


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Central Florida Expressway Authority Board

FROM:  Linda S. Brehmer Lanosa, Deputy General Counsel

DATE: October 28, 2015

RE: *Central Florida Expressway Authority v. William and Dessie Calhoun*
Case No. 2014-CA-003590-O, Project: 429-203, Parcel 217
Owners: William and Dessie Calhoun
Location: 3509 West Kelly Park Road, Apopka, Florida 32712
Size of Land: Before: 7.379± gross/net acres
Taken: 7.379± gross/net acres

INTRODUCTION

William and Dessie Calhoun were the owners of Parcel 217, a parcel that was taken in its entirety. The parties agreed to resolve full compensation in the amount of \$612,000, or \$102,000 above the appraised value of the property and a Stipulated Final Judgment was entered in August 2015.

Recently, Respondents filed a Motion to Tax Attorney's Fees, Expert Fees and Costs and Attorney's Fees and Costs for Supplemental Proceedings seeking attorney's fees in the amount of \$33,660 and expert fees for the appraisal services of Calhoun, Dreggors and Associates, Inc., in the amount of \$13,162. A copy of the Motion is attached.

ANALYSIS

Respondents' request for attorney's fees is based upon the formula set forth in Section 73.091 of the Florida Statutes, which provides for an attorney's fee based upon 33% of the monetary benefit for monetary benefits less than \$250,000. Thus, the statutory attorney fee is 33% of the benefit of \$102,000, or \$33,660.

Regarding Respondents' request for \$13,162 for the appraisal services of Calhoun, Dreggors and Associates, Mr. Dreggors provided an invoice with a description of the services rendered by person, date, and time. Although CFX did not receive an appraisal report from Mr. Dreggors, it is apparent from the invoice and backup material that appraisal services were rendered.

To resolve this matter, Mr. Dreggors agreed to reduce his invoice by over \$3100 and accept an amount that is equivalent to the amount that CFX paid to its own experts. Based upon information from Finance, CFX paid \$10,046.11 to its own experts on this parcel. The reduction

Project: 429-203, Parcel 217
Owners: William and Dessie Calhoun

would address CFX's concerns pertaining to the duplication of services rendered by multiple researchers and other issues.

REQUEST

The proposed settlement was recommended for Board approval by the Right of Way Committee at the October 28, 2015 meeting. We request the Board's approval of a settlement consisting of the payment of the statutory attorney's fee of **\$33,660** and expert fees and costs in the amount of **\$10,046.11**.

ATTACHMENTS

- 1- Motion to Tax Attorney's Fees, Experts' Fees and Costs and Attorney's Fees and Costs for Supplemental Proceedings

IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR ORANGE
COUNTY, FLORIDA

CIVIL ACTION NO: 2014-CA-003591-O
Subdivision: 39
Parcel No.: 217

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY, a body politic and corporate,
and an agency of the state under the laws
of the State of Florida

Petitioner,

v.

WILLIAM L. CALHOUN and DESSIE E.
CALHOUN; et al.,

Respondents.

**MOTION TO TAX ATTORNEY'S FEES, EXPERTS' FEES AND COSTS AND
ATTORNEY'S FEES AND COSTS FOR SUPPLEMENTAL PROCEEDINGS**

Respondents, WILLIAM L. CALHOUN and DESSIE E. CALHOUN, husband and wife ("Respondents"), hereby move for entry of an Order of this Court taxing attorney's fees, experts' fees and costs against the Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), in the above-styled eminent domain action. Pursuant to Article X, Section Six of the Florida Constitution, Sections 73.091 and 73.092 (1) and (2), Florida Statutes, and other applicable law, Respondents are entitled to awards of attorney's fees, expert fees and costs and an award of attorney's fees for supplemental proceedings. In support thereof, Respondents state:

1. Pursuant to Section 73.091, Florida Statutes, CFX, as condemning authority, is required to pay "all reasonable costs incurred in the defense of the

proceedings in the circuit court, including, but not limited to, reasonable appraisal fees . . . to be assessed by that court." *Id.*

2. Florida's Supreme Court has also made clear that reasonable experts' fees are part of the compensation owed to property owners under the Florida Constitution. *Dade County v. Brigham*, 47 So. 2d 602, 604 (Fla. 1950). This is particularly true "[s]ince the owner of private property sought to be condemned is forced into court by one to whom he owes no obligation, it cannot be said that he has received 'just compensation' for his property if he is compelled to pay out of his own pocket the expenses of establishing the fair value of the property, which expenses in some cases could conceivably exceed such value." *Id.* at 604-605.

3. The Parties have reached an Agreed Settlement. In order to reach the agreement it was reasonable and necessary to hire Appraiser Richard Dreggors, of the appraisal firm of Calhoun, Dreggors and Associates, Inc. to assist with the valuation of the parcel. A copy of the detailed invoice of Calhoun, Dreggors and Associates, Inc. is attached hereto as Composite Exhibit "A". The total amount of the invoice is \$13,162.

4. All of the costs incurred by the Owners were reasonably necessary to meet CFX on an equal footing to establish the value of the Respondents' property.

5. The settlement reached was in the amount of \$612,000.00. The first written offer dated January 29, 2014 was in the amount of \$510,000.00. The difference equals the monetary betterment of \$102,000 multiplied by the Statutory percentage of 33% results in a total attorney's fee based on monetary benefit of \$33,660 pursuant to Section 73.092(1), Florida Statutes..

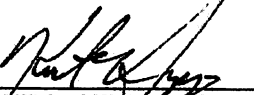
6. Section 73.092(2), Florida Statutes, provides the Court with the ability to make awards of attorney's fees to counsel for property owners in Florida eminent domain cases for supplemental proceedings. The pursuit of the property owners' experts' fees, including hearings before the Court, are supplemental proceedings. See *State, Dept. of Transp. v. Lockhart*, 909 So. 2d 590, 592 (Fla. 5th DCA 2005).

WHEREFORE, the Respondents, WILLIAM L. CALHOUN and DESSIE E. CALHOUN, respectfully move for an Order of this Court taxing attorney's fees, experts' fees and costs, and attorney's fees for supplemental proceedings, against the Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY, in the above-styled eminent domain case.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court by using the eFiling Portal, and further certify that the foregoing has been furnished by U.S. Mail and/or e-service this 8th day of September, 2015 to all parties on the attached Service List.

Respectfully submitted,



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Attorneys for William L. and Dessie E. Calhoun

**O/OCEA v. William L. and Dessie E. Calhoun, et al.
(Case No.: 2014-CA-003591-O)**

SERVICE LIST

Linda S. Brehmer Lanosa
Deputy General Counsel
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
Linda.lanosa@CFXWay.com
*Attorney for Petitioner,
Central Florida Expressway
Authority*

Calhoun, Dreggors & Associates, Inc.

• Real Estate Appraisers & Consultants •

July 22, 2015

Kent L. Hipp, Esq.
c/o GrayRobinson, P.A.
301 East Pine Street, Suite 1400
Orlando, FL 32801

RE: Owner: Calhoun
 Parcel No.: N/A
 Project: Wekiva Parkway
 County: Orange

INVOICE

Prepare for and meet with owner at site; meetings with engineer and owner's representative; review taking and impacts to remainder; conferences with owner's representative; review O/OCEA report; sales research/analysis; inspect sales; review valuation issues; conference with surveyor; conference with land planner; conference with owner.

Researcher:	9.25 Hrs. x \$ 75/Hr. =	\$ 694
Eaton:	26.25 Hrs. x \$125/Hr. =	3,281
Abrams:	20.75 Hrs. x \$150/Hr. =	3,112
Dreggors:	27.00 Hrs. x \$225/Hr.=	<u>6,075</u>
Total		\$13,162

Thank you,

Richard C. Dreggors, GAA
President

RCD/ddp

728 West Smith Street • Orlando, Florida 32804
Tel (407) 835-3395 • Fax (407) 835-3393
affiliated with Calhoun, Collister & Parham, Inc. of Tampa

Composite Exhibit A

OWNER	CALHOUN	RESEARCHER
PROJECT	WEKIVA PARKWAY	
PARCEL(S)		
COUNTY	ORANGE	

DATE	TYPE OF SERVICE	HOURS
09/20/13	ASSIST WITH RESEARCH COMPARABLE SALES.	3.75
09/23/13	CONTINUE TO ASSIST WITH RESEARCH OF COMPARABLE SALES.	3.00
09/24/13	CONTINUE TO ASSIST WITH RESEARCH OF COMPARABLE SALES.	<u>2.50</u>
	TOTAL HOURS	9.25

OWNER	CALHOUN	KEVIN EATON
PROJECT	WEKIVA PARKWAY	
PARCEL(S)		
COUNTY	ORANGE	

DATE	TYPE OF SERVICE	HOURS
04/10/13	CONDUCT SALES RESEARCH.	2.75
04/17/13	PREPARED FOR AND ATTENDED MEETING WITH OWNER AND OWNER'S REPRESENTATIVE.	3.25
01/30/14	LAND SALES RESEARCH AND ANALYSIS.	7.25
02/04/14	RESEARCHED PRE-ENGINEERED/MANUFACTURED HOME SALES AND ANALYZED THOSE SALES WITH THE ALLOCATION METHOD; REVIEWED WITH RICK LAND SALES; CONTINUED WORK ON CHARTS OF SALES FOR OWNER'S REPRESENTATIVE.	4.75
03/04/14	PREPARED FOR AND ATTENDED MEETING WITH OWNER'S REPRESENTATIVE; WORKED ON MAP OF VALUES AND SPREADSHEET; ANALYZED ISSUES OF HIGHEST AND BEST USE.	1.50
03/06/14	REVIEWED O/OCEA UPDATED APPRAISAL.	0.75
05/05/14	SALES RESEARCH.	3.25
05/30/14	PREPARED FOR AND ATTENDED MEETING WITH OWNER'S REPRESENTATIVE.	<u>2.75</u>
	TOTAL HOURS	26.25

OWNER	CALHOUN	COURTNEY ABRAMS
PROJECT	WEKIVA PARKWAY	
PARCEL(S)		
COUNTY	ORANGE	

DATE	TYPE OF SERVICE	HOURS
07/30/14	REVIEW OF FILE AND CONDEMNOR'S UPDATED APPRAISAL; ANALYSIS OF CARPENTER'S SALES.	5.75
08/01/14	UPDATE SALES RESEARCH; ANALYSIS OF SALES.	6.50
08/14/15	RESEARCH/ANALYSIS OF SALES.	5.25
10/22/14	ANALYSIS OF COMPENSATION.	2.50
07/20/15	PREPARE FOR AND CONFERENCE CALL WITH OWNER AND OWNER'S REPRESENTATIVE.	<u>0.75</u>
	TOTAL HOURS	20.75

OWNER	CALHOUN	RICHARD C. DREGGORS, GAA
PROJECT	WEKIVA PARKWAY	
PARCEL(S)		
COUNTY	ORANGE	

DATE	TYPE OF SERVICE	HOURS
11/29/10	REVIEW MATERIAL AND PREPARE FOR MEETING WITH OWNER.	0.50
11/30/10	MEETING WITH OWNER AT THE PROPERTY; REVIEW ISSUES.	1.50
01/17/11	PREPARE FOR AND MEET WITH ENGINEER AND OWNER'S REPRESENTATIVE REGARDING ACCESS TO REMAINDER.	1.25
02/10/12	PREPARE FOR AND MEET WITH OWNER; REVIEW TAKING AND POTENTIAL IMPACTS TO REMAINDER.	0.50
02/22/13	CONFERENCE WITH OWNER'S REPRESENTATIVE; REVIEW GEOTECHNICAL ISSUE FOR LAND IN THE AREA.	0.50
04/12/13	REVIEW O/OCEA REPORT; MEETING WITH OWNER'S REPRESENTATIVE TO DISCUSS SCOPE OF ASSIGNMENT.	2.25
04/15/13	ASSIST WITH SALES RESEARCH.	2.00
09/18/13	INSPECT SALES; CONFERENCE WITH OWNER'S REPRESENTATIVE.	4.75
10/03/13	ASSIST WITH SALES RESEARCH OF VACANT PARCELS IN WEST ORANGE COUNTY.	1.25
02/04/14	REVIEW O/OCEA REPORT; CONFERENCE WITH OWNER'S REPRESENTATIVE, REVIEW SALES WITH ASSOCIATE.	2.50
03/03/14	REVIEW O/OCEA REPORTS.	1.25
03/04/14	MEETING WITH OWNER'S REPRESENTATIVE; REVIEW VALUATION ISSUES.	1.25
04/22/14	REVIEW DOCUMENTS TO PREPARE FOR MEETING WITH ENGINEER AND OWNER'S REPRESENTATIVE.	0.50
04/23/14	ANALYSIS OF SCOPE OF WORK; MEETING WITH EXPERTS/OWNER'S REPRESENTATIVE; REVIEW IMPACTS OF THE TAKING.	0.75

OWNER	CALHOUN	RICHARD C. DREGGORS, GAA
PROJECT	WEKIVA PARKWAY	
PARCEL(S)		
COUNTY	ORANGE	

DATE	TYPE OF SERVICE	HOURS
05/05/14	CONFERENCE WITH OWNER'S REPRESENTATIVE TO REVIEW PRELIMINARY ANALYSIS.	0.50
05/13/14	CONFERENCE WITH OWNER'S REPRESENTATIVE REGARDING RELOCATION INCENTIVE.	0.50
05/29/14	PREPARE FOR AND MEET WITH OWNER'S REPRESENTATIVE; REVIEW SCOPE OF WORK; CONFERENCE WITH SURVEYOR; CONFERENCE WITH PLANNER.	0.50
05/30/14	MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW OUR ANALYSIS; CONFERENCE WITH THE OWNER.	0.50
08/04/14	CONFERENCE WITH OWNER'S REPRESENTATIVE TO REVIEW CFX OFFER.	0.25
08/08/14	MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUES OF NEARBY PARCELS.	0.25
08/15/14	PREPARE FOR MEETING; MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES; UPDATE LAND SALES RESEARCH.	0.50
10/22/14	MEETING WITH OWNER'S REPRESENTATIVE TO REVIEW VALUATION ISSUES.	0.75
06/27/15	MEETING WITH OWNER'S REPRESENTATIVE; REVIEW VALUATIONS OF SUBJECT AND OTHER PARCELS; DISCUSS OFFER OF JUDGMENT.	1.75
07/20/15	PREPARE FOR AND CONFERENCE WITH OWNER REGARDING OFFER OF JUDGMENT AND VALUES OF LAND IN THE AREA.	<u>0.75</u>
	TOTAL HOURS	27.00