

Sample Motion to Consolidate-De Novo Statutory Appeals - Eminent Domain

Appellant : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Appellee : CIVIL ACTION
: _____ TERM, 201__
: No. _____
: EMINENT DOMAIN

Appellant : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Appellee : CIVIL ACTION
: _____ TERM, 201__
: No. _____
: EMINENT DOMAIN

ORDER

AND NOW, this _____ day of _____, 2017, upon consideration of the Motion of Appellant _____ to Consolidate De Novo Statutory Appeals, it is hereby ORDERED and DECREED that said Motion is granted and the above-captioned de novo statutory Appeals are consolidated for discovery and trial purposes under the lead case of _____, _____ Term, 201 ____, No. _____.

BY THE COURT

J.

(name of attorney)
Attorney I.D. No. _____
(address of attorney)
TEL: _____
FAX: _____
E-mail: _____

Attorney for

Appellant : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Appellee : CIVIL ACTION
: _____ TERM, 201____
: No. _____
: EMINENT DOMAIN

Appellant : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Appellee : CIVIL ACTION
: _____ TERM, 201____
: No. _____
: EMINENT DOMAIN

MOTION OF APPELLANT
TO CONSOLIDATE DE NOVO STATUTORY APPEALS

Appellant _____, by and through the undersigned counsel, hereby files a Motion to Consolidate De Novo Statutory Appeals, and in support thereof avers the following:

1. The above-captioned statutory de novo Appeals (collectively, the “De Novo Appeals”) arise from the same condemnation proceeding commenced on _____ by the filing of a Declaration of Taking under the Eminent Domain Code, 26 Pa.C.S.A §§101 et

seq. (the “Eminent Domain Code”) with the Court, captioned, _____ (the “Condemnation Proceeding”).

2. The Condemnation Proceeding effected the condemnation of (all/a portion) of property located at _____ Philadelphia, PA 191 ____ (the ‘Condemned Property”). Appellant _____ was the Condemnor and Appellant _____ was (the/a Condemnee/displaced person) under the Eminent Domain Code in the Condemnation Proceeding.

3 The Board of View held an evidentiary hearing in BV # _____ to determine the amount of (just compensation and/or damages) to which Appellant _____ was entitled under the Eminent Domain Code in the Condemnation Proceeding in connection with the Condemned Property. Appellants were parties before the Board of View.

4. On _____, the Board of View filed with the Court its Report in BV # _____ which contained its award of (just compensation and/or damages) to Appellant (the “Board of View Decision”).

5. On _____, 2017 and _____, 2017, Appellant _____ and Appellant _____, respectively, filed the De Novo Appeals with the Court, each of which contested the Board of View Decision under the Eminent Domain Code.

6. Section 516 (“Right of appeal”) of the Eminent Domain Code authorizes the Court, on motion of either Appellant, to enter an Order consolidating the De Novo Appeals.

7. Counsel for Appellants have conferred with respect to the Motion. Appellant _____ is not opposed to the Motion and the requested relief.

8. Pursuant to Section 516 of the Eminent Domain Code and in the interests of judicial economy and efficiency, the De Novo Appeals should be consolidated for discovery and trial purposes under the lead case of _____.

WHEREFORE, Appellant respectfully requests that this Honorable Court enter an Order in the form attached, thereby granting the Motion and the requested relief.

Respectfully submitted,

(name of attorney)

Attorney I.D. No. _____

(address of attorney)

Attorney for Appellant _____

Dated: _____, 2017

(name of attorney)
Attorney I.D. No. _____
(address of attorney)
TEL: _____
FAX: _____
E-mail: _____

Attorney for

Appellant : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Appellee : CIVIL ACTION
: _____ TERM, 201__
: No. _____
: EMINENT DOMAIN

Appellant : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Appellee : CIVIL ACTION
: _____ TERM, 201__
: No. _____
: EMINENT DOMAIN

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION OF APPELLANT _____
TO CONSOLIDATE DE NOVO STATUTORY APPEALS**

I. MATTER BEFORE THE COURT

The Motion of Appellant _____ to Consolidate De Novo Statutory Appeals (the "Motion") is governed by the Eminent Domain Code, 26 Pa.C.S. A §§101 et seq. (the "Eminent Domain Code"). Appellant _____, by and through the undersigned counsel, seeks the entry of an Order, in the form attached hereto, which consolidates the above-

captioned de novo statutory Appeals filed under the Eminent Domain Code (collectively, the “De Novo Appeals”) for discovery and trial purposes under the lead case of _____.

The Motion is unopposed.

II. STATEMENT OF FACTS

The De Novo Appeals arise from the same condemnation proceeding commenced under the Eminent Domain Code on _____ by the filing of a Declaration of Taking with the Court, captioned _____ (the “Condemnation Proceeding”). The Declaration of Taking in the Condemnation Proceeding effected the condemnation of (all/a portion) of property located at _____, Philadelphia, PA 191____ (the “Condemned Property”). Appellant _____ was the Condemnor and Appellant _____ was (the/a Condemnee/ displaced person) under Eminent Domain Code with respect to the Condemned Property.

Appellants were parties to a Board of View hearing at BV # _____ to determine the amount of (just compensation and/or damages) to which Appellant _____ was entitled under the Eminent Domain Code in the Condemnation Proceeding in connection with the Condemned Property. On _____, the Board of View filed with the Court its Report for BV # _____, which contained its award of (just compensation and/or damages) to Appellant (the “Board of View Decision”).

On _____, 2017 and _____, 2017, Appellant _____ and Appellant _____, respectively, filed the De Novo Appeals under the Eminent Domain Code, contesting the Board of View Decision. The De Novo Appeals were each given a different court term and number from the court term and number for the Condemnation Proceeding.

The De Novo Appeals remain unconsolidated. The Motion has been filed to secure their consolidation. Counsel for Appellants have conferred regarding the Motion. Appellant _____ is not opposed to the grant of the Motion and the requested relief.

III. STATEMENT OF APPLICABLE LAW

Section 516 (“Right of appeal”) of the Eminent Domain Code reads in relevant part:

(a) Extent of right. -

- (1) Any party aggrieved by the decision of the viewers may appeal to the court. The appeal shall raise all objections of law or fact to the viewers’ report.

....

(b) Consolidation – The court, on its own motion or on application of any party in interest, may consolidate separate appeals involving only questions of law as one proceeding.

....

In addition, an Order granting the requested consolidation of the De Novo Appeals for discovery and trial purposes under the lead case of _____ would be in the interests of judicial economy and efficiency.

IV. CONCLUSION

For the reasons set forth above, Appellant _____ respectfully requests that this Honorable Court enter an Order, in the form attached here, thereby granting the Motion and the requested relief.

Respectfully submitted,

(name of attorney)
Attorney I.D. No. _____
(address of attorney)
Attorney for Appellant _____

Dated: _____, 2017

VERIFICATION

The undersigned hereby states that he/she is the attorney for Appellant _____
in the within Motion of Appellant _____ to Consolidate De Novo Statutory Appeals;
that he/she is authorized to take this Verification on Appellant's behalf; that the facts set forth in
the foregoing Motion are true and correct to the best of his/her knowledge, information and
belief. This statement is made subject to the penalties of 18 Pa.C.S. §4909 relating to unsworn
falsification to authorities.

(name of attorney)

Dated: _____, 2017

CERTIFICATE OF SERVICE

The undersigned hereby states that on _____, 2017, I electronically filed the attached Motion of Appellant _____ to Consolidate De Novo Statutory Appeals, a copy of which was served upon counsel listed below via the Court's electronic filing notice:

(name of counsel with address)

(name of attorney)

Attorney I.D. No. _____

(address of attorney)

Attorney for Appellant _____