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Post-Judgment Withdrawal of a Fair Market Value Deposit in an Eminent Domain Case May be Subject to a Bond.

Tri-City Health Care District (“District”) entered into ground and building leases with a medical company, Medical Acquisition Company, Inc. (“MAC”). Pursuant to the ground lease, the District leased land to MAC and MAC agreed to construct a medical building on the land. Pursuant to the building lease, MAC agreed to sublease portions of the completed medical building to Tri-City.

Several contract disputes arose between the parties and, eventually, the District filed a motion to take immediate possession of the ground lease under Code of Civil Procedure Section 1255.410. This statute, known as the “quick-take” provision, allows a condemning agency to take immediate possession of real property before trial on an eminent domain case by depositing the probable amount of compensation, as determined by appraisal. The District deposited \$4.7 million, the probable compensation determined by an appraiser, with the State Treasurer.

MAC agreed to the District’s possession of the building and withdrew the \$4.7 million. The case proceeded to trial where a jury found that the fair market value of the building was closer to \$17 million. The trial court entered judgment in favor of MAC, which reflected the jury’s fair market value determination. The trial court also entered an order requiring the District to increase its deposit by \$12.2 million. The District filed an appeal from the judgment. In addition, the District sought to abandon the eminent domain proceeding altogether, which the trial court denied. The District filed an appeal of that order as well.

While its two appeals were pending, the District deposited the additional funds with the State Treasurer. Soon thereafter, MAC applied for the release of the entire remaining deposit without a bond. The trial court allowed MAC to withdraw an additional \$4.4 million, but required a bond before MAC could withdraw the remaining amount. MAC appealed the trial court’s order.

On appeal, MAC argued that after judgment, the withdrawal of a deposit in an eminent domain case is not subject to a bond or undertaking. The Court of Appeal rejected MAC’s argument. The Court concluded any post-judgment withdrawal of a deposit in an eminent domain case is governed by Code of Civil Procedure Section 1268.140, which specifically allows a court, in its discretion, to impose a bond or undertaking. (Code Civ. Proc., § 1268.140, subd. (c).) The Court held that, based on the procedural posture of the case, the trial court did

not abuse its discretion in requiring a bond because the District had a claim to the deposit if its appeals were successful.

Medical Acquisition Company, Inc. v. The Superior Court of San Diego County (2018) 19 Cal.App.5th 313.

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