

**Supreme Court**

No. 99-324-Appeal.  
(PM 88-1654)  
(PC 97-4199)  
(PC 98-2525)  
(PC 98-5202)  
(PC 98-6254)

Capital Properties, Inc. :

v. :

State of Rhode Island et al. :

Present: Weisberger, C.J., Lederberg, Bourcier, Flanders, and Goldberg, JJ.

**OPINION**

**Weisberger, Chief Justice.** This case comes before us on an appeal by the state of Rhode Island (state) and the city of Providence (city) from summary judgments entered in the Superior Court arising from four civil actions that were consolidated for trial before Justice Thomas H. Needham of the Superior Court. These cases involve separate but related disputes among the plaintiff, Capital Properties, Inc. (CPI), the state, and the city. These disputes include the issues of payment by the state and the city of a condemnation award entered in the Superior Court in favor of CPI in which the fair-market value of property condemned by the state for the Providence River Relocation Project was set in the sum of \$10,653,328.03. The disputes include a purported assessment by the city of taxes on other property owned by CPI in the Capital Center area based upon the valuation made by the Superior Court in the condemnation procedure. This reassessment of taxes covered a period for the

years 1991 to 1997. The disputes also include a proceeding commenced by the Providence Redevelopment Agency to condemn a parcel of real estate in the Capital Center area referred to in this litigation as parcel No. 9. All these disputes were resolved by summary judgments entered in the Superior Court.

The state opposed the entry of summary judgment that required it to pay the entire balance of the condemnation award, subject to reimbursement by the city for its 50 percent share and credit by CPI for a sum already paid by the state and also for reimbursement by CPI for the value of land (parcel No. 9) that the state had conveyed to CPI to pay the state's share of the condemnation award. The city appealed from the summary judgments that enjoined the city from its purported retroactive tax increase and invalidated the purported condemnation of parcel No. 9, and also appealed from the conditional summary judgment requiring the city to reimburse the state for 50 percent of the payment that the state would make to satisfy the condemnation award.

We are of the opinion that for the reasons stated in the opinion of Justice Needham the appeals by the state, the city, and the Providence Redevelopment Agency<sup>1</sup> are without merit. We adopt the opinion of Justice Needham as our own but make the following modifications to the summary judgment entered in the Superior Court.

1. By reason of a waiver entered in open court by counsel for CPI, the state shall not be required to pay its 50 percent share of the award to CPI since CPI acknowledges that it has already received full reimbursement for the state's share by an earlier payment plus the conveyance of parcel No. 9 from the state to CPI. Consequently the state shall, pursuant to the summary judgment entered in

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<sup>1</sup> The Providence Redevelopment Agency was involved in that portion of the suit involving the purported condemnation of parcel No. 9.

the Superior Court, pay to CPI within twenty days from the date of this opinion the 50 percent share of the condemnation award that was held in the Superior Court to be attributable to and ultimately payable by the city.

2. Within twenty days of the date of the payment by the state of the share of the award attributable to the city, the city shall, pursuant to the conditional summary judgment entered in the Superior Court, pay to the state complete reimbursement for the state's payment to CPI of the city's share of the condemnation award.

In all other respects the judgments entered by the Superior Court are affirmed and the appeals by the state and the city are denied and dismissed. The opinion of Justice Needham is appended hereto as exhibit A and made a part hereof. The papers in the case may be remanded to the Superior Court for issuance of execution on the summary judgments already rendered and for further proceedings relating to issues that are still pending before the Superior Court in respect to the parties to this litigation.

## COVER SHEET

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**TITLE OF CASE:** Capital Properties, Inc. v. State of Rhode Island et al.

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**DOCKET NO.:** 99-324 - A.

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**COURT:** Supreme Court

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**DATE OPINION FILED:** December 2, 1999

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**Appeal from** **County:**  
**SOURCE OF APPEAL:** Superior Providence

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**JUDGE FROM OTHER**  
**COURT:** Needham, J.

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**JUSTICES:** Weisberger, C.J., Lederberg, Bourcier, **Concurring**  
Flanders, Goldberg, JJ.

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**WRITTEN BY:** WEISBERGER, C.J.

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**ATTORNEYS:** Gerald John Petros, Brent Canning - Capital Properties  
Jeffrey Gladstone - Union Station Associates et al.

**For Plaintiff**

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**ATTORNEYS:** Richard G. Riendeau, Joseph S. Larisa, Jr., Philip W. Noel,  
Charles J. McGovern, Eugene Coulter, James R. Lee.

**For Defendant**

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