



Illinois Appeals Court Affirms Dismissal Of Takings Claims Against O'Hare International Airport

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The Illinois Appellate Court, First District, handed the Firm's client, City of Chicago, an important victory on June 9, 2020, affirming the trial court's decision on summary judgment that plaintiffs' claims for damages from noise from aircraft using a new runway at O'Hare International Airport were barred by the statute of limitations.

The suit was filed in October 2015 by over 80 residents of Bensenville, Illinois, a village just west of O'Hare. The neighborhood had been exposed to high levels of aircraft noise for many years, but plaintiffs claimed that aircraft using new Runway 10C, which opened in October 2013, was causing new impacts. In dismissing the case prior to trial, Judge Mulroy of the Cook County Circuit Court ruled that plaintiffs' claims were barred by the one-year statute of limitations because their claims arose when Runway 10C opened and large numbers of aircraft began flying near or over plaintiffs' homes almost immediately and that subsequent variations in operations did not give rise to a new claim.

In a unanimous, unpublished decision by Justice Lavin, the appellate court affirmed Judge Mulroy's decision holding that the objective evidence of the impacts from aircraft using Runway 10C was not contested by plaintiffs and fully supported Judge Mulroy's decision. The decision is the first Illinois state court ruling to address the issue of when an inverse condemnation claim accrues based on aircraft overflights, and aligned Illinois law with federal law in holding that an inverse condemnation claim based on aircraft overflight accrues when the flight operations begin.

Eric Pilsk, who argued the City's Motion for Summary Judgment before Judge Mulroy, advised the City of Chicago's legal department on appeal. The case was decided on the briefs and without oral argument.

For more information, please contact Eric Pilsk or Peter Kirsch.