

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DuPAGE COUNTY, WHEATON, ILLINOIS

THE VILLAGE OF WOODRIDGE, ILLINOIS,)
a municipal corporation,)

Plaintiff,)

vs)

NO. 2005 ED 000064

BOARD OF EDUCATION OF COMMUNITY)
HIGH SCHOOL DISTRICT 99, a body politic and)
corporate, *et al.*,)

Defendants.)

**PLAINTIFF'S MOTION *IN LIMINE* NO. 7 TO BAR DISTRICT 99'S
REPRESENTATIVES FROM TESTIFYING OR, IN THE ALTERNATIVE,
TO LIMIT ANY TESTIMONY**

NOW COMES Plaintiff, THE VILLAGE OF WOODRIDGE, by and through its attorneys, SCHIROTT & LUETKEHANS, P.C., and moves this Honorable Court *in limine* for an order barring any District 99 representative from testifying in this matter or, in the alternative, limiting the testimony as to the ownership of the subject property. In support, Plaintiff states unto this Honorable Court the following:

1. This is an eminent domain case where in the property is owned by Community High School District 99.
2. On February 13, 2008, the undersigned spoke with counsel for District 99, Thomas Geselbracht, regarding various pretrial matters and, specifically, inquired as to whether District 99 intended to call any witness other than the expert witnesses previously disclosed and deposed.
3. During said conversation, Mr. Geselbracht indicated that he intended to call a representative of District 99. When asked as to what subjects the representative would testify

to, Mr. Geselbracht indicated that the representative's testimony would not relate to the value of the property, but to ownership of the property and District 99 itself.

4. "In an eminent domain proceeding, the only issue for jury resolution is to determine the just compensation to be paid to the owner of the property sought to be condemned." *Department of Transp. v. La Salle Nat. Bank*, 251 Ill. App. 3d 901, 916, 623 N.E.2d 390, 399 (2d Dist. 1993) (citing *City of Chicago v. Anthony*, 136 Ill.2d 169, 174, 554 N.E.2d 1381 (1990)).

5. "'Just compensation' is the fair market value of the property." *City of Oakbrook Terrace v. Suburban Bank and Trust Co.*, 364 Ill. App. 3d 506, 518, 845 N.E.2d 1000, 1010-11 (2d Dist. 2006).

6. As the District 99 representative is not going to testify as to issues relating to the value of the subject property, it is difficult to conceive of any relevant information that such a representative could offer.

7. Assuming *arguendo* that the identity of the owner is relevant, any testimony to that issue would be redundant as the proposed Illinois Pattern Jury Instruction 300.11, as modified, identifies District 99 as the owner of the property.

8. Assuming further that the pattern jury instruction does not constitute evidence and, therefore, testimony as to the ownership of the subject property is not cumulative, District 99's representative should be limited to testifying solely to the fact that District 99 owns the property and nothing more.

9. Woodridge fears that the real intention of calling a representative is to try and garner sympathy and create bias in District 99's favor by explaining the number of students it serves, the extracurricular programs it operates, the need for more space, etc.

10. Plainly, in light of the holdings in *Department of Transp. v. La Salle Nat. Bank*, and *City of Oakbrook Terrace supra*, any matter other than evidence related to the fair market value of the property is not relevant and should not be admitted.

11. In light of District 99's counsel representation that the representative will not give testimony related to value, the representative should not be permitted to testify.

12. Assuming *arguendo* the Court finds that District 99 may put on a witness to tell the jury that District 99 owns the property, said representative's testimony should be limited solely to such a statement.

WHEREFORE, Plaintiff, THE VILLAGE OF WOODRIDGE, moves this Honorable Court for entry of an order barring any District 99 representative from testifying in this matter or, in the alternative, limiting the testimony as to the ownership of the subject property and providing such other and further relief as this Court deems equitable and just.



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