

# 10 Cases Every Real Estate Appraiser and Attorney Should Know

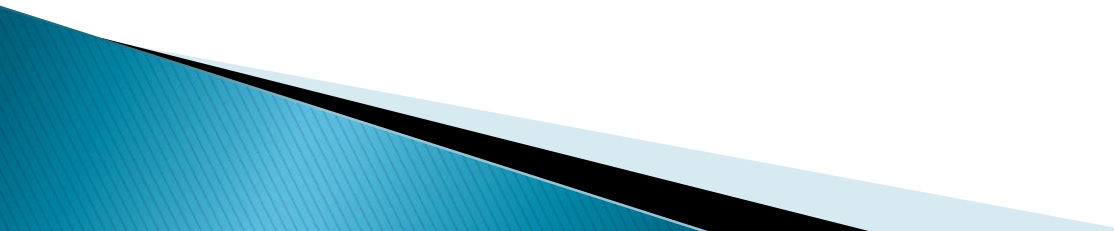
Southern California Chapter  
Appraisal Institute – Litigation Seminar  
Cerritos, CA  
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# United States Constitution

## 5<sup>th</sup> Amendment

(ratified December 15, 1791)

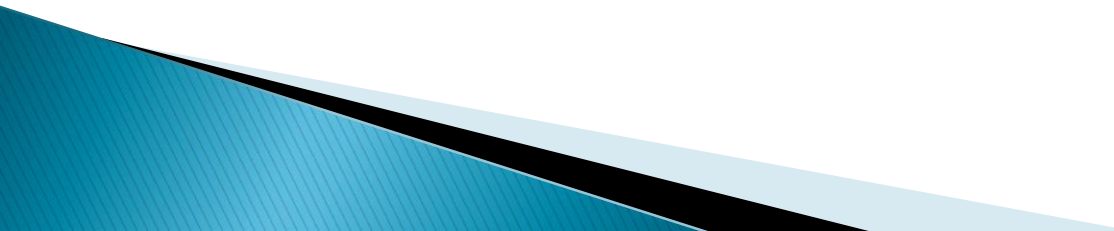
“... no person shall be deprived of life, liberty, or property without due process of law, nor shall private property be taken for public use without *just compensation.*”




State Reclamation Bd. v. Reed  
(1963) 215 Cal.App.2d 60, 69:

“A condemnation trial is a sober inquiry into values, designed to strike a balance between the economic interests of the public and those of the landowner.

There is a limit to imaginative claims even when described in terms of a prospective buyer’s mental reactions... the responsibility for defining the extent of compensable rights is that of the courts.”



## County of San Diego v. Bressi (1986) 184 Cal.App.3<sup>rd</sup> 112:

- The scope of the taking is defined in the Resolution of Necessity.
  - If the judgment and the RON are incongruous, the RON controls.
  - An owner, being compensated once and for all for the effect of the project as proposed, should assume the most injurious use of the project relative to the remainder property for damages/compensation purposes.
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Shadow Traffic Network v. Metro Traffic Control, Inc.  
(1994) 24 Cal.App.4<sup>th</sup> 1067:

- Consultant retention interview information can be confidential and subject to protection even if the consultant is not subsequently retained if there is a reasonable expectation of confidentiality.
- Consultant to whom confidential information was given in the initial interview who was subsequently contacted by opposing counsel who presses for the confidential information will cause the consultant to be disqualified along with the opposing counsel.

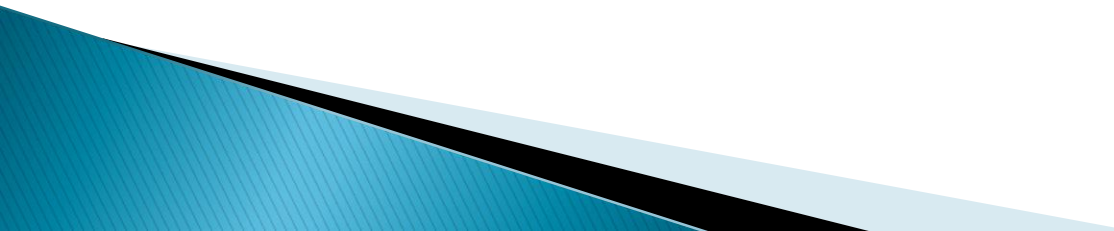
City of Livermore v. Baca  
(2012) 205 Cal.App.4<sup>th</sup> 1460:

- Temporary severance damages are recoverable (subject to evidentiary proof) for the loss of driveways and aesthetic changes during a project if consistent with the concept of highest and best use.
- Temporary severance damages are also recoverable for a traffic detour that substantially impairs access to a commercial property.

City of Los Angeles v. Inga  
(1962) 208 Cal.App.2d 338 and  
City of Los Angeles v. Ingersoll–Rand Co.  
(1976) 57 Cal.App.3d 889 (LADWP Easement Cases)

- The key factor in valuing the impact of a permanent easement derives from the rights reserved to the grantor – describing an easement as “exclusive” is not determinative from a valuation perspective.
- The reservation clause(s) will be interpreted in favor of the grantor absent actual interference with the grantee’s use.

People ex rel. Dep't of Public Works v. Lynbar  
(1967) 253 Cal.App.2d 870:

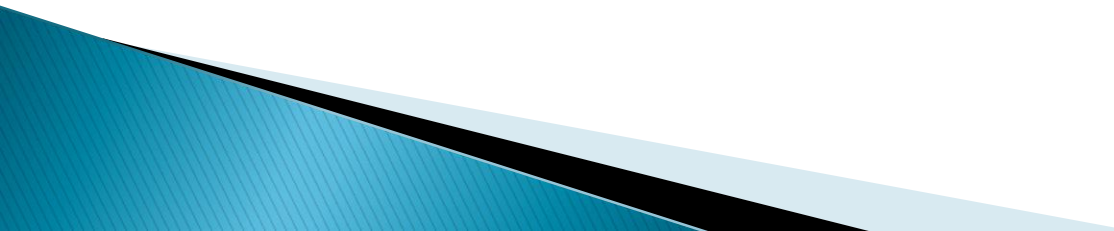
- The undivided fee rule requires the determination of the entire fee value without cumulating the value of multiple interests in the property.
  - The undivided fee rule does not preclude consideration of the effect of a continuing lease on available future uses of the property.
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City of Carlsbad v. Rudvalis  
(2003) 109 Cal.App.4th 667:

- Just compensation requires that the owner be placed in as good a position pecuniarily as if his property had not been taken.
- Severance damages must flow directly and proximately from the taking; speculative, remote, imaginary, contingent or merely possible damages are not compensable.
- Diminution in tangible business assets (improvements, FFE and inventory) cannot be based on claims that a road extension will bring greater incompatible residential development.

## Sacramento Area Flood Control v. Dhaliwal (2015) 236 Cal.App.4<sup>th</sup> 1315:

- An appraiser in an eminent domain trial may offer rebuttal testimony to critique the opposing appraiser.
  - The rebuttal testimony may even include undisclosed comparable sales that the opposing appraiser could (or should) have considered in deriving a valuation option.
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County of Glenn v. Foley  
(2012) 212 Cal.App.4<sup>th</sup> 393:

- Comparable sales may contain different characteristics that require adjustment if the adjustment is based upon empirical data.
- The ban on “appraising the comparable” is consistent with this principle so long as the adjustments are not speculative or subjective.

Contra Costa Water District v. Vaquero Farms  
(1997) 58 Cal.App.4<sup>th</sup> 883:

- Condemnor defines what the scope of the taking consists of; rights may be reserved to the owner even though the ownership of the property is being acquired.
- Wind power rights reserved to the owner have continuing value in the market and reservation of the same reduces the overall compensation due the owner.

**Time to go home!**