STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0473

County of Hennepin,
Appellant,

vs.

Tamara J. Laechelt,
Respondent,

Citimortgage, Inc., et al.,
Respondents Below.

Filed November 18, 2019
Affirmed
Kalitowski, Judge[*]

Hennepin County District Court
File No. 27-CV-17-17024

Michael O. Freeman, Hennepin County Attorney, Rick J. Sheridan, Assistant County Attorney, Minneapolis, Minnesota (for appellant)

John W. Morphew, Morphew Law Office, PLLC, Minneapolis, Minnesota (for respondent)

Bradley J. Gunn, Malkerson Gunn Martin, LLP, Minneapolis, Minnesota (for amicus curiae Minnesota Eminent Domain Institute)

Barbara M. Ross, Best & Flanagan, LLP, Minneapolis, Minnesota; and

John Choi, Ramsey County Attorney, James A. Mogen, Assistant County Attorney, St. Paul, Minnesota; and

---

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

James Backstrom, Dakota County Attorney, Joseph E. Trojack, Assistant County Attorney, Hastings, Minnesota (for amicus Curiae Minnesota Eminent Domain Counsel Association)

Considered and decided by Slieter, Presiding Judge; Ross, Judge; and Kalitowski, Judge.

U N P U B L I S H E D O P I N I O N

KALITOWSKI, Judge

In this eminent domain matter, appellant Hennepin County challenges the district court's denial of its motion for a new trial, arguing that the district court abused its discretion by not excluding post-date-of-taking evidence of construction-related interference. We affirm.

FACTS

In 2015, Hennepin County filed a quick-take condemnation petition in district court to facilitate construction work on County State Aid Highway 34 (also known as Normandale Boulevard) in Bloomington. One of the properties included in the petition belonged to respondent Tamara Laechelt. The petition sought a permanent easement for "multimodal trail and utility purposes," and a temporary easement for "construction purposes" on Laechelt's property. The district court granted the petition, and the date of taking was November 13, 2015.

In July 2017, commissioners appointed by the district court held a hearing and awarded Laechelt $35,700 as just compensation for the taking. The county and Laechelt both appealed the award to the district court. The county then filed a motion in limine seeking an order excluding from trial any evidence of construction-related interference that

occurred after the date of taking. The district court denied the motion in limine. The district court held a jury trial in November 2018. The jury heard that Laechelt's property "was not like many of the other properties" affected by the construction project because it "had more to it with the landscaping." This was because Laechelt's property had extensive landscaping, including a pond, a waterfall, and a fire pit. The property also had mature trees planted 15 to 20 years earlier. As a result of the construction, some vegetation and all of the trees were removed, and the pond and waterfall had to be dismantled. The jury also heard post-date-of-taking evidence of construction-related interference.

Laechelt sought $47,000 for the easement and severance damages to the remainder of her property caused by the loss of the tree buffer and construction-related interference. The jury awarded her $27,915. The special verdict form allotted $2,525 for "the property actually taken" and $25,390 for severance damages, but did not indicate how much, if any, of the severance-damages award was for construction-related interference.

The county moved for judgment as a matter of law or a new trial. The district court denied the motion.

D E C I S I O N

The county challenges the district court's denial of its motion for a new trial. A new trial may be granted due to "[e]rrors of law occurring at the trial." Minn. R. Civ. P. 59.01(f). We review a decision to grant or deny a motion for a new trial for an abuse of discretion. *Frazier v. Burlington N. Santa Fe Corp.*, 811 N.W.2d 618, 625 (Minn. 2012).

The county asserts that, because the date of taking is also the date of valuation in a quick-take condemnation proceeding, *Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d

860, 874 (Minn. 2010), the district court should have granted the motion for a new trial to correct the error it made by not excluding evidence of construction-related interference that occurred after the date of taking. "The admission of evidence rests within the broad discretion of the [district] court and its ruling will not be disturbed unless it is based on an erroneous view of the law or constitutes an abuse of discretion." *Kronig v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45-46 (Minn. 1997) (quotation omitted). And to receive a new trial, an appellant must demonstrate prejudicial error. *Id.* at 46.

We conclude that, even if the county is correct that post-date-of-taking evidence of construction-related interference should not have been admitted, the county is unable to demonstrate that this evidence was prejudicial. An evidentiary error is prejudicial if "it might reasonably have influenced the jury and changed the result of the trial." *W.G.O. ex rel. Guardian of A.W.O. v. Crandall*, 640 N.W.2d 344, 349 (Minn. 2002). In denying the county's motion for a new trial, the district court stated:

> [T]he [c]ourt does not believe that the jury necessarily relied on [Laechelt's] expert testimony about construction-related interference in awarding severance damages in the amount of $25,390. The jury could well have concluded, *based on the evidence presented by the [County]*, that [Laechelt's] property sustained severance damages in that amount. Or it could have concluded, based on [Laechelt's] evidence, that loss of trees (as opposed to construction-related interference) caused severance damages in this amount.

Based on the evidence presented at trial, we agree.

The county and Laechelt each had an appraiser testify about the effect of the taking and what would constitute just compensation. The county's appraiser valued the property at $252,000 before taking. And Laechelt's appraiser valued it at $230,000 before taking.

The county's appraiser calculated the values of the permanent and temporary easements as $1,000 and $1,525 respectively, for a total of $2,525; whereas Laechelt's appraiser calculated those values as $2,119 and $1,600, for a total of $3,719. The jury awarded the county's total of $2,525 "for the property actually taken."

The county's appraiser also calculated the "cost to cure" the effects of the taking on Laechelt's property. Accounting for several different costs—including piping, mulch, disassembling and reassembling portions of a wall, and the loss of some of the plants and trees in the backyard—he determined that the total would be $13,825. In describing how he came to this number, the appraiser testified that the cost to disassemble and reassemble the pond was estimated at $22,000, but that he had not included any portion of that sum in his total for the cost to cure because he did not believe the pond would be affected.

Laechelt's appraiser calculated severance damages. He testified that,

> the primary characteristics that were analyzed were the fact that the permanent and temporary easements resulted in the loss of their tree buffer and all their landscaping that was in place, and so it denuded it of all that vegetation, and now it's kind of a change in view, it's a diminished view, it's increased traffic exposure because you no longer have that buffer.

Laechelt's appraiser also discussed construction-related interference as part of the severance damages. He explained that, for the purposes of calculating severance damages attributable to the loss of the tree buffer, he compared Laechelt's property to the sales of three other properties that at one point had tree buffers, but then subsequently lost them. He "ultimately concluded that the severance damage to the subject as a result of the lost buffer, increased traffic exposure, diminished views and reduced privacy is 11% of the

property's before market value." The appraiser then separately determined that construction-related interference resulted in an eight percent decrease in the property's value. Using his methodology and valuations of the house and easements results in a calculation of $24,890.91 for the loss of the tree buffer and $18,102.48 for construction-related interference.

The evidence presented could have affected the jury's severance-damages award in several different ways. The jury could have entirely disregarded Laechelt's appraiser, relying on the county's appraiser instead, and determined that the cost-to-cure total should have also included a part of the pond-related costs. The jury could have decided that in light of the county's valuation of the property at $252,000, it should apply the 11% tree-buffer adjustment to a sum greater than the $230,000 estimated by Laechelt's appraiser. The jury also could have determined that 11% was too low of a tree-buffer adjustment in light of testimony from Laechelt's appraiser that a comparable property had decreased 19.25% in value after losing its tree buffer. But, significantly, the total severance damages awarded by the jury were within $500 of what Laechelt requested for the loss of her tree buffer. Thus, the award may have disregarded the approximately $18,000 of construction-related interference calculated by her expert.

Accordingly, the district court properly determined that the county has not shown that the admission of post-date-of-taking evidence of construction-related interference "might reasonably have influenced the jury and changed the result of the trial." *Crandall*, 640 N.W.2d at 349. Because the county fails to meet its burden of showing that the

challenged evidence was prejudicial, we conclude that the district court did not abuse its discretion in denying the county's motion for a new trial.

Affirmed.