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Top 100 Lawyers AND DISTINGUISHED COUNSEL



BRIAN J. BERGMAN

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Brian Bergman stood before a jury in Santa Clara County, representing the Santa Clara Valley Transportation Authority in the first eminent domain trial tied to the BART extension through San Jose. The case would set the tone for every valuation dispute that followed on the project. *Santa Clara Valley Transportation Authority v. Green Valley Corporation et al.*, 21CV389078 (Santa Clara Super. Ct., filed Dec. 23, 2021).

"Winning this case was key to set a precedent for all the additional trials to follow,

both to discourage opposing counsel from taking overly aggressive pre-trial settlement positions, but also to establish that VTA was valuing properties fairly prior to trial, and that they would stand by their valuations," Bergman said. The jury rejected the property owner's demand for compensation and sided with VTA.

Bergman said trying an eminent domain case for a public entity comes with two challenges. "One, you need to overcome prejudice against government. This is done both by effective jury selection, but also by prioritizing establishing trust with the jury. The jury must believe that the public entity is treating the property owner fairly," he said.

The second challenge, he said, lies in the subject matter itself. "Eminent domain valuation cases can be highly technical, and difficult for some juries to comprehend the nuances of property valuation," Bergman said. "A lot of time and effort is spent whittling complicated issues down to basic concepts that the jury can understand."

Bergman is currently handling real estate acquisitions for multiple mass transit projects across California, including the Los Angeles subway expansion and the BART expansion. He said he is encount-

ering a new pattern in his work: "I'm seeing more and more attempts to stop or delay public infrastructure projects from moving forward due to private developer interests that conflict with the projects," Bergman said.

Bergman was drawn to eminent domain law by the opportunity to help move major infrastructure forward across the state. "I've had several different legal mentors, and I've learned different things from each one," he said. "Some taught me how best to untangle complicated legal issues, and others helped me become a better trial lawyer in court."

Bergman described his approach to the work this way: "Use creativity and flexibility to push infrastructure projects forward prior to litigation, and simplify complicated legal and factual issues in court to win in front of a jury."

Beyond his casework, Bergman has served as chair of the Beverly Hills Bar Association litigation section and as chair of his Los Angeles City Neighborhood Council Land Use Committee. He participates in the International Right of Way Association, a group focused on education related to infrastructure projects, and mentors associates at BDG Law Group as they build careers in eminent domain law.