

Contents

About the Editors vii

About the Contributors ix

Introduction xv

1	Public Use and Public Purpose	1
	<i>Mary Massaron Ross and Hilary Ann Ballentine</i>	
	Public Use Evolves to Public Purpose	1
	State Law Variations on Public Use and Purpose	10
	Public Use versus Public Necessity	11
2	Compensation	17
	<i>Terry C. Frank</i>	
	Fair Cash Market Value	18
	Highest and Best Use	18
	Theories of Valuation	20
	Improvements	21
	Easements and Partial Property Interests	22
	Scope-of-the-Project Rule	23
	Evidence of Value	23
	Offsets to Value	25
	Interest	27

3	■ Damages Resulting from a Taking: An Overview	33
	<i>Mark M. Murakami and Christi-Anne H. Kudo Chock</i>	
	Partial Physical Takings (Adjacent or Remaining Parcel)	34
	Loss of Access	34
	Zoning Restrictions	35
	Loss of Business	35
	Cost of Moving	36
	Improvements	36
	Lost Mineral Deposits	38
	Inclusion of Fixtures	38
	Inclusion of Trees and Crops	39
	Trespass	39
	Proximity Damages: Nuisance, Noise, and Lack of Access	40
	Temporary Takings	41
	Consequential and Constitutional Damages	41
4	■ Severance Damages and Loss of Access	63
	<i>Gerald Meaders and Matt Michel</i>	
	Overview	63
	Severance Damages Related to Land Use and Zoning	66
	Loss of Access	67
5	■ Prelitigation Process	75
	<i>Robert H. Thomas</i>	
	Initial Client Contact	76
	Resolution of Public Necessity	77
	Condemnor's Power to Take the Property at Issue	78
	The Uniform Relocation Act	80
	Letter of Offer	81
	Proper Parties to Suit	81
	Accurate Description	82
	Opinions of Value	82
	Conclusion	83

6	Trial	86
	<i>Charles F. Hudson</i>	
	Pretrial	87
	Trial Briefing and Motions <i>in Limine</i>	91
	Jury Instructions	93
	Voir Dire	96
	Jury View	98
	Opening Statements	100
	Witnesses	101
	Exhibits	103
	Other Elements of the Case	104
	Common Evidentiary Issues	105
	Closing Arguments	106
	Verdict, Judgment, and Abandonment	108
	Post-trial: Cost Bills, Apportionment, and Appeal	109
7	Flooding and Erosion	113
	<i>Robert H. Thomas</i>	
	Theories of Recovery	114
	Inverse Condemnation or Tort	115
	Water Intrusion	116
	Federal Navigational Servitude	117
	Regulatory Navigability and Other Servitudes	118
8	Inverse Condemnation	123
	<i>James G. Greilsheimer and Cynthia Lovinger Siderman</i>	
	Police Power	124
	Definition of an Inverse Condemnation	124
	Moratoria	130
	Zoning	132
	Designation as Navigable Water	133
	Property Interest	137
	Ripeness	137

Date of Taking	139
Statute of Limitations	140
Burden of Proof	140
Judicial Taking	142
Conclusion	143
Appendix ■ A State-by-State Survey of Public Use Standards Calvert G. Chipchase, Christian K. Adams, and Kamaile A. Nichols	153
Introduction	153
Survey of the Public Use Requirement	154

Table of Cases 193

Index 213

<http://www.pbookshop.com>