

8/16/17

Eminent Domain from one County to another:

Per SLO County Counsel:

The general rule is that "a local public entity may acquire by eminent domain only property within its territorial limits except where the power to acquire by eminent domain property outside its limits is expressly granted by statute or necessarily implied as an incident of one of its other statutory powers." (Code of Civil Procedure section 1240.050.) There is an exception to the general rule, however, when extraterritorial condemnation is required for water supply purposes. (CCP Sec. 1240.125.) The legislative committee that created the exception noted that water supply purposes included storage and distribution. It looks like extraterritorial condemnation might be allowable for this project.

Apparently, it is not unusual for a government agency to determine that it needs property held by another government agency. If the agencies cannot resolve the issues through negotiation (e.g. allowing multiple use) then the court will determine who has "the more necessary public use." (CCP Sec. 1240.610.) There are some statutory presumptions that come into play when this becomes an issue.

With regard to condemnation, it looks like the County will have a role in deciding if and when to allow joint use or multiple use of property in which we have an interest. If we cannot reach agreement about the terms of the use of such property, then we may need to defend against a condemnation action.