

January 15, 2012

JAH ATTORNEYS SUCCESSFULLY REPRESENT CLIENT IN CONDEMNATION CASE AGAINST THE DOT

Department of Transportation vs. Cold Storage Partners, LLC

In March, 2008, Cold Storage Partners, LLC purchased 3.26 acres of industrial property on W. 9th Street adjacent to an active rail corridor. The property was located in a redeveloping area and enjoyed access to both Graham Street and Seaboard Street in downtown Charlotte.

In June, 2008, the Charlotte City Council passed a resolution authorizing the closure of a portion of W. 9th Street as part of an agreement between the City, the Department of Transportation and two railroads. Once closed, the only access to the property would be by way of a narrow side street that could not be navigated by large trucks or emergency vehicles.

In March 2010, DOT condemned the entire property. Although the road was still open on the date of taking, the DOT's appraisers considered the pending road closure in determining the value of the property. The resulting \$565,000 deposit was based on the property only being accessible from the narrow side street. W. 9th Street was closed in July, 2010.

The loss of access was significant due to its impact on the highest and best use of the property. Whereas the property previously could have been rezoned for a multi-story project, the new limitation on the ability of the fire department to access the property via the side street limited future development to one story.

In response, the property owner filed a claim for the inverse condemnation against the City of Charlotte alleging damages to the property resulting from the City's taking of all reasonable access.

In a hearing before the Honorable Judge Boner, the Court determined that the property had to be valued as it existed on the date of taking with the road open. Subsequent appraisals by the DOT valued the property in the \$800,000 range. The case ultimately settled at mediation in January 2012 at \$1.8M.

Johnston, Allison & Hord attorneys Susanne Todd and Trey Lindley successfully represented Cold Storage Partners, LLC.