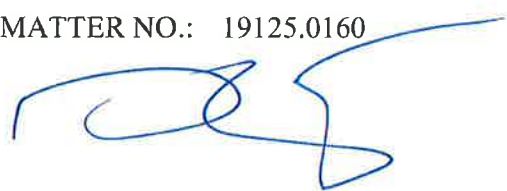




MEMORANDUM

TO: Central Florida Expressway Authority Board
FROM: David A. Shontz, Esq., Right-of-Way Counsel
DATE: June 24, 2016
RE: State Road 429 Wekiva Parkway, Project 429-204; Parcel 251 Proposed Settlement Regarding Apportionment Attorney's Fees and Costs

CLIENT-MATTER NO.: 19125.0160



Shutts & Bowen LLP, Right-of-Way Counsel, seeks the approval of the CFX Board of a negotiated settlement between Gregory W. Stoner, Esquire, (the "Crabb's Attorney") and the Central Florida Expressway Authority (the "CFX") for the attorney's fees and costs incurred in the defense of Richard Crabb's apportionment rights as tenant in Parcel 251 (the "Taking" or "Property") for the construction of State Road 429 Wekiva Parkway, Project 429-204.

DESCRIPTION AND BACKGROUND

Parcel 251 is a fee simple acquisition of 0.760 acres comprising a whole taking of property located on the north side of Ondich Road and west of Plymouth Sorrento Road in Orange County, Florida. An Order of Taking was entered by Judge John Marshall Kest on April 6, 2015, and a Stipulated Order of Taking was entered by Judge Kest on April 15, 2015, to provide the property owner, American Finance, LLC, with extended possession to May 15, 2015. Thereafter, American Finance, LLC, and Richard Crabb engaged in negotiations regarding the vacation of the property by Mr. Crabb as a tenant.

A Stipulated Final Judgment for Apportionment and Order for Withdrawal of the Remainder of the Petitioner's Good Faith Estimate of Value for Parcel 251 was entered by Judge Kest on January 22, 2016, resolving the amount of apportionment due Mr. Crabb as a tenant.

On February 8, 2016, Gregory W. Stoner, Esquire, filed Crabb's Motion to Tax Attorney's Fees and Costs, providing schedules requesting taxation of attorney's fees totaling \$23,440.00 and costs totaling \$112.00. In its Response dated May 5, 2016, the CFX contended a substantial portion of the 58.6 hours claimed by Mr. Stoner were likely related to landlord-tenant issues which are not compensable in the eminent domain matter. The CFX argued that Mr.

Stoner should be compensated for a reduced number of hours and a reduced hourly rate. CFX contends novelty, difficulty and importance of the questions involved, the skill employed by the attorney, and the amount of money involved did not warrant the amounts claimed by Mr. Stoner.

Judge Kest entered an order requiring mediation, expert witness disclosure and report prior to an evidentiary hearing on the motion. Prior to incurring the expert witness costs, mediator costs, and related additional fees, the CFX and Mr. Stoner agreed to resolve the motion for a total of \$15,000.00.

For the above-cited reasons, Right-of-Way counsel requests the CFX Board approve the negotiated settlement in the amount of \$15,000.00 to resolve all claims by Mr. Stoner for attorney's fees and costs in this matter, which is in the CFX's best interest. Settlement will eliminate further risk and unnecessary expenses that the CFX will ultimately incur with further litigation of the costs for apportionment in Parcel 251.

At its June 22, 2016, meeting, the Right-of-Way recommended approval of the negotiated settlement.

RECOMMENDATION

We respectfully request that the CFX Board approve the proposed settlement agreement totaling \$15,000.00 in full settlement of all claims for apportionment attorney's fees and costs.

Reviewed by: _____

Joseph H. H. H.

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