Blankingship Keith pc

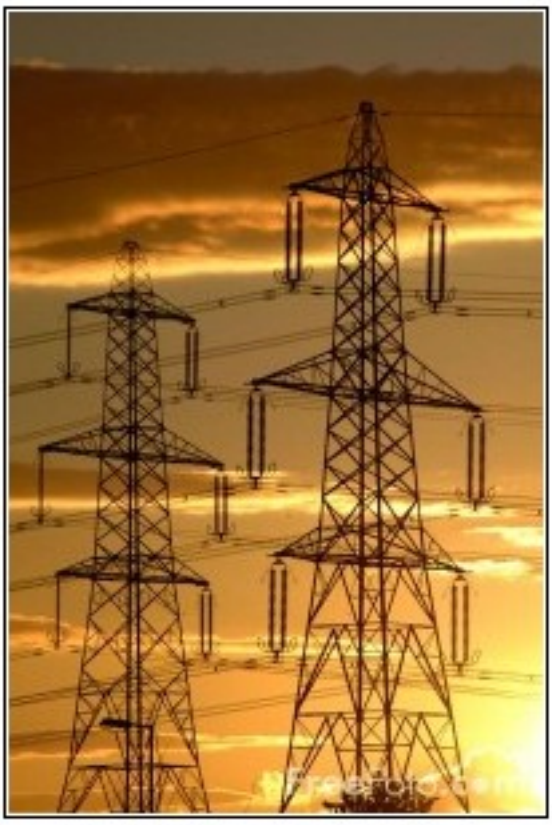
# Eminent Domain and Condemnation

## Welcome to the Virginia Eminent Domain Group at Blankingship & Keith, P.C. We are among the most experienced eminent domain lawyers in Virginia, having handled many hundreds of cases over the last three decades.

Best Lawyers in America ranked Blankingship & Keith, P.C. as #1 in Virginia for many years, with the firm recently receiving a Tier 1 Ranking from Best Lawyers in Metropolitan Washington D.C. For the fifth time Paul

Terpak was named Best Lawyers' 2024 Washington DC. Eminent Domain and Condemnation Law Lawyer of the Year (he previously received this designation in 2012, 2016, 2018, and 2022), and Paul has been listed in Virginia Super Lawyers in the area of Eminent Domain for many years. In 2024, Paul was named to the Virginia Lawyer Hall of Fame, an honor given to about one of every thousand lawyers practicing in Virginia each year. Paul is the Editor of the standard handbook on Virginia law, "Eminent Domain Law in Virginia". In 2002 Paul was selected by the Virginia Code Commission to serve on the advisory committee which produced a complete recodification of all Virginia statutes on eminent domain. In 2023, Paul served as Co-Chair of the Virginia State Bar Committee to revise Eminent Domain Jury Instructions.

The Eminent Domain Group has long and extensive experience in the trial of eminent domain cases and always seeks to maximize the just compensation due under the Constitution when the government takes property. The firm has won many of the highest condemnation awards in Virginia, including the second highest settlement or verdict of any type in Virginia in 2022, but trial is not always the best solution and the group is always willing to consider a fair settlement or an "out of the box" solution to achieve the client's goals. Past settlements include the unprecedented $84 million purchase by VDOT of the Hunting Towers apartment complex near the Woodrow Wilson Bridge in Alexandria. In an imaginative solution, Paul convinced Virginia Power to redesign a gas pipeline in a manner originally thought impossible to preserve development access to over 1000 acres on the Potomac River in Prince William County. In 2022, Paul convinced VDOT to an unprecedented agreement to share stormwater management ponds with a landowner, saving millions in damage to the property. Condemnors recognize the firm's expertise, and Gifford Hampshire and Paul Terpak were hired by Stafford County to represent it in the 3000 acre Crows Nest condemnation case, the largest sized condemnation in Virginia in over a decade.



Besides handling the largest and most complex cases in Virginia, the group has handled all types and sizes of takings from homes, businesses and farms. Our team includes Kevin DeTurris, who has been named by Super Lawyers® as a rising star for 2013 and 2014. Kevin has litigated hundreds of eminent domain cases, primarily on behalf of condemning authorities. He brings a wealth of experience and the insight of how these matters are viewed from the other side. Tom Cusick is a seasoned litigator who brings years of experience helping families and businesses resolve valuation disputes and other complex matters. Gifford Hampshire, formerly of the Prince William County Attorneys Office, won a landmark case for compensation to the County from the federal government arising from the expansion of

Manassas Battlefield Park. Giff is the author of the chapter on Regulatory Takings in "Eminent Domain Law in Virginia. Finally, Hugo Blankingship, rightly called the Dean of Virginia eminent domain attorneys, remains available to add his wise counsel.
We hope we can be of help to you.

*Important: Lawyer case results depend upon a variety of factors unique to each case. Case results do not guarantee or predict a similar result in any future case undertaken by the lawyer.*

## Related Attorneys

- Paul B. Terpak
- Gifford R. Hampshire
- Kevin F.X. DeTurris
- Thomas M. Cusick
- Thomas F.X. Walsh

## Related Cases

Blankingship & Keith has handled hundreds of condemnation cases for decades. Paul Terpak has over 30 years' experience; Giff Hampshire has handled eminent domain cases for 19 years both for Prince William County and for private landowners. Kevin DeTurris has worked in the field for 10 years. The following cases illustrate some of the trials handled by the firm. Note that all jury verdicts also receive statutory interest which increases the amount paid.

- $30.7 Million Settlement in Massanutten Resort Condemnation
- $1,481,950 Settlement for Property Owner in an Eminent Domain Action
- $1,850,000 Settlement for Property Owner in an Eminent Domain Proceeding
- Blankingship & Keith Achieves Three of the Top 10 Settlements in 2022
- Commissioner of Highways v. Freedom I-66 Land, LLC results in $21M Settlement for Client
- Commissioner of Highways v. Gainesville GGP Results in $10.1M Settlement for Client
- VDOT v. Shadyac Results in $1,011,622 Jury Verdict for Client
- Garber v. Prince William County Results in $15M Settlement for Client.
- O'Connor Family v. Loudoun County School Board Results in $6,468,200 Settlement for Client
- Franconia II, LP (Springfield Mall) v. VDOT $508,700 Settlement for Our Client
- Mac D Associates v. Fairfax County Results in $11,572,491 Jury Verdict
- Northern Virginia Regional Park Authority v. Dominion Virginia Power Results in a $1.9 million plus Settlement for Our Client
- Legend v. Virginia Power Results in $215,000 for Our Client
- Rotonda Condominium Unit Owner's Association v. Board of Supervisors of Fairfax County, Virginia Results in $1.35M Settlement

- Fairfax County Park Authority v. McCue and McCue Limited Partnership Results in $9.525M Settlement
- Stafford County v. Crows Nest Successful Settlement for Condemnor
- Hayfield Farms Community Association II v. Board of Supervisors of Fairfax County Results in $1,857,920 Settlement
- Board of Supervisors of Prince William County v. Horner Road, L.C. Results in $4.4M Jury Verdict
- H.G.L.C. v. VDOT Results in $67.4M Settlement
- Morrow Equipment Company v. VDOT Results in $1,209,949 Settlement
- VEPCO v. Futura LLC Results in $400,000 Settlement
- VEPCO v. Superior Investments LLC Results in $265,000 Settlement
- Atlantic Coast Pipeline v. Kelk Results in $75,000 Settlement

## Precondemnation Planning

When a government or private entity seeks to take possession of private property for public use, it can do so through a legal process known as eminent domain. As a result, landowners whose properties are targeted for condemnation face a complex and challenging situation. The process can be lengthy and emotionally draining, as property owners are faced with the prospect of losing their homes, businesses, or land. To prepare for condemnation, landowners need to be aware of their rights, understand the legal process, and engage in strategic planning to protect their interests. In this context, it is crucial to have access to expert legal advice and guidance to ensure that the landowner's rights are protected throughout the process.

If you know a condemnation may be coming, and you have not engaged an attorney, there are a number of things you can do to protect yourself:

1. **Maintain the Property in Good Condition**

   Maintain the property in good condition as if you were preparing to sell it. The valuation process in a condemnation is designed to simulate a fair market sale. Neglect or damage to the property can reduce its value and potentially decrease the compensation received. Therefore, the landowner should make sure to keep the property in good condition, making any necessary repairs, keeping the landscaping well-maintained, and ensuring that the property is clean and free from any hazards.

2. **Save All Documents Regarding the Condemnation**

   Save all documents regarding the condemnation, including public notices, letters, e-mails, and other communications. These documents may be important evidence in the case and can help the landowner understand their rights and obligations throughout the condemnation process.

   By keeping accurate records of all communications and documents related to the condemnation case, the landowner can build a comprehensive record of the case that can help them prepare for negotiations, mediation, or trial.

3. **Take Pictures of the Property Before the Condemnation**

   Pictures and videos may become very important evidence about the value of your property at trial. Condemnation juries travel to your property and view the property taken during the trial, but the project may have already been built and your home or business destroyed prior to trial. Therefore, it is crucial to document the property's condition before the taking occurs and throughout the process, as pictures and videos may be the only way to demonstrate the property's value and condition prior to the condemnation.

4. **Timber and Landscaping Value**

If a landowner has timber or landscaping on their property that will be destroyed as a result of a condemnation, it is crucial to have it valued before it is destroyed. Timber or landscaping can be a valuable asset, and its destruction can result in a significant loss of income for the landowner. Therefore, having the timber valued can ensure that the landowner receives fair compensation for this loss.

Valuing timber can be a complex process that involves assessing the quantity, quality, and market value of the trees. It may be necessary to hire a professional forester or appraiser to conduct a timber valuation. This expert can assess the age and species of the trees, estimate the volume of timber, and determine the current market value of the timber. Similarly, landscaping may need to be valued by a licensed arborist. This evidence can help the landowner receive fair compensation for this loss and ensure that their rights are protected throughout the process.

5. **Do Not File Any Real Estate Tax Appeals**

   When preparing for a condemnation case, it is generally recommended that the landowner refrain from filing any real estate tax appeals that could result in a lower valuation of the property. If any low value is put forth in such an appeal, the condemning authority may use this lower value as evidence that the property is worth less than the value claimed in the condemnation case against the landowner during a condemnation trial.

   Also, be careful if you place a value on the property in any other document like a financial statement.

6. **Maintain All Government Approvals Regarding the Use of Your Property**

   Maintain all government approvals regarding the use of your property. Even if you know property is heading toward condemnation, do not let any legal nonconforming uses lapse. Not maintaining these government approvals could result in a lower compensation award. If you were otherwise intending to pursue government approvals to enhance the use of your property, continue to do so in the normal course in consultation with your condemnation team.

7. **Do Not Sign Anything Presented by a Condemnor**

   Do not sign anything presented by a condemnor, especially a right of early entry or an option agreement. These documents may give the government the right to enter onto your property without immediately paying just compensation as required by law.

   An early entry agreement allows the government to access the property and begin work on the project before paying the landowner just compensation for the taking of their property. In addition, the agreement may contain provisions that waive the landowner's rights to challenge the validity of the taking or the amount of compensation.

   Similarly, an option agreement gives the government the right to purchase the property at a later date, but without providing immediate compensation to the landowner. These agreements may also contain terms that limit the landowner's ability to challenge the validity of the taking or the amount of compensation.

8. **Consult an Experienced Eminent Domain Attorney**

   Condemnation law is complex. There are many pitfalls for the unwary landowner or lawyer.

Precondemnation planning can be a crucial step for a landowner facing the potential taking of their property through eminent domain. By following these eight tips, a landowner can take proactive steps to protect their rights and interests during the condemnation process. With the right planning and guidance, a landowner can achieve a fair and just compensation for the taking of their property and move forward with their lives.

Download our precondition planning tip sheet.

## Frequently Asked Questions

**What is eminent domain/condemnation?**

**Answer:** "Eminent Domain" or "Condemnation" is the power of government or its designees to take private property for public use. Both the United States Constitution and the Virginia Constitution grant the government this power, but also restrict its use. The main restrictions are that no person shall be deprived of property except for public use, and that just compensation must be paid.

**Does the Government or public utility have the right to take my property?**

**Answer:** Usually, but your property can only be taken for a public purpose and no more land may be taken than is needed for that purpose. It is sometimes possible to challenge public purpose or to argue that the condemnor is taking too much land. However, it is ALWAYS possible to fight for just compensation.

**Can the condemnor come onto my property to perform studies before they take the property?**

**Answer:** Yes. The law allows a condemnor to study if a particular parcel of land is suitable for the intended public purpose. The condemnor or its agents may enter with the landowner's permission OR by the following procedure. First, the condemnor must send a certified letter requesting permission to enter not less than 15 days prior to the first date of the proposed inspection, including the date or dates of such inspection, the name of the requesting entity, the purpose of the inspection, and the specific tests, examinations, etc., to be performed. If no permission is granted, the condemnor must then send, by certified mail and post on the entryway of the property, a Notice of Intent to Enter, also not less than 15 days before the proposed entry. The condemnor must pay for any actual damages caused by the entry, and a court proceeding is provided if there is a dispute. No prior court order is required for entry. We advise our clients to get an agreement on insurance, repair of any damage and delivery of a copy of any report produced.

**If I know a condemnation is coming, what should I do now to get ready?**

**Answer:** First, treat the property as if you were getting ready to sell it. Keep it clean and well maintained. Save all letters and other papers you get about a possible condemnation. Consider whether any government approvals might add value, and pursue them in the ordinary course as if a condemnation is not coming. Most importantly DO NOT FILE ANY TAX APPEALS CLAIMING A LOW VALUE--they can be used against you. DON'T SIGN ANYTHING, especially a right of early entry or option agreement, without it first being reviewed by an attorney.

**What is just compensation?**

**Answer:** Just compensation is the constitutionally mandated standard which must be paid to any landowner whose property is taken. The Virginia Supreme Court has defined just compensation to mean "fair market value" of the property taken, plus the damage done to any property retained by the landowner in a partial taking.

**How does a condemnation case get started?**

**Answer:** The condemnor must get an appraisal of the "just compensation" for the taking, give the landowner a copy of the appraisal, and offer the full amount of the appraisal.

**Do I have to take the offer?**

**Answer:** No. Every landowner has the right to a trial by jury to determine just compensation. The reality is that most cases are settled before trial, but the landowner should get his or her own appraisal to see if the offer is fair. Blankingship & Keith can then help you through the negotiation process.

**Who decides what my just compensation is?**

**Answer:** Appraisers supported when necessary by civil engineers and other experts present their opinions about the value of the property taken and damaged. It may be no surprise that the condemnor's appraisers usually put a low value on the compensation which is due. If we are unable to settle your case, the question of value is decided at trial by a jury of people in your city or county who own some type of real estate. This is the ultimate protection for landowners built into Virginia law.

**Are trials expensive?**

**Answer:** They can be, but we do all we can to minimize costs. At the very least, you will need to pay for an appraiser and possibly a civil engineer to determine the development potential of your property. Other experts may be needed, depending on the issues on each parcel. Recent cases handled by Blankingship & Keith have included environmental contamination, endangered species, Indian burial grounds, and limestone sink holes. Every piece of land is unique and must be evaluated based on its individual conditions and circumstances. Ultimately, we give you the best advice we can and YOU decide how much to spend on experts based on the potential return on that investment.

**What about the cost of a lawyer?**

**Answer:** Blankingship & Keith usually takes cases on a contingency basis. We get a percentage of the amount awarded over the original offer. That means the landowner keeps the full amount of the offer made by the condemnor and legal fees are due only if we get you more compensation. It is important to note that it is possible (but rare) that a jury will award you less than the original offer, but we will advise you about that risk if and when it occurs.

**Are there ways to share the costs of the case?**

**Answer:** Yes. Where there are a lot of people with similar issues, they can share costs they have in common. If there is a large project, such as a road, school or power line affecting a number of similarly situated landowners, it may be possible to share the cost of appraisers and other witnesses.

**What if only part of my property is taken?**

**Answer:** If only part of your property is taken, in addition to the fair market value of the portion taken, the condemnor must also pay for the damages caused to the portion of your property remaining after the take. This requires a complete analysis of every way in which the condemnation hurts the current use or foreseeable future use of your property. Examples of damages to the residue include cutting off road or utility access, creating an isolated or odd shaped lot, or making the current or future use of your property more expensive.

**What if my home is taken?**

**Answer:** The condemnor has to pay you fair market value for your home and, under the Virginia Relocation Assistance Act, they need to help you find comparable, decent, safe and sanitary housing and to pay your moving expenses. Your new home should be equal to or better than your old home and generally in a location equally or more desirable. Blankingship & Keith can help you through that process.

## Client Testimonials

Paul,

I wanted to express my appreciation to you for the work you have done on my behalf. I could not be more pleased with the outcome and that is largely due to your insight and professionalism.

*John Curtis*
*President*

*Belmont Ridge Self Storage*

Paul,

I've found that being tenacious and thorough go hand in hand and you sir have exemplified both. From putting the right players on the field to developing the plays that work against the defense, you played it like a successful head coach. The "score board" proves it.

*Donald J. Kerr*
*Vice President*
*Chantilly Crushed Stone/ Loudoun Quarries*

You and Kevin are the greatest people and lawyers we have had the pleasure to do business with. We are still wondering how you did the great job for us.

*Russ and Heidi Calloway, Mountain Valley Pipeline Landowners*

Thank you again for all of your assistance and guidance regarding the eminent domain issues in our case. I know you're the best at this on the legal side but I think we found the practical business advice just as valuable.

*Noah Mehrkam,  Arcland Property Company*

Brenda and I would like to take this opportunity to express our appreciation for the outstanding job you and Kevin did in handling our eminent domain case regarding our service station on Rt. 1 in Ft. Belvoir. Not only was your entire team professional and enthusiastic, you guided us thru a complex situation.

This case was extremely important to us and we could not have been more pleased with the results. We would highly recommend you and your firm to anyone involved with an eminent domain situation.

*Terry and Brenda Shreve, Shreve Oil Company*

My legal matter involved the taking of a property worth more than $10 million by a well-financed and powerful government entity.  I knew that I had to hire a law firm that was not afraid to go toe to toe with the government entity and fight for my rights. Not only did Paul  Terpak successfully handle my case, he showed passion in defending my rights.  I wholeheartedly recommend Paul Terpak to anyone dealing with eminent domain issues.  You can't find a better attorney than Paul Terpak for eminent domain cases .

*Ram Guru*
*Milestone Metals*

Paul was recommended to me as the recognized condemnation expert in the area. As our advocate, he efficiently managed our defense and maximized our compensation. Through the process, it became obvious to me that Paul's skill and reputation was the key factor to the timely and cost-effective resolution of the matter.

*Mike Gill*
*Akridge*
*Development Manager*

It is with great satisfaction that I write to you upon the successful culmination of a seven year legal battle between Northern Virginia Regional Park Authority and a gigantic, multi-billion dollar corporation. There is

absolutely no doubt that our success was a direct result of having the benefit of the best law firm and, more importantly the best lawyer, leading the charge. Paul Terpak's performance was nothing short of brilliant... The other side was represented in the courtroom by more than a dozen attorneys and aides from a major law firm--we had two... By the end of the day, I was absolutely certain we had made the right decision in proceeding with the case and hiring Blankingship & Keith to carry our sword. Paul's performance in the courtroom was astonishing. He was genuine, articulate, intelligent, controlled and forceful when needed, and he overwhelmed the courtroom.

*Todd Hafner*
*Director of Planning and Development*
*Northern Virginia Regional Park Authority*

Paul, it was quite a wild and unusual ride watching the VDOT/BF Saul case unfold, but I wouldn't have missed it for the world. You and Hugo did a great job, and we want to thank you once again for your wonderful work. You are certainly a gifted litigator, and we would not hesitate to call upon you again in the future.

*Mary Beth Avedesian*
*Vice President, Acquisitions & Development*
*Saul Centers, Inc.*

Now that the case has concluded I wanted to write you and tell you how impressed I was with your handling of our case. You brought in the best-of-the-best as far as experts are concerned and you did a magnificent job of organizing and directing their activities. I have no doubt that the end result, which was quite favorable, was a result of your hard work and focus. It was a real pleasure having the chance to work with you on this case and I could not be happier with the representation you provided.

*Richard R. Saunders, Jr.*
*Sevila, Saunders, Huddleston & White*

We are all delighted with the outcome. As the one sitting in the courtroom, I was impressed throughout the trial by your skilled handling of the issues, and your ability to connect with the jury on those issues. This was certainly not an "open and shut" case, and I believe that all of your and Laurie Kirkland's hard work really won the day for us. Many thanks!

*Carolyn C. Olshaker*
*Clemente Development Company, Inc.*

I want you to know how impressed I was with your courtroom performance this week. I feel like I took a 3 day class on what a lawyer should be doing inside the courtroom to best represent his clients interest.I just want you to know your skills will not be forgotten. Thanks and happy holidays.

*Patrick S. Burke*
*The Dean & Burke Group*

I wanted to say thank you for all of your hard work on this case. Everyone is very pleased with the results of the Sheraton Premier case.

*Allison Navitskas*
*Vice President/Associate General Counsel*
*FelCor Lodging Trust Incorporated*

I chose Paul to represent my clients in Virginia Power line cases because of his skill, ability and demeanor and his excellent reputation for expertise in Eminent Domain law.

*Henry C. "Hank" Day*
*Former Town Attorney*
*Warrenton, Virginia*

Hugo, my level of appreciation for your competence rises with each experience. I am truly grateful for your intense interest on my behalf and am equally grateful to Paul Terpak who you can be rightfully proud of for his diligence, tenacity and for out-maneuvering our opponent at several points.

*Scott C. Humphrey, A.S.A.*
*Appraiser*
*R. L. Kane, Inc.*

Paul, I just wanted to congratulate you for the great result on the Spring Hill Road litigation. It exceeded the client's expectations and the client believes the matter was handled extremely well. Keep up the good work!

*Kenneth Ingram*
*Counsel*
*Rotonda Condominium Unit - Owners Association*

Paul Terpak is very aggressive and extraordinarily competent.

*Ray Schupp*
*President*
*Schupp Development Companies*

Paul, you sure know how to make a general counsel look good to her boss. Mr. Van Metre is delighted with me, even though I try to keep telling him it was your excellent work which achieved the result.

*Patricia McQuillen*
*Vice President and Assistant General Counsel*
*The Van Metre Companies*

## Articles

## Articles

- New Eminent Domain Jury Instructions Adopted
- Valuation of Quarry Property in Virginia
- May a Condemnor Compel a Landowner to Accept Land as a Component of Just Compensation?
- Obtaining Just Compensation for Condemnation of Common Area Owned by Homeowners Associations
- Limits on Consideration of Mandatory Dedications in Eminent Domain

## News & Insights

- Thirty-Two Blankingship & Keith Attorneys Recognized in 2027 Best Lawyers and Ones to Watch
- Paul Terpak Discusses Data Centers, Power Lines, and Eminent Domain on NBC4
- Blankingship & Keith Earns First Chambers USA Ranking for General Commercial Litigation in Virginia

- Blankingship & Keith Attorneys Recognized in 2026 Virginia Super Lawyers and Rising Stars
- Blankingship & Keith Named Among 2026 “Best Law Firms” by Best Lawyers®
- Blankingship & Keith, P.C. Receives National and Regional Recognition in Best Lawyers® 2025 "Best Law Firms"
- Twenty-Seven Blankingship & Keith Attorneys Shine in the 2025 Edition of Best Lawyers in America
- Twenty Blankingship & Keith, P.C. Attorneys Named Virginia Super Lawyers and Rising Stars for 2024
- Blankingship & Keith Principal Paul Terpak Named to the Class of 2024 Virginia Lawyers Hall of Fame
- Blankingship & Keith, P.C. Earns National and Regional Recognition in Best Lawyers® 2024 "Best Law Firms"
- Twenty-two Blankingship & Keith Attorneys Shine in the 2024 Edition of Best Lawyers in America
- Blankingship & Keith Achieves Three of the Top 10 Settlements in 2022
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- Fifteen Blankingship & Keith Attorneys are Recognized as Super Lawyers