

# BRAUN & GRESHAM

ATTORNEYS AT LAW

## SUCCESS STORIES

### TRANSMISSION LINE ROUTING

## Seeing Condemnation Clients Through Trying Times

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“Nobody gets justice,” the actor Orson Welles once said. “People only get good luck or bad luck.”

Charlie and Delain Matthews would agree – except for the or part. They feel, when it comes to what happened with their beautiful North Texas homestead, they got both good and bad luck. And from their perspective, no justice whatsoever.

The Matthews were slightly concerned going into a public meeting held by Oncor Electric Delivery Company, LLC. Oncor notified them and their neighbors of new high-profile 345-kV power lines coming through their community. Once they reviewed the utility’s draft maps, they realized their property wasn’t part of Oncor’s preferred route and were relieved.

So they were surprised a few months later to be invited to Austin for hearings by the Public Utility Commission of Texas about the same power-line project – and stunned when they saw why. The transmission lines and supporting structures would now go right through the Matthews’ property.

This was “bad luck” because Oncor was exercising its State-approved right to eminent domain or condemnation, a process by which utility companies can take over private owners’ land in order to build – for “public use” – power lines, pipelines, rail

systems or roads, or even to seize surface or groundwater. The company can take a piece of the property, or just use an easement or right-of-way, so the landowner still owns the property but has limited use of it.

During a condemnation case, affected landowners have three key opportunities to try to change the route or the terms of the easement itself, or to improve the one-time compensation they receive from the utility for use of the easement:

1. At the beginning of the process, informal negotiations
2. If negotiations break down, a Special Commissioner’s Court – a judge-appointed panel of three local landowners who hear both sides and award subjective money damages
3. If the landowner appeals the Special Commissioners’ award, a civil court with a jury trial.

“So I said to the Oncor folks, ‘We don’t like this route,’” Charlie recalls. “Rather than deal with us, they went to our next-door neighbor, who happily accepted money for a 67-acre, 150-foot

# S U C C E S S S T O R I E S

wide easement that runs right up against our property line. For us, it may as well be a 500-acre easement.”

## JOINING THE FIGHT AGAINST INJUSTICE

The proposed route for the high-power transmission lines would clip the Matthews’ land only twice, but directly over their entry drive. A 16-story structure supporting the lines would also stand near their entrance on their neighbor’s property. The lines and poles would also run on their neighbors land, all along the Matthews’ back property line, 160 feet high and visible from every angle of the home, pool, barn and other structures they built atop a small hill, especially for the picturesque vista it offered.

So even though the power lines would technically “touch” less than one percent of the Matthews’ property directly, the gorgeous views and peaceful isolation they envisioned when they purchased the land and built their home would be ruined.

“When we bought this land in 1996, it was just a bunch of felled trees and stumps,” explains Charlie. “I’ve worked this land, all 240 acres, myself; I put a lot of my life into it. And this utility comes in and starts trying to strip us of our land, our rights, our home, our dream. There’s nothing right about it.”

Oncor had found a way to minimize easement negotiations by making the Matthews’ share very small. And a tiny easement on their land also meant a tiny compensation offer – which is where Charlie and Delain’s sense of justice kicked in. They decided to fight. The couple visited a local lawyer friend, who recommended they engage an Austin attorney who might know the process and the players better. Finally, a stroke of “good luck”: a flyer for Braun & Gresham came across Charlie’s desk. He called, and ended up hiring Patrick Reznik, an eminent-domain expert and experienced jury-trial lawyer.

“Not many lawyers in this field have jury-trial experience,” Patrick notes. “Even though fewer than ten-percent of these cases go all the way to jury trial, when it happens, you don’t want to spend more time and money starting over again with a new attorney; you need someone who can prepare and present in that possibility.”

## RAISING THE BAR IN AN UPHILL BATTLE

Patrick suspected from the beginning that the Matthews’ case might go all the way to a jury trial – and his instincts were spot-on. Oncor’s three-man legal team steadfastly stuck to their minimal compensation offer – and, according to the letter of the law, they were well within their rights to do so.

“The challenge is, if the line is not on your property, then you don’t get paid,” explains Patrick. “If the damage — the eyesore of giant transmission structures and lines — is something just about anyone can see, then it’s called a community damage, and no individual is entitled to compensation for it. While it diminished this couples’ quality of life and property values, the law simply doesn’t allow for those types of damages.”

Nevertheless, the injury the Matthews suffered was real, and the insult they felt at being denied proper compensation for it was intense. So with Patrick’s help, they plodded through the process, eventually ending up in a civil court with a 12-person jury to persuade.

Unfortunately, the pair’s pain and anguish wasn’t enough to overcome the law’s technicalities and Oncor’s legal maneuverings; only two jurors voted to give Charlie and Delain the full amount they requested.

## Patrick successfully raised the utility’s initial offer of \$7,450 to \$95,000 from a jury.

“Patrick stood strong,” Charlie affirms. “He stood by us and did everything in his power to try to make sure they did what was right. There just aren’t a whole lot of people around like that.

“We know a lot of attorneys,” he concludes, “and to work with one who is as honest as Patrick is when it comes down to the nitty-gritty – it’s like getting a chicken to grow teeth. Our relationship with Braun & Gresham is the best; I’d call on them again in a minute, and I’d refer Patrick to the Pope’s mother-in-law – and I’m not even Catholic.”