

New Jersey Supreme Court Holds That Just Compensation Damages Must Include Offset for Value of Benefits Conferred

The Supreme Court of New Jersey recently issued a takings decision on how just compensation should be determined in a partial takings case. *Borough of Harvey Cedars v. Karan* arose out of New Jersey's hurricane beach protection program. As part of that program, the state condemned part of Harvey and Phyllis Karan's beachfront property and built a 22-foot high sand dune on the land, depriving them of their ocean view and access.

The trial court held that just compensation damages must be determined without considering the value of any benefits conferred by the taking. In the Karans case, the sand dune had decreased the likelihood of storm damage to the property and surrounding area. But under then-standing New Jersey law, only "special benefits" (that benefit the landowner's property only) not "general benefits" (that benefit the entire local community) were part of the just compensation damages calculation. Because the sand dune benefited the community as well as the Karans, the trial court only considered the value lost by blocking the property's beachfront view of the ocean, not the value added by the increased storm protection.

After the appellate court affirmed, the New Jersey Supreme Court reversed, discarding the "special benefits" and "general benefits" distinction as one that obscured, not illuminated, the fundamental question of valuation—what a willing seller would pay a willing buyer for the property:

Today, the terms special and general benefits do more to obscure than illuminate the basic principles governing the computation of just compensation in eminent domain cases The fair-market considerations that inform computing just compensation in partial-takings cases should be no different than in total-takings cases. They are the considerations that a willing buyer and a willing seller would weigh in coming to an agreement on the property's value at the time of the taking and after the taking.

For the Karans, this meant that the trial court should have examined both the lost view and the increase in storm protection when it set just compensation damages. The New Jersey Supreme Court reversed and remanded.

The full opinion can be found [here](#).

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