

Cite as 2017 Ark. 80

SUPREME COURT OF ARKANSAS

No. CV-16-23

CITY OF BENTON
APPELLANT/CROSS-APPELLEE

V.

LARRY TEETER, DONNA A.
TEETER, AMY E. TEETER THOMAS,
AND KEVIN R. TEETER
APPELLEES/CROSS-APPELLANTS**Opinion Delivered** March 9, 2017APPEAL FROM THE SALINE
COUNTY CIRCUIT COURT
[NO. 63CV-14-351]HONORABLE GARY M. ARNOLD,
JUDGEREVERSED ON DIRECT APPEAL;
AFFIRMED ON CROSS-APPEAL.**KAREN R. BAKER, Associate Justice**

This appeal stems from a condemnation action in Saline County, Arkansas. The appellant, City of Benton (hereinafter “the City”), appeals from the Saline County circuit court’s order awarding attorney’s fees to the appellees, Larry D. Teeter, Donna A. Teeter, Amy E. Teeter Thomas, and Kevin R. Teeter. The Teeters cross-appeals the circuit court’s order denying their request for payment of expert-witness fees.

In 2014, pursuant to Ark. Code Ann. §§ 18-15-201 and 18-15-301 et seq., the City filed a condemnation action seeking to take property by eminent domain for the purpose of widening Alcoa Road in Benton, Arkansas. The circuit court entered an ex parte order of possession and directed the City to deposit funds in the court’s registry in order to work on the property. The City deposited \$130,800 into the court’s registry. The parties were not able to agree on an amount of just compensation, and the matter was tried before a jury. On

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August 21, 2015, the jury awarded the Teeters \$300,000.¹

Subsequent to the jury trials, the Teeters timely filed motions for assessment of expert-witness fees and attorney’s fees asserting that Ark. Code Ann. §§ 18-15-301 et seq., specifically Ark. Code Ann. § 18-15-307, mandated an award of fees. The City timely responded and asserted that “costs” in Ark. Code Ann. § 18-15-307 did not include expert-witness fees and further asserted that the statute did not specifically provide for attorney’s fees, and therefore those fees were not recoverable. The circuit court held a hearing on the fees issue, and on October 6, 2015, the circuit court entered an order ordering the City to pay \$11,431.38 in attorney’s fees to the Teeters. The circuit court denied the Teeters’ request for \$7,991.49 in expert witness fees.

From the circuit court’s award of attorney’s fees, the City appealed to the Court of Appeals and the Teeters cross-appealed. On June 23, 2016, we accepted certification of this appeal pursuant to Arkansas Supreme Court Rule 1-2(d) (2016).

We find merit in the City’s argument on direct appeal and on cross-appeal. Accordingly, for the reasons stated in *City of Benton v. Alcoa Storage*, 2017 Ark. 78, ___ S.W.3d ___, handed down this same date, we reverse on direct appeal and affirm on cross-appeal.

Reversed on direct appeal; affirmed on cross-appeal.

HART, J., dissents.

JOSEPHINE LINKER HART, Justice, dissenting. I dissent for the reasons stated in the companion case, *City of Benton v. Alcoa Storage, Inc.*, 2017 Ark. 78, ___ S.W.3d ___,

¹The amount of compensation is not an issue in the direct appeal or the cross-appeal.

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handed down this same date.

Jensen Young & Houston, PLLC, by: *Brent Houston*, for appellant.

Eichenbaum Liles, P.A., by: *Christopher O. Parker*, for appellees.