was quickly reassigned, as the judge personally knew a co-defendant in one of the condemnation cases, Mr. Anthony. Mr. Anthony was a well-known local resident with a history of mental health problems, and he would randomly and frequently appear and disrupt legal proceedings in Courtroom #2. The disturbances had gotten so out of hand that a 100-yard temporary restraining order had been issued to prevent Mr. Anthony from disrupting the courtroom further. Needless to say, the jury trials were moved from Courtroom #2, but only about 50 feet away and across the hallway to a different judge in another courtroom.

Over the objection of the DOT, the trial court decided to consolidate the two condemnation jury trials because the trial court had never previously conducted a condemnation jury trial and the court wanted to marshal its limited judicial resources. As a result, the DOT had to simultaneously prepare for and present two jury trials. Notably, each condemnation case had different property valuation issues, appraisers, percipient witnesses, exhibit books and jury instructions.

There were only a few potential jurors that were qualified for jury duty in this matter from the Barstow area, so a jury panel was ordered from Victorville, the nearest neighboring city at 32 miles away. Even so, the juror interviews disqualified so many candidates that the court ordered additional prospective jurors to be available for service from Apple Valley, which is 34 miles away.

The attorneys and the trial witnesses were forced to use their motel rooms for trial preparation because the nearest DOT office was 70 miles away. Due to courtroom space limitations, most trial exhibits needed to be transported back and forth from the DOT office each week. And the courtroom layout was not ideal for presentation of trial exhibits by screen and projector.

In the end, the trial took an extra three days because the court was required to start late and end early each day to accommodate the jurors' long commute by the court-arranged bus. Although achieving a just compensation award can be much more complicated in these types of small-town circumstances, they are each citizen's constitutional right. Albeit more complicated and time consuming, in this case the small-town jury trials did eventually end with verdicts on just compensation, low-split between the opposing appraisal testimonies. 🙌



Michael is a shareholder in the Eminent Domain and Litigation Departments of the Los Angeles law firm, Richards, Watson & Gershon. Email myoshiba@rwglaw.com