

Eminent Domain & Condemnation

Professionals

Alexandra Austin

Eric H. Biesecker

David Black

Jay DeVaney

Paul A. Dominick

David P. Ferrell

Eminent domain and condemnation disputes

Eminent domain gives the government broad powers to seize property. Those powers have limits, and property owners have rights that government must respect.

Maynard Nexsen attorneys have worked on eminent domain and condemnation disputes for decades in North Carolina and South Carolina.

Our real estate attorneys who focus on eminent domain and condemnation have deep knowledge of the laws and regulations that govern this process. We also understand how best to help clients achieve their ultimate goals.

We've represented property owners whose land has been condemned by the state and other agencies, helping landowners be compensated for the true value of their property.

We've also helped clients, such as towns and utility companies, that have a legitimate claim to property. The condemnation process can be complex, and Maynard Nexsen lawyers understand the legal issues — as well as business and operational factors. That allows them to help clients navigate this process efficiently.

Condemnation basics

Eminent domain is the right of the government to take private property and convert it to public use. Condemnation is the process by which a government agency can exercise this power. These processes are rooted in the Constitution. The Fifth Amendment requires government to pay landowners "just compensation."

Many times, disputes over condemnation boil down to what exactly is "just compensation."

In the Carolinas, “just compensation” means the property’s fair market value immediately before the taking vs. the property’s fair market value immediately after the taking. And not just any value, but the market value of the land if it were used for its “highest and best use” — even if the land isn’t being used that way when it’s condemned.

Appraisers can estimate these values in one of three ways:

- The sales comparison approach
- The income approach
- The cost approach

Appraisal is an imperfect science and appraisers are human. Appraisers can make mistakes, make incorrect assumptions, or overlook facts. And, not surprisingly, appraisals are often affected by the outcome the appraiser’s client desires.

The condemnation process

In most cases, condemnors are required to pay the amount of their just compensation estimate to the court before they can take a piece of property. Even after that payment has been made, landowners can still challenge a condemnor’s estimate.

Landowners sometimes face partial condemnations, where the condemnor takes only a portion of a tract or only a portion of the landowner’s rights, such as the permissible uses.

In these cases, the condemnor often wants to value only the limited land or rights taken. Landowners often fall into the same trap and fail to consider the taking’s impact on what’s left. “Just compensation” requires consideration of not only the value of what the government has taken but also the reduced value of the remaining land.

Though less common, sometimes landowners challenge condemnation on the grounds that the property isn’t being taken for a true public use.

Because of these complexities, vigorous, experienced representation is vital in condemnation cases. That’s the kind of strong advocacy that Maynard Nexsen attorneys provide.

Our attorneys primarily represent landowners — both individuals and businesses. But we have also represented condemnors, such as local governments and utilities. Because Maynard Nexsen has represented clients on both sides of these disputes, we understand the process and the potential arguments that either side might muster in a condemnation.

Whatever side you're on, don't go it alone, and don't take an appraisal from the other side at face value. Call a Maynard Nexsen attorney to ensure your rights are protected.

News

02.13.2020 | Media Mention

S.C. Lawyers Weekly Highlights Nexsen Pruet Easement Win

01.30.2020 | Media Mention

Lowcountry Landowners Win Hotly Contested Private Property Takings Case

03.25.2019 | News from Maynard Nexsen

Pro Bono Champion: Norman Shearin - Atl. Coast Props., Inc. v. Saunders

Insights

08.02.2018

The Real Estate Purchase Process