

Daily Business REVIEW

SPECIAL REPORT: VERDICTS & SETTLEMENTS

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GRAND SLAM VICTORIES

Despite clamor to rein in big verdicts and settlements, plaintiffs and their attorneys won plenty of lucrative cases in 2003

by Julie Kay

DEVELOPER PREVAILS IN PRICE DISPUTE OVER GOVERNMENT'S TAKING OF LAND

Case: United States of America v. 826.12 Acres of Land, et al., U.S. District Court, West Palm Beach

Case No.: 00-2832-CIV

Plaintiff attorneys: David O. Vollenweider III and Michael Baker, U.S. attorney's office

Defense attorneys: Toby Prince Brigham, Andrew Schuster, Laura Camp and Amy Boulris, all partners at Brigham Moore, Miami

Judge: Daniel T.K. Hurley

Details: Nine years ago, the U.S. Army Corps of engineers made public its plans to condemn an area that included 826 acres owned by developer John Kennelly, west of Wellington. The land was part of an Everglades flood control zone. In August 2000, the Corps filed a condemnation suit for the land and promptly seized it. The government originally offered Kennelly \$6.1 million for the land and later increased that offer to \$10.1 million. Once the government announced its intentions for the land Kennelly was unable to sell or develop it, his lawyers said. Yet the value of the surrounding area rose sharply. Kennelly's lawyers successfully moved for the court to conduct a jury trial.

Plaintiff's case: The government contended that the land was worth just \$12,500 per acre, based on its use as an orange grove. Any development of the property was in the future and not applicable, it argued.

Defense case: The defense claimed that the government deliberately announced its condemnation plans in order to force the developer to sell. If the property had not been condemned, the defense argued, it would have been worth \$33,000 to \$35,000 per acre for estate homes or high-density housing.

Verdict: After a three-week trial, the jury deliberated for three hours and awarded Kennelly \$22.7 million. The government subsequently paid the judgement.