

Eminent Domain and Condemnation

Welcome to the Virginia Eminent Domain Group at Blankingship & Keith, P.C. We are among the most experienced eminent domain lawyers in Virginia, having handled many hundreds of cases over the last three decades.

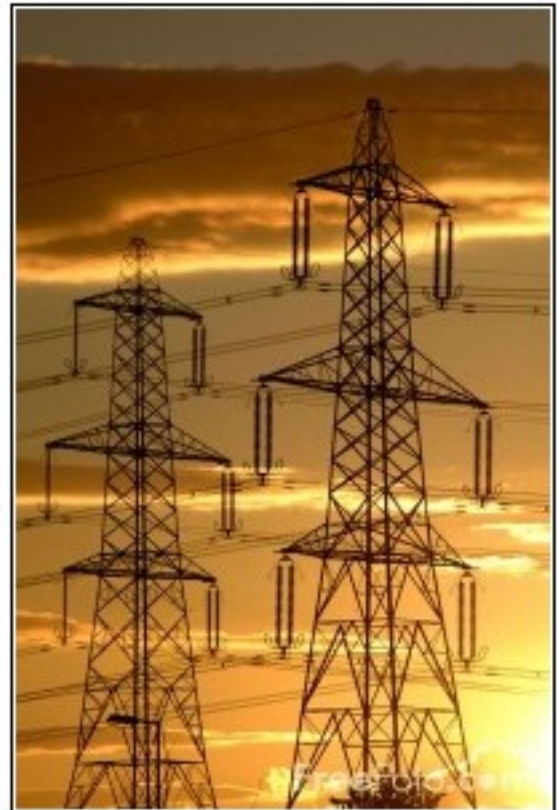


Best Lawyers in America ranked Blankingship & Keith, P.C. as #1 in Virginia for many years, with the firm recently receiving a Tier 1 Ranking from Best Lawyers in Metropolitan Washington D.C. For the fourth time

Paul Terpak was named Best Lawyers' 2022 Washington D.C. Eminent Domain and Condemnation Law Lawyer of the Year (he previously received this designation in 2012, 2016, and 2018), and Paul has been listed in [Virginia Super Lawyers](#) in the area of Eminent Domain for many years. Paul is the Editor of the standard handbook on Virginia law, "Eminent Domain Law in Virginia". In 2002 Paul was selected by the Virginia Code Commission to serve on the advisory committee which produced a complete recodification of all Virginia statutes on eminent domain.

The Eminent Domain Group has long and extensive experience in the trial of eminent domain cases and always seeks to maximize the just compensation due under the Constitution when the government takes property. The firm has won many of the highest condemnation awards in Virginia, but trial is not always the best solution and the group is always willing to consider a fair settlement or an "out of the box" solution to achieve the client's goals. Past settlements include the unprecedented \$84 million purchase by VDOT of the Hunting Towers apartment complex near the Woodrow Wilson Bridge in Alexandria. In an imaginative solution, Paul convinced Virginia Power to redesign a gas pipeline in a manner originally thought impossible to preserve development access to over 1000 acres on the Potomac River in Prince William County. Condemnors recognize the firm's expertise, and Gifford Hampshire and Paul Terpak were hired by Stafford County to represent it in the 3000 acre Crows Nest condemnation case, the largest sized condemnation in Virginia in over a decade.

Besides handling the largest and most complex cases in Virginia, the group has handled all types and sizes of takings from homes, businesses and farms. Our team includes Kevin DeTurrís, who has been named by [Super Lawyers®](#) as a rising star for 2013 and 2014. Kevin has litigated hundreds of eminent domain cases, primarily on behalf of condemning authorities. He brings a wealth of experience and the insight of how these matters are viewed from the other side. Gifford Hampshire, formerly of the Prince William County Attorneys Office, won a landmark case for compensation to the County from the federal government arising from the expansion of



Manassas Battlefield Park. Giff is the author of the chapter on Regulatory Takings in "Eminent Domain Law in Virginia." [Pat Piccolo](#) is a former law clerk for Judge Daniel E. Ortiz and adds the horsepower to handle any size case. Finally, Hugo Blankingship, rightly called the Dean of Virginia eminent domain attorneys, remains available to add his wise counsel. We hope we can be of help to you.

Important: Lawyer case results depend upon a variety of factors unique to each case. Case results do not guarantee or predict a similar result in any future case

undertaken by the lawyer.

Related Attorneys

Blankingship & Keith, PC.

- Paul B. Terpak
- Kevin F.X. DeTurrís
- Gifford R. Hampshire
- Patrick B. Piccolo

Related Cases

- \$10,100,000 Condemnation Settlement

Precondemnation Planning

If you know a condemnation may be coming, there are a number of things you can do to protect yourself:

1. **Maintain the property in good condition** as if you were preparing to sell it. The valuation process in a condemnation is designed to simulate a fair market sale. Anything which increases or reduces value may become evidence in the case.
2. **Save all documents regarding the condemnation**, including public notices, letters, e-mails, and other communications.
3. **Take pictures of the property before the condemnation.** Pictures and videos may become very important evidence about the value of your property at trial. Condemnation juries travel to your property and view the property taken during the trial, but the project may have already been built and your home or business destroyed prior to trial.
4. **Timber Value:** If you have timber that will be destroyed, have it valued before that occurs.
5. **Do not file any real estate tax appeals.** Any low value you put on the property, including in a real estate tax appeal, may be used against you at trial. Also, be careful if you place a value on the property in any other document like a financial statement.
6. **Maintain all government approvals** regarding the use of your property. Even if you know property is heading toward condemnation, do not let any legal nonconforming uses lapse. If you were otherwise intending to pursue government approvals to enhance the use of your property, continue to do so in the normal course in consultation with your condemnation team.
7. **Don't sign anything presented by a condemnor**, especially a right of early entry or an option agreement. These documents may give the government the right to enter onto your property without immediately paying just compensation as required by law.
8. **Do consult an experienced eminent domain attorney.** Condemnation law is complex. There are many pitfalls for the unwary landowner or lawyer.

Frequently Asked Questions

What is eminent domain/condemnation?

Answer: "Eminent Domain" or "Condemnation" is the power of government or its designees to take private property for public use. Both the United States Constitution and the Virginia Constitution grant the government this power, but also restrict its use. The main restrictions are that no person shall be deprived of property except for public use, and that just compensation must be paid.

Does the Government or public utility have the right to take my property?

Answer: Usually, but your property can only be taken for a public purpose and no more land may be taken than is needed for that purpose. It is sometimes possible to challenge public purpose or to argue that the condemnor is taking too much land. However, it is ALWAYS possible to fight for just compensation.

Can the condemnor come onto my property to perform studies before they take the property?

Answer: Yes. The law allows a condemnor to study if a particular parcel of land is suitable for the intended public purpose. The condemnor or its agents may enter with the landowner's permission OR by the following procedure. First, the condemnor must send a certified letter requesting permission to enter not less than 15 days prior to the first date of the proposed inspection, including the date or dates of such inspection, the name of the requesting entity, the purpose of the inspection, and the specific tests, examinations, etc., to be performed. If no permission is granted, the condemnor must then send, by certified mail and post on the entryway of the property, a Notice of Intent to Enter, also not less than 15 days before the proposed entry. The condemnor must pay for any actual damages caused by the entry, and a court proceeding is provided if there is a dispute. No prior court order is required for entry. We advise our clients to get an agreement on insurance, repair of any damage and delivery of a copy of any report produced.

If I know a condemnation is coming, what should I do now to get ready?

Answer: First, treat the property as if you were getting ready to sell it. Keep it clean and well maintained. Save all letters and other papers you get about a possible condemnation. Consider whether any government approvals might add value, and pursue them in the ordinary course as if a condemnation is not coming. Most importantly DO NOT FILE ANY TAX APPEALS CLAIMING A LOW VALUE--they can be used against you. DON'T SIGN ANYTHING, especially a right of early entry or option agreement, without it first being reviewed by an attorney.

What is just compensation?

Answer: Just compensation is the constitutionally mandated standard which must be paid to any landowner whose property is taken. The Virginia Supreme Court has defined just compensation to mean "fair market value" of the property taken, plus the damage done to any property retained by the landowner in a partial taking.

How does a condemnation case get started?

Answer: The condemnor must get an appraisal of the "just compensation" for the taking, give the landowner a copy of the appraisal, and offer the full amount of the appraisal.

Do I have to take the offer?

Answer: No. Every landowner has the right to a trial by jury to determine just compensation. The reality is that most cases are settled before trial, but the landowner should get his or her own appraisal to see if the offer is fair. Blankingship & Keith can then help you through the negotiation process.

Who decides what my just compensation is?

Answer: Appraisers supported when necessary by civil engineers and other experts present their opinions about the value of the property taken and damaged. It may be no surprise that the condemnor's appraisers usually put a low value on the compensation which is due. If we are unable to settle your case, the question of value is decided at trial by a jury of people in your city or county who own some type of real estate. This is the ultimate protection for landowners built into Virginia law.

Are trials expensive?

Answer: They can be, but we do all we can to minimize costs. At the very least, you will need to pay for an appraiser and possibly a civil engineer to determine the development potential of your property. Other experts may be needed, depending on the issues on each parcel. Recent cases handled by Blankingship & Keith have included environmental contamination, endangered species, Indian burial grounds, and limestone sink holes. Every piece of land is unique and must be evaluated based on its individual conditions and circumstances. Ultimately, we give you the best advice we can and YOU decide how much to spend on experts based on the potential return on that investment.

What about the cost of a lawyer?

Answer: Blankingship & Keith usually takes cases on a contingency basis. We get a percentage of the amount awarded over the original offer. That means the landowner keeps the full amount of the offer made by

the condemnor and legal fees are due only if we get you more compensation. It is important to note that it is possible (but rare) that a jury will award you less than the original offer, but we will advise you about that risk if and when it occurs.

Are there ways to share the costs of the case?

Answer: Yes. Where there are a lot of people with similar issues, they can share costs they have in common. If there is a large project, such as a road, school or power line affecting a number of similarly situated landowners, it may be possible to share the cost of appraisers and other witnesses.

What if only part of my property is taken?

Answer: If only part of your property is taken, in addition to the fair market value of the portion taken, the condemnor must also pay for the damages caused to the portion of your property remaining after the take. This requires a complete analysis of every way in which the condemnation hurts the current use or foreseeable future use of your property. Examples of damages to the residue include cutting off road or utility access, creating an isolated or odd shaped lot, or making the current or future use of your property more expensive.

What if my home is taken?

Answer: The condemnor has to pay you fair market value for your home and, under the Virginia Relocation Assistance Act, they need to help you find comparable, decent, safe and sanitary housing and to pay your moving expenses. Your new home should be equal to or better than your old home and generally in a location equally or more desirable. Blankingship & Keith can help you through that process.

Client Testimonials

Paul,

I wanted to express my appreciation to you for the work you have done on my behalf. I could not be more pleased with the outcome and that is largely due to your insight and professionalism.

*John Curtis
President
Belmont Ridge Self Storage*

Paul,

I've found that being tenacious and thorough go hand in hand and you sir have exemplified both. From putting the right players on the field to developing the plays that work against the defense, you played it like a successful head coach. The "score board" proves it.

*Donald J. Kerr
Vice President
Chantilly Crushed Stone/ Loudoun Quarries*

You and Kevin are the greatest people and lawyers we have had the pleasure to do business with. We are still wondering how you did the great job for us.

Russ and Heidi Calloway, Mountain Valley Pipeline Landowners

Thank you again for all of your assistance and guidance regarding the eminent domain issues in our case. I know you're the best at this on the legal side but I think we found the practical business advice just as valuable.

Noah Mehrkam, Arcland Property Company

Brenda and I would like to take this opportunity to express our appreciation for the outstanding job you and Kevin did in handling our eminent domain case regarding our service station on Rt. 1 in Ft. Belvoir. Not only was your entire team professional and enthusiastic, you guided us thru a complex situation.

This case was extremely important to us and we could not have been more pleased with the results. We would highly recommend you and your firm to anyone involved with an eminent domain situation.

Terry and Brenda Shreve, Shreve Oil Company

My legal matter involved the taking of a property worth more than \$10 million by a well-financed and powerful government entity. I knew that I had to hire a law firm that was not afraid to go toe to toe with the government entity and fight for my rights. Not only did Paul Terpak successfully handle my case, he showed passion in defending my rights. I wholeheartedly recommend Paul Terpak to anyone dealing with eminent domain issues. You can't find a better attorney than Paul Terpak for eminent domain cases .

*Ram Guru
Milestone Metals*

Paul was recommended to me as the recognized condemnation expert in the area. As our advocate, he efficiently managed our defense and maximized our compensation. Through the process, it became obvious to me that Paul's skill and reputation was the key factor to the timely and cost-effective resolution of the matter.

*Mike Gill
Akridge
Development Manager*

It is with great satisfaction that I write to you upon the successful culmination of a seven year legal battle between Northern Virginia Regional Park Authority and a gigantic, multi-billion dollar corporation. There is absolutely no doubt that our success was a direct result of having the benefit of the best law firm and, more importantly the best lawyer, leading the charge. Paul Terpak's performance was nothing short of brilliant... The other side was represented in the courtroom by more than a dozen attorneys and aides from a major law firm-- we had two... By the end of the day, I was absolutely certain we had made the right decision in proceeding with the case and hiring Blankingship & Keith to carry our sword. Paul's performance in the courtroom was astonishing. He was genuine, articulate, intelligent, controlled and forceful when needed, and he overwhelmed the courtroom.

*Todd Hafner
Director of Planning and Development
Northern Virginia Regional Park Authority*

Paul, it was quite a wild and unusual ride watching the VDOT/BF Saul case unfold, but I wouldn't have missed it for the world. You and Hugo did a great job, and we want to thank you once again for your wonderful work. You are certainly a gifted litigator, and we would not hesitate to call upon you again in the future.

*Mary Beth Avedesian
Vice President, Acquisitions & Development
Saul Centers, Inc.*

Now that the case has concluded I wanted to write you and tell you how impressed I was with your handling of our case. You brought in the best of the best as far as experts are concerned and you did a magnificent job of

organizing and directing their activities. I have no doubt that the end result, which was quite favorable, was a result of your hard work and focus. It was a real pleasure having the chance to work with you on this case and I could not be happier with the representation you provided.

*Richard R. Saunders, Jr.
Sevila, Saunders, Huddleston & White*

We are all delighted with the outcome. As the one sitting in the courtroom, I was impressed throughout the trial by your skilled handling of the issues, and your ability to connect with the jury on those issues. This was certainly not an "open and shut" case, and I believe that all of your and Laurie Kirkland's hard work really won the day for us. Many thanks!

*Carolyn C. Olshaker
Clemente Development Company, Inc.*

I want you to know how impressed I was with your courtroom performance this week. I feel like I took a 3 day class on what a lawyer should be doing inside the courtroom to best represent his clients interest. I just want you to know your skills will not be forgotten. Thanks and happy holidays.

*Patrick S. Burke
The Dean & Burke Group*

I wanted to say thank you for all of your hard work on this case. Everyone is very pleased with the results of the Sheraton Premier case.

*Allison Navitskas
Vice President/Associate General Counsel
FelCor Lodging Trust Incorporated*

I chose Paul to represent my clients in Virginia Power line cases because of his skill, ability and demeanor and his excellent reputation for expertise in Eminent Domain law.

*Henry C. "Hank" Day
Former Town Attorney
Warrenton, Virginia*

Hugo, my level of appreciation for your competence rises with each experience. I am truly grateful for your intense interest on my behalf and am equally grateful to Paul Terpak who you can be rightfully proud of for his diligence, tenacity and for out-maneuvering our opponent at several points.

*Scott C. Humphrey, A.S.A.
Appraiser
R. L. Kane, Inc.*

Paul, I just wanted to congratulate you for the great result on the Spring Hill Road litigation. It exceeded the client's expectations and the client believes the matter was handled extremely well. Keep up the good work!

*Kenneth Ingram
Counsel
Rotonda Condominium Unit - Owners Association*

Paul Terpak is very aggressive and extraordinarily competent.

Ray Schupp

President

Schupp Development Companies

Paul, you sure know how to make a general counsel look good to her boss. Mr. Van Metre is delighted with me, even though I try to keep telling him it was your excellent work which achieved the result.

Patricia McQuillen

Vice President and Assistant General Counsel

The Van Metre Companies

Case Reports

Blankingship & Keith has handled hundreds of condemnation cases for decades. [Paul Terpak](#) has over 30 years' experience; [Giff Hampshire](#) has handled eminent domain cases for 19 years both for Prince William County and for private landowners. [Kevin DeTurris](#) has worked in the field for 10 years. The following cases illustrate some of the trials handled by the firm. Note that all jury verdicts also receive statutory interest which increases the amount paid.

Commissioner of Highways v. Freedom I-66 Land, LLC

Original Offer: \$4.7 Million

Settlement Amount: \$21 Million

This case involved the condemnation from an 83 acre parcel zoned Industrial with by right use for data centers of approximately 21 acres in fee, along with 3.4 acres for stormwater management and drainage, required for the construction of a commuter parking lot built as part of the expansion of I-66. VDOT's original offer was \$4.7 million. The most interesting aspect of the case involved damages to the residue. After a year of meetings with VDOT and its PPP partner, FAM, the parties were able come to an accommodation involving shared use by the Landowner of the stormwater management pond built by VDOT. Susan Shaw of VDOT, and VDOT's attorney, Jeff Huber, were instrumental in creating an innovative solution which saved millions of dollars in damage to the residue of the landowner's property. Even so the landowner suffered significant damages because VDOT took the heart of an 83 acre parcel, dividing it into 3 residual parcels, creating new setbacks, and adding a new road at set elevations which increased the cost of earthwork by several million dollars. At a mediation with Judge Robert Wooldridge, the case settled for \$21 million.

Commissioner of Highways v. Gainesville GGP

Original offer: \$3.4 Million

Settlement amount: \$10.1 Million

This case involved the condemnation of approximately 24 acres along with 4 acres for stormwater management and drainage required for the construction of a commuter parking lot built as part of the expansion of I-66. VDOT's original offer was \$3,412,518. Two other smaller takings were settled concurrently with the total VDOT offers for the three cases of \$3,928,862. The three cases were settled for a collective payment of \$10.1 million. The main issue in the case was whether the property was suitable for data center use, and the value per acre. The most interesting aspect of the case involved damages to the residue. After a year of meetings with VDOT and its PPP partner, FAM, the parties were able come to an accommodation involving shared use by the Landowner of the stormwater management pond built by VDOT. Susan Shaw of VDOT, and VDOT's attorney, Jeff Huber, were instrumental in creating an innovative solution which saved millions of dollars in damage to the residue of the landowner's property. As a result, no damages to the residue were claimed, and the sole issue was value of the property taken. Ultimately this cooperative effort helped lead to a fair settlement of the case.

VDOT v. Shadyac

Original Offer: \$449,000

Jury Verdict: \$1,011,622

This case involved the total taking of a little over an acre in Gainesville. The key ruling was the exclusion of the owners low purchase price of \$250,000 as negatively influenced by the project.

Garber v. Prince William County

Original Offer: \$3.3 million

Settlement: \$15 million

This case involved the taking of approximately 70 acres to expand the Government Center in Prince William County. The primary issue was the nature of the uses allowed under the County's Comprehensive Plan. Giff and Paul successfully argued for a mixed use which resulted in a much higher value.

O'Connor Family v. Loudoun County School Board

Original Offer: \$4 million

Settlement: \$6,468,200

This case involved the condemnation of a farm outside Leesburg for a high school site. The property had issues regarding limestone Karst, sinkholes, and an endangered species.

Franconia II, LP (Springfield Mall) v. VDOT

Original Offer: \$242,300

Settlement: \$508,700

The key issue was the loss of parking and the impact of the taking on a pad site at the Mall.

Mac D Associates v. Fairfax County

Original Offer: \$7,830,635 for 81 acres.

Jury Verdict: \$11,572,491 for only 49 acres.

In a taking from the old MacDonald farm (really) the primary issue was the highest and best use of the property. Blankingship & Keith first succeeded in reducing the size of the taking. The key ruling at trial was Paul's success in having the County's Comprehensive Plan thrown out of evidence because it was based in part on the road to be constructed as part of the taking in the case.

Northern Virginia Regional Park Authority v. Dominion Virginia Power

Original Offer: Zero

Settlement: \$1.9 million plus a confidential amount for park improvements.

In Phase 2 of the Park Authority's fight to keep control of the W&OD Trail, which Paul argued and won at trial and before the Virginia Supreme Court, the Park Authority sought damages for Virginia Power's improper placement of fiber optic cables on the Trail. The valuation issue was very similar to an inverse condemnation case. After a number of hard fought motions, Paul was able to achieve a very favorable settlement.

Legend v. Virginia Power

Offer: \$38,906

Settlement: \$215,000 plus an unprecedented redesign of Virginia Power's new gas line.

This very unusual case involved the proposed construction of a new gas line under an existing power line on the Cherry Hill Peninsula in Prince William County. Due to the sag of the electric lines and the topography of the pipeline, development access to over 1000 acres on the Potomac River would have been cut off by the project. Despite insisting for many months that a redesign was impossible, Paul eventually convinced Virginia Power that it either had to redesign and construct the pipeline to allow for three major divided highways, or purchase 1000 acres. The redesign has allowed KSI's new Harbor Station Project to proceed.

Rotonda Condominium Unit Owner's Association v. Board of Supervisors of Fairfax County, Virginia

Original Offer: \$589,900

Blankingship & Keith, PC.

Settlement: \$1,350,000

Paul was able to negotiate a settlement of this case shortly before trial which involved a strip of the Condo Association's common area taken for a road widening.

Fairfax County Park Authority v. McCue and McCue Limited Partnership

Original Offer: \$4,750,900

Settlement: \$9,525,000

The case involved the condemnation of 100 acres on the Potomac River near Occoquan. The main issues were the extreme difficulty in locating perc sites and the impact of an Indian village visited by Captain John Smith. With the right team of experts, Hugo and Paul succeeded in negotiating a settlement at nearly the landowner's full appraised value.

Stafford County v. Crows Nest

In a role reversal, the firm was hired by the Condemnor to handle the largest condemnation in Virginia in the last 10 years (save the HGLC case at Wilson Bridge also handled by Blankingship & Keith) 3,000 acres on the Potomac River for a park. The parties original difference of value was \$60 million v. \$33.3 million. Giff and Paul successfully negotiated a settlement for the County to pay \$38 million.

Hayfield Farms Community Association II v. Board of Supervisors of Fairfax County

Original Offer: \$106,000

Settlement: \$1,857,920

The big question in this case was how to value a homeowners association's open space which could not be further developed due to restrictions in the zoning approvals. The County argued the land had little to no value because it was not marketable. In what appears to be a first nationwide, Paul successfully argued that the open space added value to every home in the neighborhood and that there was a market for park land and playing fields.

Board of Supervisors of Prince William County v. Horner Road, L.C.

Original Offer: \$1,628,732

Jury Verdict: \$4.4 million

Prince William County took 24.6 acres of the owner's property to construct a new commuter parking lot adjoining Route 95 near Dale City. The County presented numerous experts and County personnel who testified that the property had extremely limited development potential. Hugo and Paul assembled a first-class team which succeeded in convincing the commissioners that the property had wonderful potential.

H.G.L.C. v. VDOT

Original offer: \$32,609,000

Settlement: \$67,400,000

VDOT took one of three high-rise apartment towers for the construction of the new Wilson Bridge across the Potomac River. Due to the large damage claim to the remaining two towers, Hugo and Paul were able to convince VDOT to purchase the remaining towers outright. The team is now fighting for the former owner to repurchase the two towers now that construction is nearly complete.

Morrow Equipment Company v. VDOT

Original offer \$772,224

Settled for \$1,209,949

The key issue was that the taking changed the configuration of the owner's parcel so that its modular high rise crane sections could no longer be stored as efficiently. The settlement involved the outright sale of additional land at fair market value which reduced Morrow's damages and reduced VDOT's construction costs by eliminating the need for a large retaining wall.

VEPCO v. Futura LLC
Original Offer: \$140,500
Settlement: \$400,000

Using our expertise and understanding of appraisal practice, we were able to demonstrate a significant flaw in the condemnor's offer appraisal that brought into doubt whether a bona fide offer had actually made. Facing dismissal and the prospect of setting the project schedule back several months, on the eve of the early entry hearing VEPCO settled for nearly three times the initial offer.

VEPCO v. Superior Investments LLC
Original Offer: \$77,600
Settlement: \$265,000

Through aggressive discovery Kevin obtained information that brought into question the public purpose of the project. Rather than risk an adverse ruling on the issue, VEPCO agreed to a settlement nearly four times the initial appraised value.

Atlantic Coast Pipeline v. Kelk
Original Offer: \$12,650
Settlement: \$75,000

In this matter ACP was seeking to widen, pave and use an existing private gravel road for to gain access to a ridgeline where the pipeline was to eventually be constructed. Kevin was able to use his experience and understanding of the project's construction plan to determine that there was an extremely heightened time sensitive need for ACP to gain access at this location. This knowledge proved critical in reaching a quick settlement in excess of six times the amount of the original offer. The resolution permitted the condemnor to keep up with the construction schedule and resulted in a very favorable monetary award to the property owner. In addition to the monetary award, we were able to negotiate a provision in the settlement agreement mandating that if the project were ever abandoned the acquired easement would revert back to the property owner with no requirement for repayment. (A condition that came to fruition when ACP abandoned the project in 2020).

Articles

Articles

- [Valuation of Quarry Property in Virginia](#)
- [May a Condemnor Compel a Landowner to Accept Land as a Component of Just Compensation?](#)
- [Obtaining Just Compensation for Condemnation of Common Area Owned by Homeowners Associations](#)
- [Limits on Consideration of Mandatory Dedications in Eminent Domain](#)

News & Insights

- [Twenty Blankingship & Keith Attorneys Recognized as Best Lawyers in America®](#)
- [Fifteen Blankingship & Keith Attorneys are Recognized as Super Lawyers](#)