


# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Central Florida Expressway Authority Board Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: February 23, 2016

RE: *Central Florida Expressway Authority v. Pedro Diaz Bordon, Victoria Lyn Diaz,*  
Case No. 2014-003636-O, Project: 429-203, **Parcel 185**  
Address: 3407 Phils Lane Apopka, Florida

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## INTRODUCTION

This case was set for trial on the February 15, 2016 docket in front of Judge Kest. The case was mediated on December 14, 2015, and the parties reached a proposed settlement subject to approval by the Board of the Central Florida Expressway Authority ("CFX").

## CFX'S APPRAISED VALUE OF PARCEL 185

Parcel 185 is total taking of 20.34 acres with a date of value of August 19, 2014. The property is improved with a one-story single-family ranch-style home with three bedrooms, two baths and 2,786 square feet. There is a detached two-car garage, a car/storage building with room to accommodate five vehicles, a barn/workshop, horse stables, and other site improvements. The property is zoned A-1 (Citrus Rural District) with a future land use of R for Rural/Agricultural.

Chad Durrance, MAI, appraised the property on behalf of CFX. According to Mr. Durrance, the highest and best use of the property is for continued use of the existing improvements. Using the comparable sales methodology, Mr. Durrance relied upon sales ranging in unit price from \$17,100 to \$29,300 per acre. Given the date of value, location, and other factors, Mr. Durrance estimated the fee simple market value of the land at \$25,000 an acre for a total of \$508,500. He valued the improvements at \$241,500. The total value of the property taken was estimated to be **\$750,000.**

## OWNERS' APPRAISAL REPORT, EXPERT FEES, ATTORNEY FEES, AND COSTS

In contrast, the owners' real estate appraiser, Richard C. Dreggors, GAA, concluded that the highest and best use of the property as vacant would be for assemblage for a single-family residential subdivision. The highest and best use of the property as improved would be for continued use of the home as incorporated into a lower density residential subdivision either as an independent home or a community facility. Based on that highest and best use, Mr. Dreggors

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valued Parcel 185 at \$75,000 per net acre. With 19.47 net acres, the value of the land totaled \$1,460,300. He valued the improvements at \$265,100 based upon \$95 per square foot. The value of Parcel 235 totaled \$1,725,400. Mr. Dreggor's then estimated the land value using the cost approach and came up with a value of \$1,889,900. Reconciling the two approaches, he valued the property at **\$1,750,000.**

In addition to compensation for the land taken, the owners requested the following expert fees and costs:

Calhoun Dreggors and Associates	\$32,074
Other Experts (see attached)	\$47,473
Costs and Other Charges	<u>\$ 6,051</u>
Total	<b>\$85,598</b>

Regarding attorney's fees, the owners' attorney is entitled to 33% of any benefit up to \$250,000 plus 25% of any benefit between \$250,000 and \$1 million. The statutory attorney's fee for a monetary benefit of \$1 million is \$270,000.

### **ANALYSIS**

The biggest difference between the two estimates of value is the value of the land. Mr. Durrance valued the land at \$25,000 per acre; whereas, Mr. Dreggors valued the land at three times that amount or at \$75,000 per net acre. At mediation, the owners provided a Uniform Residential Appraisal Report dated November 15, 2006, indicating that the property was valued at \$1,525,000, a value that was closer to the owners' appraised value and more than double CFX's appraised value.

During the mediation, the parties reached an all-inclusive proposed settlement agreement of **\$1,395,000** for full compensation for the property taken, attorney's fees, expert fees, interest, and costs. Although the settlement agreement is not broken into components, one could allocate the total as follows: \$1,195,000 for the land, \$131,250 for attorney's fees based upon a monetary benefit of \$445,000, and \$68,750 for expert fees and costs (representing a 20% reduction).

### **RECOMMENDATION**

Please approve the Committee's recommended settlement of **\$1,395,000** in full settlement of all claims of compensation from CFX including business damages, interest, attorney's fees, expert fees, costs, and any other claim.

cc: Sidney Calloway, Esq., Shutts & Bowen

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

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

**CASE NO: 2014-CA-003636-O**

**Subdivision 39**

**Petitioner,**

**Parcel 185**

**vs.**

**PEDRO DIAZ BORDON, VICTORIA LYN DIAZ,  
et al,**

**Respondents.**

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**MEDIATED SETTLEMENT AGREEMENT**

At the Mediation Conference held on December 14, 2015, followed by further settlement discussions, the parties reached the following Settlement Agreement ("Agreement"):

1. Petitioner will pay to Respondents, **PEDRO DIAZ BORDON AND VICTORIA LYN DIAZ** ("Respondents") the sum of One Million Three Hundred Ninety-Five Thousand Dollars (\$1,395,000), in full settlement of all claims for compensation from Petitioner resulting from the taking of Parcel 185, including severance damages, business damages, tort damages, interest, attorney's fees, expert fees, costs, and any other claim. The compensation paid pursuant to this Agreement is subject to lawful apportionment claims, if any.
2. Petitioner is entitled to a credit in the amount of Eight Hundred Thousand Dollars (\$800,000), which sum was previously deposited in the Registry of the Court in this case by Petitioner.
3. Petitioner will pay Respondent the balance due of Five Hundred Ninety-Five Thousand Dollars (\$595,000), within twenty (20) days of the actual date of receipt by Petitioner's counsel of a conformed copy of a Stipulated Final Judgment in this case executed by the Court.
4. The parties acknowledge and agree that Agreement is contingent upon the approval of the Central Florida Expressway Authority ("CFX") Right of Way ("ROW") Committee and the CFX Board of Directors ("CFX Board").
5. The parties further acknowledge and agree that the settlement of the

instant case shall be communicated to Court along with the parties' joint request that the instant case be continued and removed from the Court's trial jury docket now scheduled for February 15, 2016..

6. Counsel for Petitioner and Respondent will jointly submit to the Court for signature a mutually approved Stipulated Final Judgment in this matter as soon as practicable after the approval of this Agreement by the CFX Board.

7. This Agreement resolves all Respondents' compensation claims of any nature whatsoever arising from the taking of Parcel 185, including severance damages, business damages, tort damages, interest, attorney's fees and cost, expert fees, and costs.

8. This Agreement, dated on the last day executed below contain(s) all the agreements of the parties.

  
Linda Brehm Lanosa, Esq.,  
Central Florida Expressway Authority

Date: Dec. 15, 2015

  
Pedro Diaz Bordon, Owner

Date: December 15, 2015

  
Victoria Lyn Diaz, Owner

Date: 12/15/15

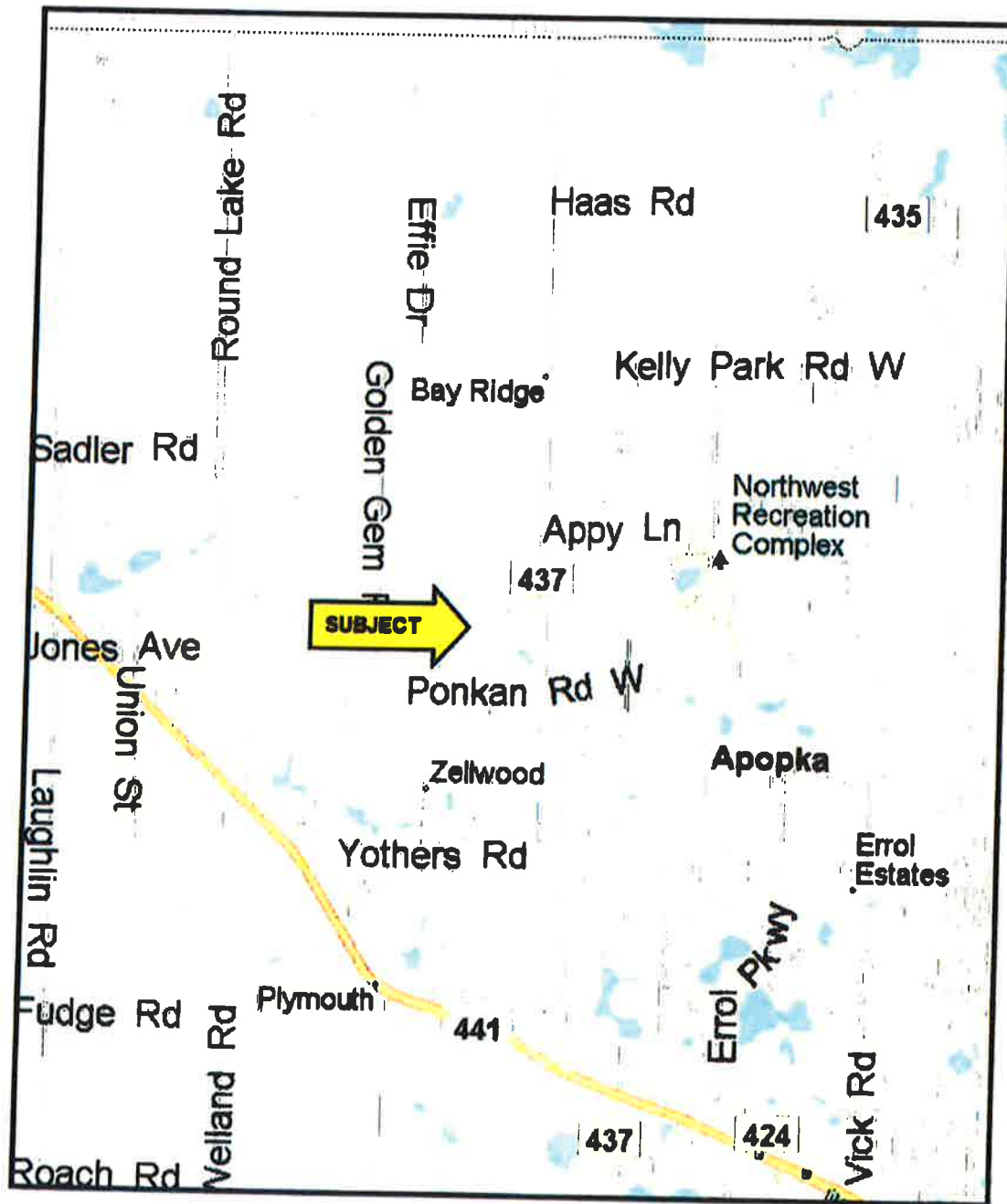
  
Sidney Calloway, Esq. for  
Central Florida Expressway Authority

Date: December 15, 2015

  
J. Christie Wilson, Esq., for  
Owner

Date: 12/15/15

  
Larry Watson, Mediator



**LOCATION MAP**





 **AERIAL/SKETCH**  
(Source: OCPAFL.org – 2014 Image Date)



Northerly aerial view identifying the subject improvements.



Northerly view of the entrance to the property from Phils Lane. (Photo #1)



**Northwesterly view of the subject residence. (Photo #2)**



**Northeasterly view of the subject residence. (Photo #3)**





Interior view of living area showing fireplace and wood ceilings. (Photo #4)



Interior view of the kitchen area. (Photo #5)



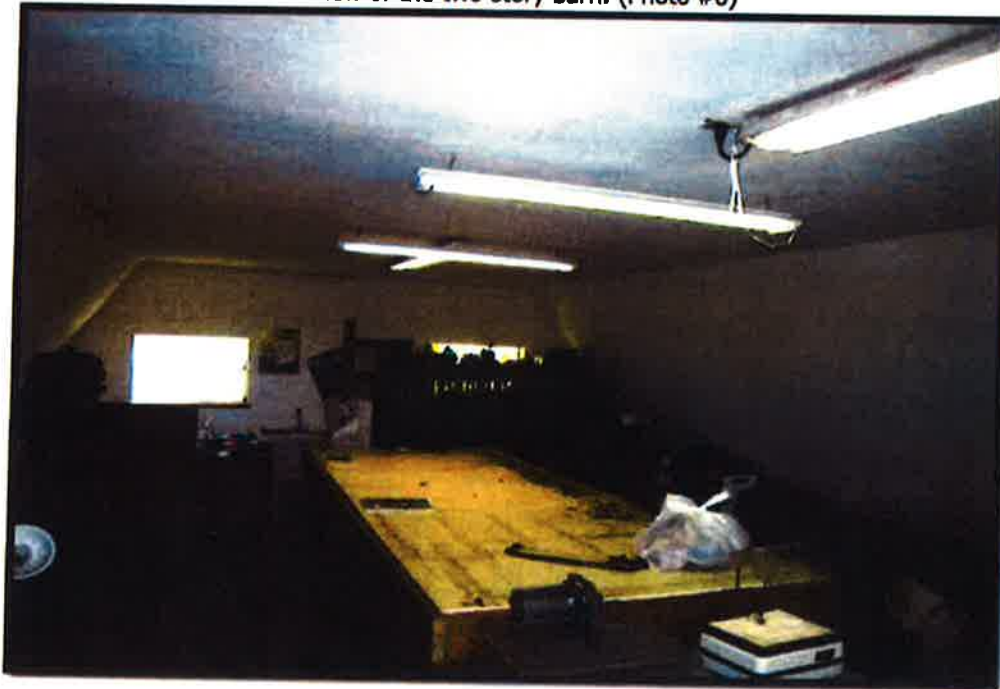
**View of wet bar and built-in barbeque within the rear porch. (Photo #6)**



**View of the detached two-car garage. (Photo #7)**



**View of the two-story barn. (Photo #8)**

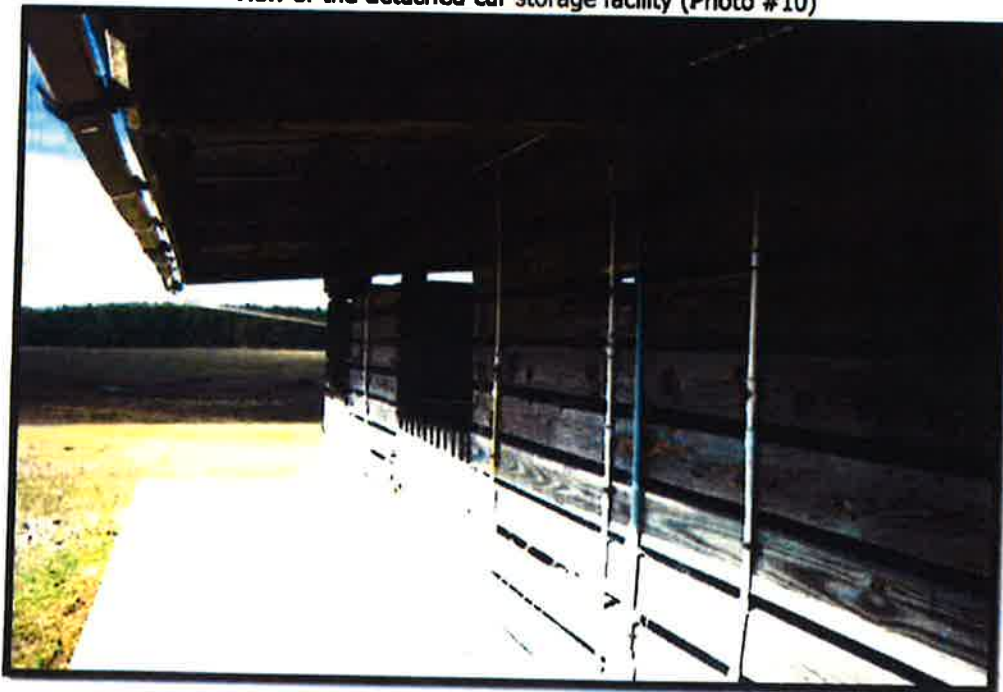


**Interior view of the second level of the barn. (Photo #9)**



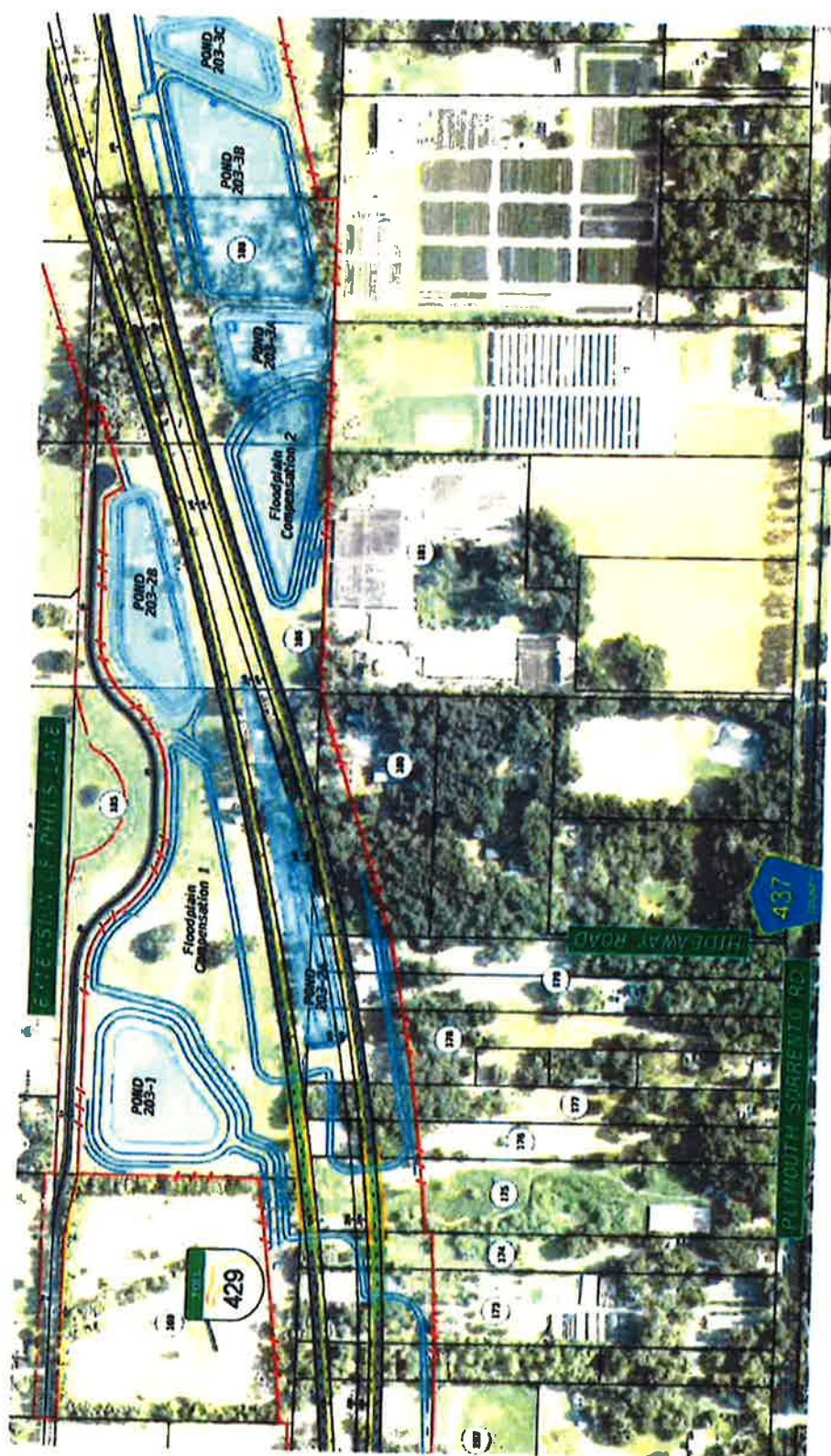


View of the detached car storage facility (Photo #10)



View of the stable building. (Photo #11)







# J.C. Wilson & Associates, P.A.

437 N. Magnolia Avenue

Orlando, Florida 32801

## Statement of Costs

CFX vs. Diaz

IC#4540

Parcel 185

Costs incurred as of December 11, 2015

### A. Expert Charges

Calhoun & Dreggors

TBD

\$32,074

Michael Rudd & Associates, LLC

Statement dated 07/23/15

\$ 11,061.25

McCree General Contractors

Statement dated 11/30/15

8,188.75

CPH

Statement dated 02/16/15

4,229.27

Statement dated 12/11/15

380.00

Madden Moorhead & Glunt, Inc.

Statement dated 04/03/15

~~5,572.85~~

7100.11

PGA Title, Inc.

Statement dated 07/07/14

56.25

PEER

Statement dated 12/07/15

6,909.72

Rahenkamp Design Group

Statement dated 12/09/15

9,548.04

### Total Expert Charges

79,547.39

\$ 45,946.33

### B. Court Reporter Charges

Orange Legal, Inc.

Invoice No. 149135/149456

46.80

Invoice No. 152378

117.86

164.66

**Phipps reporting, Inc.**

Invoice No. 19574	101.56	
Invoice No. 19589	136.78	
Invoice No. 19496	136.38	
Invoice No. 26317	31.66	
Invoice No. 24996	103.07	
Invoice No. 26317	95.00	604.45

**Total Court Reporting Charges**

769.11

**C. Exhibit Preparation Charges**

**Aerial Cartographics of America, Inc.**

Invoice No. 190345	97.85	97.85
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**Central Florida Expressway Authority**

Invoice No. 0114	13.50	
Invoice No. 0819	62.50	76.00

**Triangle Reprographics**

Statement dated 03/26/02	29.84	29.84
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**The Presentation Group**

Invoice No. 144335	2.74	
Invoice No. 144347	4.11	
Invoice No. 153893	3.20	
Invoice No. 172242	2.66	
Sales Order 13001	1,704.11	
(Durrance Depo)		
Sales Order 13023	975.56	
(Newton Depo)		2,692.38

**Ricoh USA, Inc.**

Invoice No. L2414050223	49.68	
Invoice No. L2414060178	20.98	70.66

**Thomson Reuters**

Invoice No. 829483891	291.83	291.83
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**Total Exhibit Preparation Charges**

3,258.56



**D. Miscellaneous Charges**

Copy Charges	1,795.50 -
Federal Express Charges	2.76 -
Long Distance Charges	4.56 -
Mileage Charges	6.15
Postage Charges	213.92 -

**Total Miscellaneous Charges**

2,022.89

**Total Costs Incurred**

**\$85,597.95**

~~\$51,996.89~~