



## **November Case Law Update November 30, 2010**

**[A summary of published Wisconsin court opinions decided during the month of  
November]**

### ***Wisconsin Supreme Court Opinions***

[No planning related cases to report.]

### ***Wisconsin Court of Appeals Opinions***

#### **Need to Strictly Follow Notice Requirements in Condemnation Appeal**

Section 32.06(8) of the Wisconsin Statutes requires that for non-transportation eminent domain proceedings, after the condemnation commission determines its award, the clerk of court "shall": (1) send notice of the award, including a copy of the award; (2) by certified mail with return receipt requested; (3) to the party seeking condemnation and to the landowner. In *Dahir Lands, LLC, v. American Transmission Co., LLC*, the clerk of court sent a copy of the award to the attorney had appeared for the landowner at the condemnation hearing via U.S. mail. Under section 32.06(10) a party has 60 days following the date of filing of the commissioner's award to appeal the award in circuit court. The landowner appealed the award after the 60 day limit. The American Transmission Company sought to dismiss the appeal as untimely. The Wisconsin Court of Appeals disagreed, concluding that strict compliance with section 32.06(8) is required. In this case, the notice was given to the landowner's attorney and not the landowner as required by the statutes and the clerk of court did not send the notice via certified mail with return receipt requested, also as required by statute. Since the clerk of courts had not complied with the statutory requirements, the Court of Appeals allowed the landowner's appeal of the commission's award to proceed.

The case is recommended for publication.