

# NORTH CAROLINA Lawyers Weekly

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## VERDICTS & SETTLEMENTS

### Road, bridge projects thwart tract's development

#### \$8.65 MILLION SETTLEMENT

**Action:** Eminent domain, inverse condemnation

**Injuries alleged:** Inverse condemnation of property, including the taking of a drainage easement, flood easement or both

**Case name:** Mainsail of Beaufort LLC vs. N.C. Department of Transportation

**Court/case no.:** Carteret County Superior Court / 20-CVS-0225

**Judge:** Clinton D. Rowe

**Mediator:** Joe Chambliss

**Amount:** \$8.65 million

**Date:** Sept. 14, 2022

**Most helpful experts:** Paul A. Cuomo, general appraiser with Coastal Carolina Group, Greenville;

Lawrence F. Baldwin, soil and hydrologic scientist with Land Management Group, Wilmington; and Dr. Barrett L. Kays, soil and hydrologic scientist with Landis PLLC, Raleigh

**Attorneys:** Philip Kirk of Kirk, Kirk, Howell, Cutler & Thomas, Wendell; Stephen M. Valentine of Valentine & McFayden, Beaufort; James Thompson of James W. Thompson III PC, Morehead City (for the plaintiff)

The case involved a 7.572-acre tract in the town of Beaufort. The owners had planned to develop a townhouse project overlooking Town Creek; however, in 2012, the N.C. Department of Transportation (NCDOT) began a new road project to directly connect the North Carolina state port in Morehead City to U.S. 101 and bypass Beaufort by means of a new four-lane

highway and high-rise bridge over Town Creek and the Intercoastal Waterway.

The disruptions to the lands adjacent to plaintiff's tract created by the bridge and four-lane highway caused significant changes to the flow of surface and subsurface water onto and under the plaintiff's tract. This caused significant wetlands hydrology to develop on the plaintiff's land, which interfered with the townhouse development. Plaintiff filed suit for inverse condemnation.

NCDOT denied there was a taking, and the matter proceeded to the Superior Court for a contested hearing. Judge Clinton Rowe determined defendant's actions constituted a taking in the form of a permanent drainage easement across plaintiff's entire parcel of land. With development options lost, the matter settled at mediation for \$8.65 million.