



EMINENT DOMAIN

Kaufman & Canoles' Eminent Domain Practice Group is dedicated to the representation of property owners impacted by condemnation matters across Virginia. We combine our thorough knowledge of eminent domain with decades of cumulative land planning, negotiation and litigation experience. Throughout the condemnation process, we work with clients to maximize the economic benefit, while also working to minimize the negative impacts of the condemnation on their overall property interests.

WHO WE ARE

Kaufman & Canoles' Eminent Domain Practice Group represents individual property owners, businesses, and tenants in all phases of the eminent domain process. Our firm is unique as a "one-stop shop" providing comprehensive representation to our clients impacted by eminent domain. We handle all aspects of a condemnation matter, from pre-condemnation planning with the support of our land use team of attorneys, negotiation and litigation with our team of eminent domain trial attorneys, and tax and estate planning with the support of our tax and trust and estate attorneys for any settlement or award received. Our attorneys possess a wealth of talent and experience and have a proven track record in handling both routine and complex eminent domain matters.

WHAT WE DO

We assist landowners and tenants in each stage of the condemnation process:

- **Planning** - In the initial phase, the government plans and designs the projects, typically over several years. Planning and decisions you make during this time may have a significant impact on the compensation you receive from the government.
- **Acquisition** - After the government makes its decision to take all or a portion of your property, it notifies you and makes you an offer. We will help you in determining whether the offer is reasonable and the amount you should be paid, including whether you are entitled to damages. We will work closely with you and any experts we believe should be hired, including appraisers, land planners and engineers, to maximize your recovery. To the extent the acquisition is a total take of your property, we can assist you in maximizing your recovery for relocation expenses.
- **Litigation** - If a settlement is not reached, the government will file a lawsuit against you to take your property. The government must prove that it has met all legal requirements before being granted the right to take your property. You have the right to challenge the government's taking of your property. If the government is allowed to take your property, a jury or commissioners will determine the final compensation that the government must pay. You may also be entitled to an award of interest as well as expert fees and costs incurred as a result of the litigation.

Our attorneys have the experience necessary to identify property values, damages and relocation assistance that can lead to a higher amount of compensation. Our close relationships with appraisers, engineers, real estate brokers and development professionals facilitate our ability to negotiate and try cases effectively and successfully.

REPRESENTATIVE MATTERS

- Represented individual and business landowners in condemnation matters related to the Atlantic Coast Pipeline, with substantial experience negotiating settlements for landowners and preparing agreements with terms protecting the landowner's property rights
- Represented numerous shopping centers, retailers, and restaurants in eminent domain cases filed by VDOT, the federal government, and localities
- Represented the owners of hotel properties, medical complexes, vacant parcels, storage facilities, and a wide variety of other types of investment properties in eminent domain cases
- Represented residential property owners in eminent domain actions filed by VDOT, localities, and utility providers
- Represented landowners and tenants in disputes concerning relocation expenses

OUR RESULTS

Impacting the property's development plans

A church in Newport News had plans to expand the church and ensure that its mission continued. VDOT's project changed the property's access and resulted in the taking of a small portion of the church's property, putting expansion plans at risk. VDOT determined the church's property was not damaged and offered just compensation of \$96,000. Kaufman & Canoles prevailed in multiple hearings before the Court, and was able to obtain a favorable settlement for the church of \$1.95 million, approximately \$1.85 million above VDOT's offer.

Impacting access

VDOT's project and corresponding taking resulted in a new median in front of one of three entrances for the property, and easements along the front of the property. Access for the property was impacted, and the easements negatively impacted the property. VDOT offered \$119,000 as just compensation. The landowner's appraiser determined just compensation to be \$2,391,883. VDOT refused to settle for a reasonable amount, and we took the case to trial before a jury in 2018. With Kaufman & Canoles' help, the jury unanimously agreed with the landowner and awarded just compensation of \$2,391,883. The landowner also received reimbursement for costs of approximately \$100,000. VDOT appealed and the Virginia Supreme Court is determining whether to grant an appeal.

Other examples include:

Agricultural land – Pipeline easement

Offer: \$38,200
Result: \$702,017.73

Sand mining site – Pipeline easement

Offer: \$70,250
Result: \$850,000

Agricultural land – pipeline easement

Offer: \$68,900
Result: \$705,000

Wetlands mitigation site – pipeline easement

Offer: \$700,000
Result: \$2,075,000

Commercial land – Impacted Access

Offer: \$75,080
Award: \$235,000

Commercial site – total taking

Result: Over \$300,000 more than the offer

OUR RESULTS (CONT.)

Commercial site – Impacted parking

Offer: \$714,010

Result: \$1,194,810 plus conveyed an adjacent parcel

Residential parcel – Partial take and storm water detention pond installed

Offer: \$290,285

Result: \$440,000

Residential site – Partial taking and utility easement installed

Offer: \$28,500

Result: \$102,000

Farm – Pipeline easement

Offer: \$20,400

Result: \$125,000

Commercial site – Impacted parking

Offer: \$275,159

Result: \$395,000

Convenience Store – Partial taking with impacted parking

Offer: \$149,375

Result: \$274,000

Hotel – Taking and removal of buffer and trees at front of property

Offer: \$29,718

Result: \$65,000

Residential home – temporary slope easement (tying in road to property)

Offer: \$1,000

Result: \$76,500

*Past case results do not indicate or guarantee future results. Every case has unique facts and circumstances and must be considered on its own merit.

PRESS AND PUBLICATION

- 2017 Virginia Eminent Domain Legislative Update
- Discovery and Rules of Evidence in Eminent Domain
- Eminent Domain: A Handbook of Condemnation Law
- Real Estate Strategies Update - “Inverse Condemnation” Explained
- Pre-Condemnation Planning for Landowners: A Property Owner Checklist