



Port Chester restaurateur wins condemnation appeal

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A Port Chester restaurateur may be entitled to reimbursement for kitchen equipment seized when the village took over his South Main Street business for a downtown redevelopment project, under an appellate court ruling.

Fabio Sorto, who ran *Restaurante Rinconcito Salvadoreno*, should be compensated for losses, even though his brother-in-law held the lease on the restaurant, said a Jan. 18 decision by a four-judge panel of the Appellate Division of state Supreme Court in Brooklyn. The ruling reversed a decision by state Supreme Court Justice Peter Rosato.

Sorto must prove ownership of the equipment and show evidence of its value in court.

"I think, certainly, the village was disappointed that Judge Rosato's decision was not upheld, but we don't think the end result is going to be very different," said Liane Watkins, a White Plains lawyer who represented the village. "All it does is give Mr. Sorto another day in court."

Watkins said Sorto does not have documentation to show that the equipment was purchased or installed. Michael Rikon, Sorto's attorney, valued the kitchen equipment at roughly \$300,000.

"This is an excellent decision," Rikon said. "Not only does it restore his full claim for trial, but it also establishes the law for everybody that when people are condemned, the condemning authority has no business to examine leases and documentation."

The village had argued that Sorto was not entitled to reimbursement because he was not named on the sublease. However, Sorto should be compensated for "significant improvements" he said he made to the restaurant, the court ruled, because he is protected by the state's eminent domain law.

The village took over the building to make way for a 27-acre retail and entertainment complex being built downtown.

Sorto, who operated the restaurant for 4 1/2 years before the condemnation, filed a claim to be compensated. but Rosato dismissed it in November 2003

FYI: For Your Information

Appellate ruling

"The Eminent Domain Procedure Law codifies the constitutional requirement that just compensation be paid to all persons whose property rights are acquired by eminent domain," said a Jan. 18 decision by the Appellate Division of state Supreme Court. "The EDPL broadly defines a 'condemnee' as a 'holder of any right, title, interest, lien, charge or encumbrance' in or on real property acquired by eminent domain."