

Eleventh Circuit Holds That Certain Private Property Owners Have Sufficient Personal Knowledge to Testify Regarding the Future Value of Their Property

Sabal Trail Transmission (“Sabal”) sought to acquire easements under a portion of Sunderman Grove’s (“Sunderman”) private property through eminent domain pursuant to the federal Natural Gas Act (“NGA”) in order to construct and operate an underground natural gas pipeline. Though Sunderman did not initially agree to Sabal’s offer to purchase an easement under its land, it conceded at trial that Sabal was entitled to the easement under the NGA. However, Sabal and Sunderman continued to litigate as to the value of the land and the district court held a jury trial to resolve this issue.

Both Sabal and Sunderman provided the jury with expert testimony from real estate appraisers who both gave their best estimates of the value of the land as well as the methodology they used coming up with their estimates. At trial, however, one of the owners of Sunderman testified that the pipeline would diminish the value of the rest of the parcel because the owners planned on dividing the parcel into smaller lots for residential development. The owner testified that the pipeline would cut across the parcel in such a way that would make it impossible to subdivide the parcel for residential development. The owner testified that there was no way she could subdivide the parcel into residential lots where the pipeline would not be present under multiple lots. She stated that prospective purchasers would not want to buy a residential lot with the restrictions imposed upon the land by the easement. The owner based her testimony on prior experience selling lots for residential development, which she stated gave her insight into what prospective purchasers were looking for when buying similar lots. Sabal argued that the owner’s testimony should have been excluded because it was speculative and moved for a new trial.

The Eleventh Circuit reviewed the case and determined that the property owner’s testimony was permissible because it was not based on speculation. The court of appeals noted that, as a general rule, a property owner is competent to testify on the value of his or her property. But, the court of appeals made it clear that the district court may exclude such evidence if the property owner’s testimony is based solely on speculation. The court of appeals held that the property owner’s testimony regarding the parcel’s value was not purely speculative because her testimony was based on her personal knowledge of potential buyers’ tastes, which she gained through prior experience selling similar lots.