


WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A.
329 Park Avenue North
Second Floor
Post Office Box 880
Winter Park, Florida 32790-0880
Telephone (407) 423-4246
Facsimile (407) 645-3728

MEMORANDUM

TO: Central Florida Expressway Authority Board Members

FROM: James Edward Cheek, III, Right of Way Counsel
Winderweedle, Haines, Ward & Woodman, P.A. 

DATE: January 26, 2016

RE: S.R. 429 Wekiva Parkway, Project 429-202; Parcels 112 (Parts A & B)/712
Approval of Offer of Judgment

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Board's approval to serve an Offer of Judgment to Cynthia J. Henderson and Robert S. Henderson ("the Hendersons" or "Owners") for Parcels 112 and 712. CFX filed its eminent domain action on December 4, 2013. The Court entered an Order of Taking on February 12, 2014.

DESCRIPTION and BACKGROUND:

The subject property is a triangular flag lot located on Plymouth Sorrento Road, in unincorporated Orange County, Florida. The parent tract contains 14.076 acres of land area. CFX is acquiring approximately 7.5 acres, leaving a 6.4 acre remainder. The property is improved with a single family residence which will not be located within the taking area, but which will be approximately 87 feet from the limited access right of way line after the taking.

CFX retained the services of Mr. David Hall, ASA with Bullard, Hall & Adams Inc., to appraise the property. The subject property is improved with a 1,703 square foot two, (2) story single-family residence that was built in 1967, as well as other associated residential improvements. The property is zoned A-1 Citrus Rural (agricultural) by Orange County. Mr. Hall concludes that the highest and best use, as improved, is continued single-family residential use, as the property does not currently have developable access.

The comparable land sales reflect a range of value of \$18,029.00 to \$30,021.00 per acre of land area. Mr. Hall concluded to a fee simple market value estimate of **\$27,000.00 per acre**, or \$380,100.00 for the total parent tract land value. The contributory value of the building improvements was estimated to be \$166,900.00. This resulted in an estimated market value for the parent tract of \$547,000.00. The value of the land taken was estimated to be \$206,500.00, and the contributory value of the improvements in the taking were estimated to be \$12,300.00. All site improvements in the temporary construction easement will be replaced during construction at no cost to the property owners.

The rear of the residence on the subject property is 87.5 feet from the new limited access line. The view from the residence will be a large retention pond and elevated roadway. A bridge will be constructed over the pond adjacent to the property. The subject taking does not directly impact any of the building improvements, however, due to functional obsolescence, Mr. Hall opined that there was a fifty percent (50%) reduction in value to the remainder improvements. These valuation conclusions are summarized as follows:

| | |
|---|-------------------|
| Value of Part Taken | \$ 218,800 |
| Damages, Incurable | \$ 175,400 |
| <u>Cost to Cure</u> | <u>\$ 1,000</u> |
| Total Compensation for Parcel 112 | \$ 395,200 |
| <u>Value for Parcel 712</u> | <u>\$ 300</u> |
| Total Compensation Parcels 112 and 712 | \$ 395,500 |

The owners have retained the appraisal services of Rick Dreggors with Calhoun, Dreggors & Associates, Inc. Mr. Dreggors opined that the highest and best use of the subject property is for a residential subdivision. He considers 6 sales that are approved for residential subdivisions. These sales range in value from \$72,000 - \$157,000 per acre. He further considers the landowners' contention that sometime in 2006, they were offered \$60,000 per acre plus a new home valued at \$300,000.00 for a proposed subdivision. Mr. Dreggors concludes on a "before" value of **\$70,000 per acre**. Mr. Dreggors further notes that if the property had developable access (i.e. 50 foot-wide access), the property would be worth \$100,000 per acre. In addition, Mr. Dreggors determined that the remainder property is no longer suitable for a residential subdivision due to its reduced size and proximity to the expressway. He therefore concludes that, in the "after condition" the property is worth \$30,000.00 per acre, minus another 50% for severance damages due to proximity to the expressway. Mr. Dreggors valuation conclusions are summarized as follows:

| | |
|---|--------------------|
| Value of Part Taken | \$ 547,800 |
| Damages, Incurable | \$ 452,500 |
| <u>Cost to Cure</u> | <u>\$ 1,000</u> |
| Total Compensation Parcel 112 | \$ 989,000 |
| <u>Value for Parcel 712</u> | <u>\$ 500</u> |
| Total Compensation Parcels 112 and 712 | \$1,001,800 |

OFFER OF JUDGMENT:

Mediation was conducted on January 6, 2016 without a successful resolution. This case is scheduled to go to trial during the October 16, 2016 trial docket. It is requested that this Board authorize service of an Offer of Judgment. Offers of Judgment are authorized in eminent domain actions under §73.032, Florida Statutes, which provides that if a defendant rejects an Offer of Judgment and the verdict or judgment is less than the amount of that offer, the court shall not award any costs incurred by the defendant after the date the offer was rejected.

The undersigned counsel seeks this Board's approval to serve an Offer of Judgment in the amount of **\$650,000.00**. CFX has already deposited \$385,700.00 as its good faith estimate of value. Therefore, if the offer of judgment is accepted, CFX will have to pay an additional \$264,300.00 to resolve this case.

RECOMMENDATION:

The proposed Offer of Judgment was recommended for Board approval by the Right of Way Committee at the January 27, 2016 meeting. We respectfully request the Board's approval for service of an Offer of Judgment in the amount of \$650,000.00 to fully resolve the landowners' interest in this case.

ATTACHMENTS:

Sketch of Subject Property

