

# 2004 MILLION-DOLLAR VERDICTS & SETTLEMENTS

Section B

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## 2. City Of Detroit v. Detroit Plaza Limited Partnership — \$25 Million

The second largest verdict, a \$25 million condemnation deal, also is not final; rather it is in the appeal pipeline, said winning attorneys Jerome P. Pesick and H. Adam Cohen of Southfield.

The City of Detroit probably doesn't feel like spending that amount of cash on a park, but that's why they were trying to wrest the property.

The taking was part and parcel of the city's proposed Waterfront Reclamation and Casino Development Project. The city had a price in mind that was nearly half of what the jury valued the 6.3 acre-riverfront tract, offering Detroit Plaza \$13.7 million for the property.

The city claimed that the land sits near unsightly concrete plants, has been fallow for years, lacks development infrastructure and, therefore, isn't exactly a real estate prize.

Meanwhile, the Detroit Plaza partners felt that since riverfront property is a hot commodity these days, they should command a \$31.5 million price tag.

Pesick said he and Cohen emphasized to the jury that, given its size and location on the water, this is one of the prime parcels left for development in downtown Detroit — the property is very near to the almost fully renovated Renaissance Center. Moreover, it seems that, based on evidence in the case, the cement plants won't always be fixtures on the waterfront.

As it turns out, the legal team said the jury "got it" in that they shouldn't look to the past when price setting a property, but rather they must consider its future potential.

"This was an intense, downtown commercial site that would have hosted high-rise buildings and things of that nature, absent the city deciding they wanted to take it for a park," Pesick said. "The law requires the jury and the court to look at the property and value the property based upon its highest and best use, which is the most profitable use it can be put to at the time of the taking."

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## LARGEST VERDICTS

### 2. Condemnation Matter Lands \$25M Verdict *City Tried To Take Vacant Riverfront Property*

In September 2000, plaintiff City of Detroit filed a condemnation action to take, by eminent domain, a vacant 6.3 acre tract of property on the Detroit River for inclusion in the city's proposed Waterfront Reclamation and Casino Development Project. The property's owner was defendant Detroit Plaza Limited Partnership (Detroit Plaza).

The city offered \$13.7 million for Detroit Plaza's land. It argued that the property: 1) had remained vacant and undeveloped for many years; 2) was located next door to an undesirable cement plant in the industrial Rivertown neighborhood; and 3) lacked adequate infrastructure, all of which, according to the city, demonstrated the property's lack of developmental potential.

Detroit Plaza, on the other hand, sought compensation in the amount of \$31.5 million. Detroit Plaza contended that a number of important factors indicated a much higher value for the property than that which the city offered. Detroit Plaza's vacant land possessed nearly 600 feet of frontage on the Detroit River, and was located in close proximity to GM's world headquarters at the Renaissance Center.

Moreover, the property was included within the city's Downtown Development Authority District boundaries, enjoyed a favorable zoning classification, and was taken in September 2000, a peak period for Detroit's major development market.

As a 6.3 acre tract, Detroit Plaza's property could accommodate a major development on the river without the need to assemble other lands. Further, while Rivertown was indeed an industrialized neighborhood, the evidence suggested that a transition to mixed use had already taken root in the area, including likely relocation of the cement plants that long con-

sumed substantial Detroit River frontage.

On April 5, 2004, the action proceeded to a jury trial in the Wayne County Circuit Court. The city called as witnesses, among others, a former chairperson of the Detroit Economic Growth Corporation, the current chairperson of the Detroit City Planning Commission, and two expert real estate appraisers who testified as to opinions of value in the amounts of \$13.7 million and \$6.7 million, respectively.

Detroit Plaza's witnesses included the deputy chairperson of the Detroit City Planning Commission, a Detroit Plaza partner with substantial experience in the area of real estate development, and an expert real estate appraiser who testified as to an opinion of value in the amount of \$31.5 million. A total of nine witnesses testified at trial.

On April 14, 2004, the jury returned its verdict in the amount of \$25 million, exclusive of interest, costs and attorney fees. A judgment in that amount was entered in that amount on May 7, 2004.

**Type of action:** Condemnation

**Type of injuries:** Property taking

**Name of case:** City of Detroit v. Detroit Plaza Limited Partnership

**Court/case no./date:** Wayne County Circuit Court; #00-030971-CC; May 7, 2004

**Name of judge:** Michael F. Sapala

**Verdict:** \$25 million (exclusive of statutory interest, attorney fees and costs, which are addressed in post-judgment proceedings pursuant to the Uniform Condemnation Procedures Act)

**Attorney for the plaintiff:** Withheld

**Attorneys for the defendant:**

Jerome P. Pesick and H. Adam Cohen

**Name/city of most helpful experts:** David E. Burgoyne, real estate appraiser, Ann Arbor