

## Caltrans loses suit over land seizure

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### Appeal likely after \$26.5 million verdict

**By Greg Moran**  
STAFF WRITER

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A San Diego Superior Court jury has awarded \$26.5 million to a family whose Otay Mesa land was targeted for condemnation by the state Department of Transportation so it could build a freeway.

The award was made to Anderprises Inc., a small San Diego family business that has owned land on Otay Mesa since 1974. The land was bought by Phil and Marjorie Anderson; their four sons and their families now own it. After a three-week trial before Superior Court Judge Patricia Cowett, the jury deliberated one day before making the award Wednesday.

At issue was the value of a piece of land, off Otay Mesa Road east of Interstate 805 and south of Brown Field, that the Andersons controlled. Caltrans had used eminent domain to take a 2.8-acre sliver of a 58-acre parcel, said Vincent Bartolotta Jr., the Andersons' lawyer.

But the family claimed that after Caltrans' action, the majority of the parcel was cut off and landlocked – with no viable access in or out.

The agency contended that it did not have to pay damages for the balance of the land and offered \$172,410 for the 2.8 acres, Bartolotta said. The agency argued that the land was slated to be used for open space anyway and could not be developed.

But the Andersons rejected the offer, setting the stage for the trial.

The jury ruled unanimously in favor of the landholders. The panel concluded that the value of the 2.8-acre parcel was \$1.3 million. Additionally, it set damages for lost use of the landlocked property at \$20.1 million.

Bartolotta said Caltrans announced it would build the Route 905 freeway in the early 1990s, and planned to complete it by 1997. But the road is still not built, and it was not until 2006 that Caltrans moved to condemn the Anderson property.

In the interim, one business approached the family to lease the parcel and use it for truck parking but backed out, believing that it would not be able to use the land after 1997.

The jury pegged damages for that lost use at \$5.1 million.

Bartolotta called the award “truly a victory for the little guy. The justice done in this case shows that Caltrans can't just come in and bulldoze people.”

The victory might be short-lived, however.

“We respect the jury's verdict, but disagree with the assumptions that support the verdict,” said Ed Cartagena, Caltrans' San Diego district spokesman. “We will review our options and move forward. An appeal is likely in the future.”

This is the second-largest award Bartolotta has won in a property-rights case. He was the attorney for developer Roque de la Fuente II, who won a \$94 million award in 2001 against the city of San Diego over the development of an Otay Mesa business park. That award has been thrown out on appeal, and the lawsuit is back in San Diego Superior Court.

Bartolotta also represented the owner of the Gran Havana cigar lounge in downtown San Diego, which the city condemned in order to build a hotel.

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