

Missouri Lawyers

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WEEKLY

■ \$642,000 VERDICT

Developer wins verdict from Ameren

REAL ESTATE CONDEMNATION

- **Breakdown of value:** In excess of \$800,000 with interest
- **Venue:** Franklin County Circuit Court
- **Case Number/Date:** 10AB-CC00311/June 10, 2016
- **Caption:** Union Electric d/b/a Ameren Missouri v. High Plain Land Co.
- **Plaintiff's Attorneys:** Thomas B. Weaver and Laura Bentele; Armstrong Teasdale, St. Louis
- **Defendant's Attorneys:** Steven P. Kuenzel Sr. and William W. Eckelkamp Jr; Eckelkamp Kuenzel, Washington
- **Last Pretrial Offer:** \$140,000
- **Last Pretrial Demand:** None
- **Judge:** Gael Wood
- **Plaintiff's Experts:** Joe Vernaci, Washington (developer); Tony Bosworth, St. Louis, (developer); John Neff, St. Louis (appraiser); Shannon Johannon, Union (engineering)
- **Defendant's Experts:** Raymond Frankenberg II, Washington (engineering); Edward Dinan, St. Louis (real estate appraisals)

BY ALAN SCHER ZAGIER

Special to Missouri Lawyers Media

A Franklin County jury has awarded nearly \$650,000 in damages to an eastern Missouri development company over a high-speed Ameren UE electrical transmission line that idled almost three acres of a 16-acre tract the developer hoped to place into commercial use.

With interest, the award will exceed \$800,000.

The jury deliberated for about three hours after a five-day trial before determining on June 10 that Ameren must pay the High Plain Land Co. and its St. Louis owners Neal and Mark Kalishman \$642,000 in a 2010 condemnation case filed by the utility. Ameren's Saddle Creek transmission line crosses the property along Missouri Route 100, six miles from the town of Washington.

High Plain's property appraiser testified that its damages were just under \$1 million, while Neal Kalishman testified that his company's damages were between \$2 million and \$4 million.

Washington attorney Steven P. Kuenzel Sr., who represented the developers, called the legal victory the culmination of a "David and Goliath battle" in which court-appointed condemna-

tion commissioners initially said that his clients were entitled to less than \$120,000. A company official told Kuenzel that just one other Ameren condemnation case had gone to a jury trial in eastern Missouri in the past 15 years, he said.

"Most people can't take them on," he said, citing the Fortune 500 company's ample financial and legal resources. "It's just too expensive."

The developers argued that the transmission line created a "zone of danger" extending 300 feet on either side of the easement, rendering a 1.28-acre portion of the property unusable due to public fear of electromagnetic fields as well as the risk of downed power lines from ice storms or high winds. High Plain further argued that a 1.43-acre "remnant" at the edge of the parcel was also damaged in the taking because Ameren UE could cut off access to it at any time.

"It's not just the taking of the easement," Kuenzel said. "It's the devaluation of the property."

Attorneys for Ameren argued at trial that the high-voltage nature of the power lines "shouldn't really make any difference," according to Kuenzel, because people are used to low-voltage power lines running to their homes.

Thomas B. Weaver of Armstrong Teasdale, who represented the utility, declined to discuss whether the company plans to appeal the ruling.

The jury's award represented a 25 percent diminution of value of the first 100 feet east of the easement, Kuenzel said, with the area west of the easement included in the remnant damages. The jury rejected both Kalishman's claim of fears creating a 300-foot "zone of danger" and the testimony of High Plain's appraiser that the entire property had been reduced by 10 percent, Weaver noted. **MO**



Steven P. Kuenzel Sr.



William W. Eckelkamp Jr.