

Case Summaries

Fallen Tree Results in \$800,000 Judgment and \$329,000 Award of Attorney Fees and Costs Against City of Pasadena

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In a ruling that could have potential significance for all California municipalities, after a 4-day bench trial, Los Angeles Superior Court Judge Richard Fruin found the city of Pasadena liable in inverse condemnation for the catastrophic damage caused to a residence when a 110-foot tall Canary Island Pine tree fell through it during a severe windstorm in November, 2011.

After obtaining a precedent –setting appellate decision against the city in August, 2014 that held Pasadena’s urban forest met the test for a work of public improvement, attorneys Timothy E. Cary and Thomas Paolini of Stutman Law, representing the insurer of the property, argued that the city’s actions in owning and maintaining the street tree in the public right of way next to the residence constituted the basis for compensation under inverse condemnation principles.

The Court agreed, finding the street tree to be part of a work of public improvement. The Court also rejected the city’s defense that the windstorm constituted a superseding cause excusing liability, adopting the position, advocated by Stutman Law, that this tort-based concept had no place in inverse condemnation which is founded in the California Constitution.

The parties stipulated to entry of

a judgment in favor of Plaintiff for \$800,000.00.

Stutman Law filed a motion seeking its “reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees” pursuant to California Code of Civil Procedure section 1036. The city filed an opposition arguing among other things that the term “engineering fees” should be construed narrowly

to preclude recovery of the cost of services of Plaintiff’s arborist and meteorologist. The trial court rejected all of the defendant’s arguments, adopting Stutman’s position that the language of the section should be construed broadly, and awarded Stutman Law’s client 100% of its attorney fees and other costs, including pre-and post judgment interest, for a total of \$329,170.83.

