Court of Special Appeals

ANNAPOLIS, MARYLAND 21401

HOWARD E. FRIEDMAN
CLERK

CROSS APPEAL

No. 1271, September Term, 19 85

NOTICE
Kindly conform the title of your brief in accordance with the changes made in the title of the case as it appears on this receipt.

Q C Corporation

vs.

Maryland Port Administration et al

Richard A. Reid, Esquire
Keith R. Truffer, Esquire

Attorneys for Appellant

Stephen H. Sachs, Attorney General
Susan K. Gauvey, Esquire
Thomas K. Farley, Esquire

Attorneys for Appellee

The Record in the captioned appeal was received and docketed on December 13, 1985.

The brief of the APPELLANT is to be filed with the office of the Clerk on or before January 22, 1986.

The brief of the APPELLEE is to be filed with the office of the Clerk on or before 30 days after **filing** of appellant brief (Rule 1030a2).

This appeal has been set for argument before this Court during the week of May 12;13;14;15;16;19;20,21, 1986.

Stipulations for extensions of time within which to file briefs will not be granted where the request will delay argument (Rule 1030(c)1).

Counsel is likewise notified to advise the office of the Clerk (Pursuant to Rule 1047) of intent to submit on brief at the time of filing his brief. No submission on brief will be accepted within ten (10) days prior to the date of argument without specially obtained permission of Court.

Howard E. Friedman

HOWARD E. FRIEDMAN,
Clerk of the Court of Special Appeals of Maryland

MANDATE

Court of Special Appeals of Maryland

No. 1271 **, September Term, 19** 85

Q C Corporation

v.

Maryland Port Administration et al

July 7, 1986: Judgment reversed. Case remanded for further proceedings not inconsistent with this opinion. Costs to be paid by appellees and cross-appellants. Opinion by Adkins, J.

August 6, 1986: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for Baltimore City

Record	$50.00
Stenographer's Costs	$3907.10

In Court of Special Appeals:

Filing Record on Appeal	$50.00
Printing Brief for Appellant	$148.80
Reply Brief	$134.40
Portion of Record Extract — Appellant	$4171.20
Printing Brief for Cross-Appellee	$
Printing Brief for Appellee	$211.20
Portion of Record Extract — Appellee	$1276.80
Printing Brief for Cross-Appellant	$

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this Sixth *day of* August *A.D. 19* 86

Howard E. Friedman

Clerk of the Court of Special Appeals of Maryland

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

8/8/86

November 24, 1986

RECEIPT

TO THE COURT OF APPEALS OF MARYLAND

The following record is being forwarded to your Court pursuant to the Writ of Certiorari issued on November 10, 1986 in the case of Q C Corporation vs. Maryland Port Administration et al, No. 1271, September Term, 1985.

Please receipt and return,

Howard E. Friedman

Howard E. Friedman, Clerk

HEF:ls

Received NOV. 24, 1986

Signature Jane Faulkner

Record consists of two (2) volumes, one box of various exhibits and (3) large plats with one rolled map

Eight (8) copies of each brief filed attached

docket + file

MARYLAND PORT ADMINISTRATION et al. *

v. *

QC CORPORATION *

In the
Court of Appeals
of Maryland
Petition Docket No. 337
September Term, 1986
(No. 1271, Sept. Term, 1985
Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, and the answer filed thereto, in the above entitled case, it is this 10th day of November, 1986

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby granted and a writ of certiorari to the Court of Special Appeals shall issue and review shall be limited solely to the following question:

> May a property owner recover compensation from the State for inverse condemnation where State action that is not regulatory causes interference with use of the property but not a deprivation of all beneficial use thereof?

and it is further

ORDERED that said case shall be transferred to the regular docket as No. 119, September Term, 1986; and it is further

ORDERED that counsel shall file briefs and printed record extract in accordance with Rules 828 and 830, appellants' brief and record extract to be filed on or before forty (40)

mell
COG

days from the date the record is docketed in this Court.

Judge Adkins did not participate in the consideration of this petition.

/s/ Robert C. Murphy
Chief Judge

MARYLAND PORT ADMINISTRATION et al.	*	**In the**
	*	**Court of Appeals**
	*	**of Maryland**
v.	*	**Petition Docket No. 337**
	*	**September Term, 1986**
QC CORPORATION	*	**(No. 1271, Sept. Term, 1985 Court of Special Appeals)**
	*	

WRIT OF CERTIORARI

STATE OF MARYLAND, to wit:

TO THE HONORABLE THE JUDGES OF THE
COURT OF SPECIAL APPEALS OF MARYLAND:

WHEREAS, QC Corporation v. Maryland Port Administration et al., No. 1271, September Term, 1985 was pending before your Court and the Court of Appeals is willing that the record and proceedings therein be certified to it.

YOU ARE HEREBY COMMANDED to cause them to be sent without delay to the Court of Appeals of Maryland, together with this writ, for the said Court to proceed thereon as justice may require.

WITNESS the Chief Judge of the Court of Appeals of Maryland this 10th day of November, 1986.

/s/ Alexander L. Cummings
Clerk
Court of Appeals of Maryland

COURT OF SPECIAL APPEALS
of Maryland

Q C CORPORATION

vs.

MARYLAND PORT ADMINISTRATION, ET AL

No. 1271 **SEPT. TERM, 19** 85 **FILED** July 7, **19** 86

TWO APPEALS **FROM THE** Circuit Court for Baltimore City

Robert I. H. Hammerman, CHIEF **JUDGE**

ARGUED BY Richard A. Reid and Keith R. Truffer (Royston, Mueller, McLean & Reid on the brief) all of Towson, MD.

FOR APPELLANT

ARGUED BY Andrew H. Baida, Assistant Attorney General (Stephen H. Sachs, Attorney General and J. Marks Moore, Assistant Attorney General on the brief) all of Baltimore, MD.

FOR APPELLEES

ARGUED BEFORE ADKINS, BELL (Robert M.) and WENNER, JJ.

Opinion by ADKINS, J.

Court of Special Appeals
of Maryland

HOWARD E. FRIEDMAN
CLERK

Annapolis, Md. 21401-1698

Michael G. Comeau
CHIEF DEPUTY

(301) 269-3646 (DIRECT LINE)
(301) 261-2920 (WASHINGTON AREA)

TTY FOR DEAF
(301) 269-2609 (DIRECT LINE)
(301) 565-0450 (WASHINGTON AREA)

April 1, 1986

Richard A. Reid, Esquire
102 West Pennsylvania Avenue
Suite 600
Towson, Maryland 21204

Re: Q. C. Corporation vs. Maryland Port Administration et al
No. 1271, September Term, 1985

Dear Mr. Reid:

The Court advises that it will view the videotape offered below to demonstrate conditions at the site as the result of the operations of the landfill.

Moving counsel will see to the installation of the equipment necessary for viewing by the panel between 8:30 and 8:50 a. m. Viewing will be scheduled in conference room No. 1 at 9:00 a. m. on May 13, 1986. Argument will ensue in Courtroom No. 1 immediately thereafter.

All participating counsel are to check in by 8:45 a. m.

Yours very truly,

Howard E. Friedman
Clerk

HEF:ls

cc: Susan K. Gauvey, Esquire
Thomas K. Farley, Esquire

1271/85

MEMORANDUM

TO: WENNER, J., PRESIDING; ADKINS AND ROBERT BELL, JJ.

FROM: HOWARD E. FRIEDMAN, CLERK

DATE: March 26, 1986

RE: Q. C. Corporation vs. Maryland Port Administration et al
No. 1271, September Term, 1985, scheduled for oral
argument on Tuesday, May 13th in Courtroom No. 1.

Argument in this cause is before this panel on the date referenced above.

I attach a copy of correspondence received from counsel requesting the showing of a videotape offered into evidence below but denied by the trial judge. An issue raised on appeal touches upon the admissibility of this evidence.

Chief Judge Gilbert has granted counsel's request and I should like the panel, and especially the presiding Judge Wenner, to advise me in advance whether its the panel's pleasure to view the tape in the conference room prior to or after argument.

HEF:ls

Attachment

Date: 3/26/86 Ans. due:

Name: QC Corporation vs. Maryland Port Administration et al

No. 1271 Term 85 FF/NFF Record rec'd: 12/23/85

Appeal from the C.C. for Baltimore City

Type of case: Cr/Civ: Constructive condemnation

Ant.'s brief due/rec'd 3/11

EE's brief due/rec'd

Case to be argued: May 12-21 Ct. Room

Panel:

Opinion filed: Outcome:

Mandate to be issued:

Comments:

May 13th CDP 1
Wenner, adhin
Robert Bell

Videotape - issue is whether ct. erred in not permitting tape to be shown. wants to display to panel (15 min) prior to oral argument

Need by trial Judge & 1st case in

Lynne

ROYSTON, MUELLER, McLEAN & REID
ATTORNEYS AT LAW
SUITE 600
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4575
(301) 823-1800

R. TAYLOR McLEAN
RICHARD A. REID
E. HARRISON STONE
MILTON R. SMITH, JR.
C. S. KLINGELHOFER III
THOMAS F. McDONOUGH

LAWRENCE F. HAISLIP
LAUREL P. EVANS
KEITH R. TRUFFER
ROBERT S. HANDZO

OF COUNSEL
CARROLL W. ROYSTON
H. ANTHONY MUELLER
JOHN L. ASKEW

2/26/86 Rec'd

February 24, 1986

Howard E. Friedman, Clerk
Court of Special Appeals of Maryland
Courts of Appeal Building
Rowe Boulevard and Taylor Avenue
Annapolis, Maryland 21401

Re: QC Corporation v. Maryland Port
Administration, et al.
Case No. 1271, September Term, 1985

Dear Mr. Friedman:

Argument on the above-entitled appeal will be scheduled for sometime in May. One of the issues on appeal is whether or not the Court erred in sustaining Defendant's Objection to the showing of a videotape made by Plaintiff. The tape was offered to show conditions at the site as a result of the operation of a hazardous waste landfill on Defendant's property and its effect on Defendant's tenant, Plaintiff, Q.C. Corporation, which leased property adjacent to such landfill prior to its establishment. In order to decide this point, it would seem apparent that arrangements should be made for the Court to view the videotape preferably prior to oral argument. The viewing would take approximately fifteen minutes. If the Court would agree to view such tape, I would be pleased to make the arrangements to have the necessary equipment installed at an appropriate location as designated by the Court.

I would appreciate it if you would submit this request to the Court and advise me of their decision. Thank you.

Very truly yours,

Richard A. Reid

RAR/keg
1233d

cc: Susan K. Gauvey, Assistant Attorney General

docket + file

Court of Special Appeals of Maryland

HOWARD E. FRIEDMAN
CLERK

Annapolis, Md. 21401-1698

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Michael G. Comeau
CHIEF DEPUTY

May 5, 1986

Richard A. Reid, Esquire
Keith R. Truffer, Esquire
102 West Pennsylvania Avenue
Suite 600
Towson, Maryland 21204-4575

Re: Q C Corporation vs. Maryland Port Administration et al
No. 1271, September Term, 1985

Dear Counsel:

Please be advised that your Motion to Correct Omission in Record, filed in the captioned appeal, was granted by Order of this Court dated May 2, 1986. The attached transcript of proceedings of July 30, 1985, in the Circuit Court for Baltimore City before the Honorable Robert I.H. Hammerman in the case of Q C Corporation vs. Maryland Port Authority et al is being placed with and made a part of the record in this appeal.

Yours very truly,

Howard E. Friedman
Clerk

HEF:ls

cc: Thomas K. Farley, Esquire
Susan K. Gauvey, Esquire

MCE

Date: 4/28/86 Ans. due ~~5/5~~ 1

Name: PC Corporation vs. Maryland Port Administration et al

No. 1271 Term 85 FF/NFF Record rec'd: 12/13/85

Appeal from the C.C. for Baltimore City

Type of case: Cr/Civ: constructive condemnation

Ant.'s brief due/rec'd 3/24

EE's brief due/rec'd 4/24

Case to be argued: May 13, 1986 Ct. room 1

Panel: Wenner, Adkins, Robert Bell

Opinion filed: Outcome:

Mandate to be issued:

Comments: opposing counsel agrees
transcript attached.
copies on werdow

called for an order
4/30: order rec'd.
by consent

July 30 85 tr'd test

Lynne 4/30 called for original transcript + certification NGC

5th original rec'd

ROYSTON, MUELLER, McLEAN & REID
ATTORNEYS AT LAW
SUITE 600
102 WEST PENNSYLVANIA AVENUE
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KEITH R. TRUFFER
ROBERT S. HANDZO

OF COUNSEL
CARROLL W. ROYSTON
H. ANTHONY MUELLER
JOHN L. ASKEW

April 25, 1986

Court of Special Appeals
of Maryland
Annapolis, Maryland 21401-1698

RE: QC Corporation v. Maryland Port Administration, et al.
No. 1271,
September, 1985

Dear Mr. Clerk:

Enclosed please find Motion to Correct Omission in Record and Transcript dated July 30, 1985 to be filed in reference to the above-entitled matter.

Thank you.

Sincerely,

Keith R. Truffer

KRT/lm
Enclosures
0872y

COURT OF SPECIAL APPEALS

QC CORPORATION	:	
Appellant and Cross-Appellee	:	No. 1271,
v.	:	
MARYLAND PORT ADMINISTRATION, et al.	:	September Term, 1985
Appellees and Cross-Appellants	:	

: : : : : : :

MOTION TO CORRECT OMISSION IN RECORD

Appellant QC Corporation, by its attorneys Richard A. Reid adn Keith R. Truffer moves, pursuant to Maryland Rule 1027 to correct an omission of the record in connection with this appeal. For its reasons, the Appellant says:

1. The Appellant seeks to correct an omission which it believes exists in the Record now before the Court of Special Appeals in connection with its appeal.

2. On September 17, 1985, Appellant's counsel requested the Baltimore City Court Reporters to prepare all transcripts of testimony and court proceedings taken in the trial of this case in the Baltimore City Circuit Court. Pursuant to this request, 16 volumes of transcripts were prepared, delivered to the

Circuit Court and forwarded to the Court of Special Appeals. It was Appellant's understanding at the time that these 16 volumes represented the complete transcriptions of trial proceedings in connection with this appeal.

3. On or about February 24, 1986, it became apparent that another volume of testimony, dated July 30, 1985, was missing from the record. The transcription of that date contains the Baltimore City Circuit Court's ruling and reasoning in granting the Appellees' Motion for Judgment Notwithstanding the Verdict, a critical basis of the Appellant's appeal.

4. The transcript of July 30, 1985 was promptly prepared and a copy was forwarded to the Appellee. The portion of this transcript has been reprinted in the Appellant's Record Extract which was filed with the Court of Special Appeals on March 24, 1986.

5. Appellant moves to add the July 30, 1985 transcript to the record previously filed in this case in order to complete that record. In the opinion of counsel, this correction is necessary for the proper consideration of the merits of this case and such consideration cannot be had without this correction. This motion is not made for the purposes of delay.

6. Inasmuch as copies of the missing transcript were promptly prepared and forwarded to Appellees' counsel on or

about March 4, 1986, no prejudice befalls the Appellee as a result of this correction.

7. We have been authorized to state that the Appellee agrees to this addition to the Record.

WHEREFORE, the Appellant moves to correct the omission in the Appellate Record in this to add the transcript of the Circuit Court for Baltimore City dated July 30, 1985.

Richard A. Reid

Keith R. Truffer
Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204-4575
823-1800

I swear and affirm under the penalties of perjury that the matters set forth herein are true and correct to the best of my knowledge, information and belief.

Keith R. Truffer

I HEREBY CERTIFY that on this _____ day of April, 1986, a copy of the foregoing Motion was mailed to Susan K. Gauvey, Esq. Assistant Attorney General, and Andrew H. Baida, Esquire, Assistant Attorney General, 7 North Calvert Street, Baltimore, Maryland 21202 and J. Marks Moore, III, Esq., 20th Floor, World Trade Center, Baltimore, Maryland 21202, Attorneys for Appellees.

Keith R. Truffer

ROYSTON, MUELLER, MCLEAN & REID
SUITE 600
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21204-4575
823-1800

1356d

COURT OF SPECIAL APPEALS

QC CORPORATION	:	
Appellant and Cross-Appellee	:	No. 1271,
v.	:	
MARYLAND PORT ADMINISTRATION, et al.	:	September Term, 1985
Appellees and Cross-Appellants	:	

: : : : : : :

ORDER

Upon the foregoing MOTION TO CORRECT OMISSION IN RECORD, it is this 2nd day of May, 1986, by the Court of Special Appeals of Maryland.

ORDERED that the Record in this Appeal be corrected to add the transcript of the Circuit Court for Baltimore City dated July 30, 1985.

Chief Judge

KRT/dmc
0882y
4/28/86

ROYSTON, MUELLER, McLEAN & REID
SUITE 600
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TOWSON, MARYLAND
21204-4575
823-1800

MGE

IN THE CIRCUIT COURT FOR BALTIMORE CITY

QC CORPORATION

Plaintiff

vs. Case No. 83202006/L8505

MARYLAND PORT AUTHORITY, et al

Defendants

_____/

Tuesday, July 30, 1985

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

BEFORE:

HONORABLE ROBERT I.H. HAMMERMAN, JUDGE

APPEARANCES:

For the Plaintiff:

RICHARD A. REID, ESQUIRE
KEITH TRUFFER, ESQUIRE

For the Defendants:

SUSAN K. GAUVEY
ASSISTANT ATTORNEY GENERAL

THOMAS FARLEY
ASSISTANT ATTORNEY GENERAL

ROBIN T. HOLLAND, RPR, CSR
OFFICIAL COURT REPORTER
507 Mitchell Courthouse
Baltimore, Maryland 21202

(P R O C E E D I N G S)

THE COURT: We have before the Court today the case of QC Corporation vs. Maryland Port Administration, et al. There are, for consideration of the Court today, Motions For Judgment filed by both parties. Would counsel kindly identify themselves for the record at this time?

MR. REID: My name is Richard A. Reid. I'm attorney for QC Corporation, along with Mr. Keith R. Truffer.

THE COURT: Thank you.

MS. GAUVEY: Susan Gauvey, Your Honor, for the Defendants, Maryland Port Administration and the Department of Transportation, State of Maryland, along with my cocounsel, Mr. Farley, from the Attorney General's Office.

THE COURT: Thank you. Well, I think we should properly begin with the Plaintiff and Plaintiff's motion -- well, really, I assume we'll be handling both motions simultaneously, but I think we'll start with the Plaintiff and I'll be happy to hear from you, Mr. Reid, on the motion on behalf of your client and any argument you might wish to give in that opposition to the Defendant's motion, and, of course, you will have the opportunity for any rebuttal arguments as well after the Defense is heard.

MR. REID: Thank you, Your Honor. May it please the Court, the motions filed by QC Corporation are Motions For Judgment notwithstanding the verdict, the verdict

which happened to be, in this case, a hung jury. I think that the arguments in support of Plaintiff's motion would be the same arguments Plaintiff would make probably in response to the Motion For Directed Verdict filed by the Defendant at the end of --

THE COURT: Motion For Judgment filed by Defendants.

MR. REID: Times have changed, Your Honor. You're right.

THE COURT: Yes, they have, and you have to go with them.

MR. REID: Upon that the Court reserved. Plaintiff has incorporated, submitted to the Court --

THE COURT: I've read all the memos.

MR. REID: -- the arguments that it made in response to the Defendant's Motion For Judgment at the time it was made. I do not wish to reargue the issues that were raised then with respect to the counts relating to each of the covenants of quiet enjoyment and constructive eviction on which the Court did grant the Defendant's motion. We don't waive that position; however, we rely on the arguments made and as submitted in the memorandum. I think that it would be more profitable at this point to discuss the case as it went to the jury on the theory of inverse condemnation, and with respect to that issue, I think that the Court's

ruling as submitted to the jury --

THE COURT: My ruling to the jury?

MR. REID: Well, your instructions to the jury --

THE COURT: Oh.

MR. REID: -- indicated that there had to be a finding by the jury thatthe actions of the Defendants in this case were such as to deprive Plaintiff of all beneficial use of its property.

THE COURT: Is that what I said or did I tell the jury that it must deprive the Plaintiff of essentially all the use?

MR. REID: I think it is correct, essentially all the use of its property, and on that point, the Plaintiff submits to the Court that the evidence really was such that reasonable minds could not differ on that point and that the Plaintiff was entitled to a verdict or a judgment as a matter of law; and, briefly stated, that evidence showed that the Maryland Port Administration had established a hazardous waste landfill, an expansion of an old existing landfill next to the QC property at a height, 25 to 30 feet above QC's property, that its original intention was to do the same thing on both sides of QC's property, and that that landfill would contain hexavalic chrome.

THE COURT: And you say it was their

intention to do so on both sides. Now, of course, they did create a landfill on one side but was it their intention to create it on the north side or merely some speculation on their part that it might be feasible, it's something that we might want to do?

MR. REID: I don't think the evidence supports that interpretation, Your Honor. The intention, as given to my client, QC Corporation, was that it intended not only to use the property on the other side of QC but also to use QC's property. Now, that was the original intention and I don't/think that there's any contradiction to that evidence. True, at some time that intention was stated to/be abandoned by the State for reasons that were given, but there were many reasons given, one of which was that the supplier of the hazardous waste, Allied Chrome Chemical, had gone out of business and that there was no further need for that site. The original intent, in accordance with the agreements reached between the State, Maryland Port Administration, and Allied, was that Allied would take -- that the State would take all of Allied's chromium waste into the year 2000 and that to do that, they not only needed the site, which they did develop, but the site of QC's property and the north -- and the site north of QC's property, and they devoted all that land to the use as a hazardous waste, all but with the exception of QC's property.

You will recall that the lease that the Maryland Port Administration entered into with Allied Chemical covered not only the existing landfill but the property to the north of QC -- I've forgotten the directions --

THE COURT: North.

MR. REID: North, okay.

THE COURT: Yes.

MR. REID: -- and that that land was dedicated to hazardous waste landfill by agreement and could not be used for any other purpose by the Maryland Environmental Service who in turn agreed with the Maryland Port Administration, with Allied Chemical that they will have the right to use that property. It was dedicated on both sides of QC to use as a hazardous waste landfill.

THE COURT: Are you suggesting that the law of inverse condemnation says that if the governmental authority says that this is what we're going to do around your property and they then, maybe in a couple of years later, abandon that, that that results in inverse condemnation?

MR. REID: It may well result in an inverse condemnation at that time. If it's a firm intent communicated to the tenant of the property that this is what they intend to do and the tenant in the property as in this case reacts to the expression of intent which was firm at the time it was given by saying that, because of this, we will be unable

to renew our lease for the ten-year term, two five-year terms, that we had originally planned to do, that that resulted in inverse condemnation.

THE COURT: I'm not so sure that you're right on that, but I'm not at all sure either that this was your cause of action. If I recall your complaint correctly, the entire gravamen of your complaint that remains vital now at this posture of the case, the entire gravamen was the health hazard posed to the workers and the insidious effects of the chrome on the product. I do not recall that in this pertinent part of this complaint you have heard also that because we acted in relying upon what their expressed intentions were, we did such and such and we're irreparably harmed now because of those expressed intentions.

MR. REID: You may recall, Your Honor, that the complaint specifically referred to the fact that the State was going to establish a hazardous waste fill on both sides of QC's property --

THE COURT: Yes.

MR. REID: -- up to a height of 25 or 30 feet.

THE COURT: Yes, I do recall that, but I think that the complaint was that by doing this, it was going to create a hazard to the health of the workers and have deleterious effects on the product.

MR. REID: There's no question about that.

That is what the complaint said, because of this, because of, first, the announcement of the plan for it, the -- what we anticipated would happen, in fact, it happened and did, in fact, have results that we were concerned with, and, therefore, at the time the landfill was established on the south side, and we saw the effects of it which confirmed our fears and suspicions, we notified the State. QC notified the State that it would be unable to renew its lease at the expiration of the lease, which I believe was April 30, 1982, and, in fact, they did not renew it, and they moved from the property. Certainly the effects of the landfill, as it related to the health of the employees and to the integrity of the product, were a major part of the evidence that we submitted to the Court and upon which we feel that we were entitled to a verdict, and I -- and when I say "the Court," I mean, of course, the jury, and that was basically that we had a hazardous waste landfill established there. It was being actively worked, that dust containing chrome was being blown onto QC's property, that, as Dr. Friedman testified, that chrome in the ambient air, it would be blown over onto QC's property and would, in his opinion, result in a hazard to the health of the employees and to the integrity of the product.

The evidence was uncontradicted that the one test made at the landfill under optimum conditions by Mr.

Gordon showed that there was hexavalic chrome in the atmosphere in levels exceeding those recommended by the National Institute of Occupational Safety and Health, and that if it's in the air and the wind blows to QC's property, it would blow one of QC's property.

THE COURT: Well, the argument of the Defendant is that that violation of that standard would have to persist for a certain period of time before it would have these deleterious effects that Dr. Friedman spoke of, but it just couldn't be an occasional blowing over there of that type of chrome.

MR. REID: It's a time related exposure, but the point is, you see, that it need not be for any period of time. You can have a concentration of it at any one period of time, that you can achieve that in ten minutes if the concentration is greater. If the concentration is less, it would make -- take a longer period of time, but the chrome is in the air, the hexavalic chrome, blowing some deposits on QC's property. It's there. The test by Ms. Murphy, the insurance representative in the QC plant, when the plant was not in operation and things were not being stirred up by air and machinery and people walking around, she still found hexavalic chrome in excess of those standards recommended by NIOSH. Now, it's true that OSHA, the administrative agency subject to political pressures, has

still retained the standard for hexavalic chrome that existed in 1971 or 1972. For some reason, OSHA has rejected the recommendations of its own research arm, NIOSH, which are based on studies made in 1978, that hexavalic chrome in excess of one microgram a cubic mete of air was a hazard to the health of the employees there. There was uncontradicted evidence from Mr. Louis Long, the operator of the landfill for a period of time, that the chrome was in the roadways, that it leached out of the back of the trucks as they came in, that he was spotted by -- because if it would turn more color, that he would do his best to try to pick up these areas and dispose of them, but he couldn't keep up with them. It kept getting ahead of him, and there's evidence from Mr. Tom Kaiser, the superintendent of QC, that the dust from the fill, the black dust, the chrome dust was being blown constantly onto QC's property, so he would -- he had to wear his respirator at all times when he was outside of the trailer, that he was very much concerned about the health -- his health.

There's the one instance that we know of that was documented by Mr. Louis Long where they were mixing lime with the chrome to try to dry it out when a huge dust cloud of lime and chrome blew over onto QC's property. I think that, judging from the evidence, that QC was perfectly justified -- no, I would say had no other choice than to

leave this area because of the hazard presented to its employees and to its product, and its product, I might suggest to the Court, was one that was environmentally sensitive. The evidence showed that it was used in a multi-fertilizer water treatment for municipalities and that it was a product that was available from other sources.

I don't think that a reasonable mind would say that given a choice of buying ferous sulphate from producer A who was not next to a hazardous waste landfill and producer B that it was, given the fact that other things are equal, such as price and so forth, would do anything to buy from the producer who was not at the hazardous landfill. The State saw fit, because of the stability of this hazardous waste land to move the residents from the Hawkins Point, who were quite a distance from the landfill, on the other side of the highway, which was elevated and acted as a barrier way for the material being blown over in their area. Still they moved those people. They relocated them, and all QC asked in this case is for the State to acknowledge the fact that their hazardous waste landfill presented a hazard to QC which was right on the middle of the landfill, not on the other side of the expressway, and that QC should have been relocated in the area by the State. That's all it asked the State to do and that's what we're saying in this document of inverse condemnation, that because of the

acts of the State, no reasonable person would have stayed at that location, either as a worker or as an employee or as a producer of a chemically environmentally sound -- sensitive product such as ferous sulphate, and that because of those actions, they were forced to move. They couldn't stay in the area. They couldn't find another site. They couldn't afford to move everything and acquire another site here without assistance from the State and that's what the case asks for, to acknowledge that fact. I think that the evidence --

THE COURT: Well, didn't you, according to --

MR. REID: I didn't hear that, Your Honor.

THE COURT: The Defendant has alleged in its arguments that you continue to maintain a viable operation there because -- you know, in the spring of '82, beyond July of '82, that you continued to maintain -- '82, '83, you know, that you continued beyond the critical date to maintain a viable operation, maybe somewhat different in its details of its operation, but that you still maintained a viable operation and had intentions of keeping it available there for possible future use into the following year.

MR. REID: I may be wrong on my dates, but I think that the last date was April 30 of 1982 -- '84, Your Honor, I'm sorry, '84, and notice was given then of

the inability to stay there and renew the lease as of that date. No notice was given by my letter in I think it was June or July of the preceding year which would make it '83. Now, I think that that is a fact that must be looked at in context of the evidence in the case and not something that is just seized upon --

THE COURT: '83 I think was the year I meant to mention that you --

MR. REID: Yes.

THE COURT: The allegation is that you kept it as a viable facility throughout the spring of '83, that even beyond July 23, '83, that you had it reported what Defendants say an operational readiness to October of '83 or up to January of '84.

MR. REID: Well, that's --

THE COURT: Was the --

MR. REID: -- that's the point that I say you must look at in context. This is a small corporation. They were caught in a squeeze. They had at this time an alternate source of supply of packaged ferous sulphate which they were forced to take because of the economics of the situation by the Pfizer Corporation. If they didn't take the deal that Pfizer had proposed to them, QC would accept and market their already packaged ferous sulphate from another location. Pfizer was going to enter the market

and they would have been a very severe competitor for QC Corporation. So QC had to cease producing ferous sulphate at the Hawkins Point Plant which would have been the best situation for QC, especially to continue the process there and to accept the Pfizer contract.

Now, having done that, QC was at the mercy of Pfizer's and Pfizer's ability to supply ferous sulphate which it used not only -- which it made available to QC, not only as a reusable byproduct but which they used itself in the production of their main product, and since their main product was not in demand, they had an excess of ferous sulphate. The contract was short-termed. It could have been cancelled at any time I think within six months by Pfizer, and in the event that Pfizer's business picked up for its main product, ferous sulphate byproduct would be diminished and QC would be without a market in the Eastern part of the United States. Therefore, it had no choice but to maintain its plant at Hawkins Point in the state of operational readiness so that in the event the Pfizer contract was cancelled, that it would have a way of producing and competing in the East Coast market and they could continue to do that up until the time that it could no longer stay at Hawkins Point.

It's one thing to maintain a plant in operational readiness for a six-month period and quite another

thing to enter into another renewal of the lease for a five-year period to maintain a plant that was doing nothing -- producing nothing and nothing but a liability on the books of QC Corporation. They were unable to produce there and therefore they cannot renew their lease. I don't think that that has any significant effect, the fact that they stayed there after giving notice that they were not going to be able to renew because of the hazardous waste landfill. They were caught in a squeeze. They dealt with an economic situation the best way they could up to the point where they had to abandon the property.

You'll also remember, I think, that conditions at the site got progressively worse as time went on, and the fill moved closer and closer to QC's property and the trucks started to come in right at the gate of QC's property and up the fence line, stirring up dust that would have been contaminating, with material that had dropped off -- not only leached out trucks but had been a material that the trucks picked up on the tires and the mud and the fill brought back to the site. I think that the evidence showed that QC acted as any reasonable corporation would have done in that circumstance, and I think that as that, it's somewhat frivolous to say that these people had no right to leave, that they should have stayed there. I don't think the evidence showed that any reasonable person would have

acted differently than QC did and that's why we feel that we are entitled to judgment this time.

THE COURT: Thank you, Mr. Reid. Ms. Gauvey, you changed your mind about arguing these matters?

MS. GAUVEY: No, sir, and I apologize to the Court for a large extent having to reiterate my prior arguments that apparently have not persuaded Mr. Reid.

THE COURT: So you haven't changed your mind. That means you won't argue?

MS. GAUVEY: I'm sorry. I will respond to him. I thought you meant changed my mind as to the persuasiveness of the argument and give up.

THE COURT: No, change your mind and not --

MS. GAUVEY: I will respond to his argument, Your Honor.

THE COURT: You won't?

MS. GAUVEY: I will respond.

THE COURT: Oh.

MS. GAUVEY: The test, as Your Honor is aware, is whether there is relevant and competent evidence upon which a verdict can be rationally rendered for the Plaintiff in this case. I believe, looking to the jury's instructions, which define the law of inverse condemnation for this case, there is no such relevance or credible evidence presented. In terms of the key instruction, the

instruction dealing with whether the acts of the Defendants have essentially and effectively deprived Plaintiff of all beneficial use and enjoyment of the property, we believe the key point is the one Your Honor has already discussed in question with Mr. Reid, that is, that, in fact, operations did continue or operational readiness was maintained at the facility, according to Mr. Pfizer, until October or November of '83 -- excuse me, according to Mr. Gordon, into September and October of '83, according to Mr. Kaiser, until January of 1984. Warehousing activity and storage was going on there as well as maintaining the plant in operational readiness. Unfortunately, Mr. Reid and the QC Corporation cannot have it both ways. Either they were ready to go back and produce at that point and felt they could do so safely or they couldn't. This middle ground of operational readiness, to me, is nonsensical.

The second point, in terms of the lack or, rather, the beneficial use remain at the property deals with the much testimony given as to the nature of the operation. Mr. Reid has talked today about testimony of Mr. Louis Long and Mr. Kaiser concerning contamination. We believe, as we have stated in our memoranda and prior arguments, that there is only one case, one incident in March of 1983 where there was any evidence whatsoever and its credibility or the strength of the evidence is even in

question of migration of any amount of chrome from QC -- from the landfill of the QC property. We don't recall -- I don't recall Mr. Louis Long's saying that he couldn't keep up with the contamination on the roadway, et cetera, and I believe, in fact, he said that he was doing a good job and doing what he could to correct any contamination when it occurred. I don't recall either Mr. Kaiser saying that he saw black chrome dust blowing over to the QC Corporation. I recall, with his grand candor, in saying he did see some stuff. He couldn't say what it was. I think that has been the problem all the way along. They have no proof whatsoever of any level of contamination to violate any standard. As the question interchanged between Your Honor and Mr. Reid indicated the NIOSH standard is an eight-hour time waited standard. It's established for the industry. It basically says that people going to be working for thirty to thirty-five years, five days a week, eight hours a day, there is a standard of chrome inhalation which must be met. As Your Honor recalls, the NIOSH standard is not the legal standard. There is a standard which is --

THE COURT: Well, it may not be the technical legal standard but cannot a jury conclude that it's a but less standard even on the testimony of Dr. Friedman?

MS. GAUVEY: Even assuming that it was a NIOSH standard is a legitimate standard for the jury to use,

but it is not because we can see by what the insurance company did, Mr. Gordon did. They used the other standard which is the legal standard, assuming NIOSH standard is the correct one --

THE COURT: Not necessarily the correct one but one that the jury could say, we think this is a reasonable standard. We have an expert here who believes in the standard. We think the expert's credentials are outstanding, and if he thinks this is a proper standard, we think it makes sense.

MS. GAUVEY: I think my problem with that, Your Honor, is the insurance company which insures the QC Corporation. It's unreasonable, I think, to disregard their standard, the organization that has a great deal of financial interest in making sure that things are safe at the facility and adopted a NIOSH standard which is not accepted in the industry and is not the legal standard; but putting that aside for a minute, Your Honor, there's no evidence of violation of that standard. Dr. Friedman, my notes indicate, said that a brief contamination would not violate -- a brief period of contamination would not violate the NIOSH standard, so we do not have any evidence of continuous contamination. Quite the contrary.

THE COURT: I understand that but what you're saying is that even if you accept the NIOSH standard,

there wasn't any breach of it.

MS. GAUVEY: That's correct, Your Honor. There just isn't -- it isn't there. We have the one lime cloud dust and that was it. There isn't even any scientific evaluation of that particular lime chrome dust to determine what the composition of the cloud was. Also, Mr. Reid refers two of the three air monitoring results that were submitted into evidence. As Your Honor recalls, Mr. Gordon from Allied testified as to his tests done in the dump. It was done in the ambient dump on the face of the landfill, people working with the chrome.

That is far different than what is occurring, what contamination or pollution may occur hundreds of yards away, away from direct working with the chrome. That testing was .002, so it fell -- it was an order of magnitude safety than the legal standard. While it does bring it within the NIOSH standard, I believe Mr. Gordon testified that he believed that was a safe standard and I think there was some testimony that that might have been the level of detection. Now, we didn't have clear testimony on that point, but I believe that was testified that that might have been the level of detection of his equipment.

Additionally, Ms. Murphy testified contrary to what's been asserted in the Plaintiff's memorandum, the lab report which was -- we introduced. I believe it's

Defendant's 38. The lab report indicated that the level of detection for this test was .002 and it says less than .002, so there is no evidence at all -- that that test showed any violation of even the NIOSH standard at the QC property.

Also, Your Honor would recall on the other side, the testimony that we presented, we presented testimony as to the precautions put in the permit, term of air monitoring. We presented through our witnesses the results of that air monitor, that is, that the ambient air at the three monitors ringing the landfill showed no violation of any certain standard. According to the health department, it showed levels of chrome which are similar to those in the downtown Baltimore area. We also showed or had testimony that the nature of the waste which would indicate that it would not become airborne, the fact that it is moist, it has large particle sizes, and the fact that if all the chrome tailings, only 5 percent are chrome and only 1/2 of 1 percent are hexavalic.

We also had testimony from Mr. Schmidt who indicated that the operation of the landfill, though not perfect, was clearly being run in a reasonable manner. There had been no orders or site complaints dealing with airborne chromium, so in terms of the key jury instruction as to the deprivation essential -- essential and effective deprivation of all beneficial use and enjoyment of the property, we

believe that there is no basis whatsoever to conclude that all beneficial use has been deprived.

THE COURT: Well, it's essentially all benefit --

MS. GAUVEY: Yes, essential and effectively deprived. The other point --

THE COURT: Well, I think it was worded effectively deprived them of essentially all beneficial use.

MS. GAUVEY: My notes may be -- I went back to my notes, Your Honor --

THE COURT: Well, I have copies of the instructions, too, and I think it's essentially all uses is the way it was worded.

MS. GAUVEY: Well, we believe that either way the wording is --

THE COURT: It says the same thing, probably, but --

MS. GAUVEY: Whether it says the same thing, I think the test is not met in terms of Plaintiff and we emphasize again, as we have previously, that the instruction is the act of the Defendants and Your Honor gave a further instruction that the act of M.E.S. in the operation of the landfill cannot be attributed to the Maryland Port Administration. The only act that M.P.A. did was to allow -- is to lease the land and thereby allowed -- and indeed they

did encourage the operation of a landfill there, but we can -- with the expansion of a little fill there. We cannot then be requiring M.P.A. to be responsible for every aspect of operations. As you recall, the lease even said that M.E.S. had to operate in cooperation with all rules and regulations, so we have no evidence that there was any poor or dangerous operation of the landfill. We don't believe that M.P.A. is responsible for minor operation problems that might have occurred, and so on that basis, we don't believe that there is any evidence from which a jury could determine or could reasonably determine that inverse condemnation that occurred.

The other fact that I want to emphasize, and it gets to the point that Mr. Reid made again today, that any purchaser is not going to purchase dried ferous sulphate from his client if he can purchase it from another individual, not next-door landfills. There was a hazardous waste landfill next to QC for a number of years before this lawsuit was brought. It was merely an expansion and, Your Honor, I fail to see how, if they're concerned about competitor edge in using the landfill, the fact that it's expanded hazardous waste landfill or a nonexpanded hazardous waste fill makes any difference when we're talking about that kind of scare tactic.

The other instruction that I'd like to talk

briefly about is the instruction that Your Honor gave concerning the fact that the mere establishment or expansion of landfills adjacent to the leased property cannot alone constitute inverse condemnation. That is exactly what the Defendant M.P.A. did and all that M.P.A. did. Once it leased the property for the expanded landfill, it got out of the operation. It was out of the whole fact entirely, so its actions cannot be -- do not amount to an inverse condemnation.

The additional instructions Your Honor gave concerning the mere planning of a future expansion or a future establishment of landfill, that that mere planning cannot constitute inverse condemnation and unless M.P.A. acted in bad faith in order to acquire the property at a lower price. When we look at the facts, that statement of law is not met by Plaintiff's evidence. Indeed, we showed that there was in a very brief interest on the part of M.E.S. again, not M.P.A. directly, but M.E.S. in acquisition of the land; however, it was a matter of several months. There were indications in September of '81 that borings of the lands north of the QC property indicated that it was sandy.

There were negotiations briefly then in the late fall, early winter of '81. They were definitively cut off in February of '82, and I think there was some testimony even earlier than that, but in February, February of '82,

there was a letter from Mr. Robinson to Mr. Carter saying, we have no present plans to use this land, that we have an engineering concept for optimum utilization but no present plans, no permit goes to your land. Then we had clear testimony again of M.E.S. officials and now Mr. Rosnick from the Health Department that further borings were done in November.

On November 11, 1982, and there was a meeting with the Health Department on the next day, on the 12th of November of 1982, and it became very clear then, because of the sandy nature of the soil, that the Health Department never permit such expansion. Mr. Reid mentions that there were "many reasons for M.E.S., the decision not to use the QC property and the property north of QC. One of those reasons he said was the decreasing needs of Allied Chemical for bearing of its tailors. However, that occurred, as Your Honor is aware, from just reading the newspaper, much, much later in time than the borings information, and that even the fact that this lawsuit -- the date that this lawsuit was brought, Mr. Reid indicates the lease in question, that a lease was entered into after the date of the second group of borings, and that the lease still took in the north part of the QC property. We believe that was why we didn't present a total explanation for that, and that at trial, we believe that that leased provision could have been used,

that leased property could have been used for ancillary purposes, water, trucks, clean off, storage, maintenance, etcetera, that in and of itself does not indicate, given the massive evidence to the contrary, any continued interest in that property.

The only other point that I would make is a theme that we have played throughout this case, and beginning with the opening statement I made, that while Mr. Reid indicates that QC had no choice but to leave, indeed they did stay, as we know, for some months, almost close to a year after the landfill opened or was expanded. The facts indicate that they left for perhaps other reasons. We have the statements, and, again, I think we can rely heavily on Ms. Murphy's testimony, because she is disinterested. If anything interesting for the Plaintiff that the statements of Mr. Gordon in May of '82, that they may shut down because of lack of raw material. Further statements occurred in October of '82 that a shutdown was anticipated if continued low level of production at the plant, and the statement in November of '82, that because of the economics in a new plant, it was a low level of production or no production at the Hawkins Point facility.

We also have the testimony and the document concerning the negotiations in late '82 for sale, for lease, or tolling of the oyster shell products at the Hawkins Point

facility. I submit that is totally inconsistent with any view that it is unsafe there, because as you recall Mr. Gordon's testimony, that is a very similar operation in the sense that it's dryer. It doesn't use the same facility in an open way.

And, lastly, I think that the -- one of the most telling points is the absence of any evidence of product contamination or health problems. As Your Honor would recall, there was no evidence whatsoever that the product was ever contaminated. Indeed, Mr. Gordon continued to represent to Ms. Murphy and the report shows, the Answers to Interrogatories indicated that there was never any contamination, health problems, the same point. The insurance company monitoring and the other monitoring done was shown that -- showed that there was no problem that could be identified. Dr. Friedman's NIOSH standard and allegations of proof of health damage and health dangers occurred long after or evidence of it, so-called evidence of it occurred long after the lawsuit was filed.

Thank you, Your Honor.

THE COURT: Thank you, Ms. Gauvey. Mr. Reid.

MR. REID: May it please the Court, I think that may be overlooking the effect of Dr. Friedman's testimony that he gave on the stand. Dr. Friedman is a qualified expert and he testified that the hexavalic chrome, the

dangerous substance is part of the mass of material that is received from the -- that was received from Allied Chemical and deposited at the site. It's not something that stands out in and of itself. It's part of the mass of material. Now, that mass of material was analyzed and it was determined in that mass, on the average load delivered to the site, how much hexavalic chrome existed per mass of material. Based upon that, Dr. Friedman testified that a pinch of that material that was being delivered to the site, just a pinch in a cubic mete of air which he analyzed to the witness box would contain hexavalic chrome in excess of the NIOSH standard, and that if that pinch of air was a pinch of material, not hexavalic chrome, pinch of material was blown onto the QC site, that that would be in excess of the permitted limits under the NIOSH standard, and that we proved, through the testimony of Tom Pfizer, that the material from that site was being -- from the landfill site, material was being constantly blown over onto QC's property, and we proved the same thing through Mr. Thomas Long, the operator of the site, that the material was in the roadway and dried out and blowing on the site, and Dr. Friedman would testify that, in his opinion, that they operate -- the operation as existed at the landfill constitute a hazard not only to QC employees, but to their product. There was no product contamination, obviously, because there is no product being made

or produced at the time we are talking about.

The landfill that existed there when QC moved in the property was at the other end of the site, was lower than the QC property, and was not a problem because it was not blowing on the QC property. It was not until they came in with the plan to expand the 30 feet in the air and move it all down to QC's property that the problem became exacerbated to the extent that it --

THE COURT: You say it never did go to that 30 feet?

MR. REID: I didn't hear you.

THE COURT: You said it never did go to the 30 feet?

MR. REID: Oh, yes, it did.

THE COURT: It did go all the way to 30 feet?

MR. REID: We were out there. The mound that was left upon the completion of the site was 25, 30 feet above the fence line there. M.E.S. was not a party to this case, as I explained to the jury, because we did not contend that M.E.S. ran a bad hazardous waste landfill. As a matter of fact, they probably ran it as well as you can run this type of landfill.

Our argument is that even if the landfill was run in the best possible manner, it presents a hazard to my client, QC Corporation, with respect to the health of

his people and the safety of its product, and I think that's what the evidence showed, that this type of a landfill, where you dump hazardous waste out in the open, you leave it under cover for periods of up to a week, exposed to the elements, exposed to the sun where it would dry out, that wind blows the material and it blows it onto our site. This is the nature of this type of an operation. We're not saying that it could be done better. There is no evidence as to how it should be done better. We don't think it can be done better. We're saying that simply given the fact that M.P.A. established this landfill there, these were the necessary consequences of it. This was a necessary effect on our client who lived right next-door, and the results of an inverse condemnation of his property and that he was entitled to the same relief the people of Hawkins Point got, and that was relocation, and the State wouldn't do it.

I need not say much about Ms. Gauvey's argument about air monitoring. As you recall, the air monitorings were not nowhere near QC's located dump near the other side of the expressway or Hawkins Point, and when I asked why didn't you establish a monitoring system for my client, the very closest neighbor, they said they had no reason. They couldn't explain why that was done. I think it is a situation where, from our standpoint, that reasonable minds could not differ, that what QC did was what anyone would

have done in the same circumstances, but if the Court disagrees with that, then I submit that on all the evidence in the case, it was a question of -- left for the decision of the jury.

THE COURT: Thank you, Mr. Reid. I'm going to deny the motion of the Plaintiff For Judgment N.O.V. I'm going to grant the Defendant's Motion For Judgment. I make this ruling essentially, and I guess it's apparent because I agreed with the basic thrust of the Defendant's argument. To me, what is beyond dispute is really the bottom line to all of this which is whether the Plaintiff was effectively deprived of essentially all beneficial use of its property. Even if there might be disagreement as to the actual varieties of impact from the operations of the Defendants in the State of Maryland, I think what stands out very clearly to me, at least, is that whatever the implication of those actions were, whatever the degree of impact there was, that the Plaintiff still was not effectively deprived of essentially all beneficial use of its property, that in substantial viable ways during the critical time period that we are involved with in this case, remembering that the complaint was filed July 23, I believe, of 1983, the Defendant still had a going operation there.

Inverse condemnation is certainly not something favored by the law it seems. I think the Hardesty case,

among others in the State of Maryland, indicates to my satisfaction the extremely heavy burden that a property owner must sustain to have a finding of inverse condemnation, and although it was not so argued here today by Plaintiff's counsel, there was argument in the memorandum filed by Plaintiff's counsel that the Plaintiff did not agree with the instructions given to the jury, but it is a standard that I felt the law applies here, and, of course, I may well be wrong, as I have not so often been before, and it is the standard by which I'm judging the motions here today, and I do not feel that reasonable minds can find from any credible evidence in this case that there was this receptive deprivation with essentially all beneficial use of the property, and it's for these reasons that I make the rulings that I do and thank you, counsel. That will conclude the hearing.

(The motion concluded.)

REPORTER'S CERTIFICATE

I, Robin T. Holland, an Official Court Reporter of the Circuit Court For Baltimore City, do hereby certify that I stenographically recorded the proceedings in the matter of the QC Corporation vs. Maryland Port Authority, Case No. 83202006/L8505, in the Circuit Court For Baltimore City, on June 4, 1985, before the Honorable Robert I.H. Hammerman, Judge.

I further certify the foregoing page numbers one through thirty-two constitute the official transcript as transcribed by me from my stenographic notes to the within typewritten matter in a complete and accurate manner.

In Witness Whereof, I have hereunto affixed my signature this _____ day of _____, 1986.

ROBIN T. HOLLAND, RPR, CSR
OFFICIAL COURT REPORTER