

S188128      Los Angeles County Metropolitan Transportation Authority v. Alameda Produce Market LLC et al. (*Marchiano, P.J., assigned justice pro tempore*)\*

### **Case Summary:**

In March 2004, the Los Angeles County Metropolitan Transportation Authority (MTA) adopted a resolution authorizing the “taking” of private property owned by the Alameda Produce Market. A week later, MTA filed an eminent domain complaint and deposited \$6.3 million with the court as the probable amount of “just compensation” for the property. In its answer to the complaint, the Produce Market opposed the taking, arguing in part that MTA’s resolution was invalid because it did not meet statutory requirements.

Three entities that held liens against the property to secure loans to the Produce Market — VCC Alameda, California National Bank, and Namco Capital Group (Lenders) — applied to withdraw part of the deposit. MTA initially objected to the applications and notified the Produce Market of its right to object. The Produce Market received the notice, but did not file an objection. MTA later withdrew its objection and signed a stipulation with the Lenders agreeing to the proposed withdrawals. Pursuant to the stipulation, the court granted the applications and authorized the Lenders to withdraw a total of \$6.1 million. The Lenders used the withdrawn funds to pay off the Produce Market’s loans.

During trial of the eminent domain case, MTA argued that the Produce Market had waived its right to challenge the proposed taking by failing to object to the Lenders’ withdrawal applications. MTA relied on California Code of Civil Procedure section 1255.260, which states that “[i]f any portion” of the deposit for a property “is withdrawn, the receipt of any such money shall constitute a waiver by operation of law of all claims and defenses in favor of the persons receiving such payment except a claim for greater compensation.” The trial court rejected this argument, finding that section 1255.260 did not apply because the Produce Market had committed no affirmative act sufficient to constitute a waiver.

On the merits, the trial court found that MTA’s taking resolution required MTA to negotiate with the Produce Market for a plan of mutually agreeable vehicle parking, and that the resolution was invalid because MTA had failed to engage in good faith negotiations. The court ruled that it would dismiss MTA’s eminent domain complaint unless MTA engaged in good faith negotiations. In September 2008, after a mediator reported that MTA had failed to negotiate in good faith, the trial court dismissed MTA’s complaint and ordered MTA to relinquish the property to the Produce Market within 90 days.

The Court of Appeal reversed, finding that, under section 1255.260, the Produce Market had waived its right to contest the taking by failing to object when the Lenders applied to withdraw part of the deposit and used the withdrawn funds to pay off the Produce Market's loans. At the Produce Market's request, the California Supreme Court granted review to consider this waiver issue.