



CENTRAL FLORIDA EXPRESSWAY AUTHORITY



EMINENT DOMAIN WORKSHOP



TYPES OF RIGHT OF WAY ACQUISITION

- Voluntary Acquisition (*Preferred*)
- Involuntary Acquisition through Eminent Domain (*Last Resort*)



TYPES OF VOLUNTARY ACQUISITION

Donation

- No parcels were donated for Wekiva Parkway
- Legislation required CFX to act as third-party acquisition agent for environmental parcels

Purchase Agreement and real estate closing

Example: Beachline Super Corridor

- 516.35 acres of right of way acquired through purchase agreements
- Total Cost of \$39,860,584.52
- Property Owner Attorneys' Fees and Expert Costs were \$410,000
- Willing Sellers



ADVANTAGES OF VOLUNTARY ACQUISITION

- Secures title earlier than an Order of Taking
- Eliminates risk of trial
- Reduces or eliminates condemning authority's exposure for:
 - Property owner expert witnesses and attorneys' fees
 - Court costs
 - CFX staff time



THE EVOLUTION OF THE CONDEMNATION PROCESS

- Project Planning
 - Wekiva River Protection Act enacted in 1988
 - PD&E Study for Wekiva Parkway began in 2005
 - FONSI issued by FHWA in May 2012 after 7 years of review
- Decision to federalize made jointly with FDOT to preserve eligibility for federal funding
- Parcel legal descriptions generated at 60% design engineering with survey
- Resolution addressing Public Purpose, Public Necessity, and Legal Description



APPRAISAL PROCESS

- Complete legal descriptions
- Assign Parcels to an appraiser
- Complete Appraisal
- Complete Review Appraisal by a separate review appraiser
- Certified Report is delivered to CFX's acquisition agent and legal counsel



PRESUIT NEGOTIATION PER F.S. 73.015

- Condemnor must attempt to negotiate in good faith with the fee owner
- CFX must notify the fee owners of the property to be taken of the following:
 - That all or a portion of his/her property is necessary for a project
 - The nature of the project and the parcel designation
 - That the appraisal and right of way maps and construction plans will be provided within 15 days of a request by fee owner
 - The fee owner's statutory rights under F.S. 73.091 and 73.092
- CFX must provide a first written offer as to value of property taken and severance damages
- Sets floor for computation of attorney's fees



PRESUIT NOTICE TO BUSINESS

- CFX must notify the business owners, including lessees, who operate a business on the property to be acquired of:
 - Necessity
 - Project
 - Right of obtain copies
 - Statutory Rights
- Condition Precedent to filing suit
- If qualified, business owner must submit a good faith written offer to settle the business damage claim within 180 days of notice, Authority: F.S. 73.015(2)



CONTENTS OF OWNER'S BUSINESS DAMAGES OFFER

- Explanation, extent and amount of damage
- Copies of business records
 - Federal income tax returns
 - State sales tax returns
 - Balance sheets
 - Other records
- CFX has 120 days to respond



EXAMPLE OF CFX 1ST WRITTEN OFFER LETTER

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

STATEMENT OF OFFER

January 23, 2015

Daryl A. & Laura L. Alderman
3252 Ondich Road
Apopka, Florida 32712

PROJECT: 429-204
STATE ROAD NO.: 429
PROJECT NAME: Wekiva Parkway
COUNTY: Orange
PARCEL NO.: 241

Dear Mr. & Mrs. Alderman:

As you are probably aware, the Central Florida Expressway Authority ("Expressway Authority") is in the process of acquiring the needed right of way for the above-referenced facility. A determination has been made that either a part or all of your property will be needed. A search of the Public Records of the County in which this property is situated has been made and it was determined that property is owned by you.

The interest being acquired in your property is: Fee Simple.

In addition, the following list will identify the buildings, structures, fixtures, and other improvements which are considered to be a part of the real property acquired or personal property being acquired, if any: 2,572 sq. ft. single family, field wire fencing, barb wire, hot wire electric fencing, several gates, one gate with electric opener and solar panel, four storage/tack rooms containing 353, 485, 128 and 192 sq. ft., 330 sq. ft. metal carport, 576 sq. ft. horse feeding stall building, wood round pen, wood frame with metal siding shed/barn in fair condition, shell driveway, concrete parking area, mulched parking area, well, septic system, above ground pool with slide, metal pole and guide wire zip line, palms, numerous potted plants, stag horn fern, crape myrtles, oak trees, grass sod, and irrigation system, with timer, and several zones.

The following items which are considered to be a part of the real property acquired or personal property being acquired was excluded: none.

You are further advised that the Expressway Authority's offer of just compensation for the property required for the construction of this facility is based on the Fair Market Value of the property and that the Expressway Authority's offer to you is not less than the approved appraised value of the property.

The following represents a summary of the Expressway Authority's offer to you and the basis therefore:

4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011
WWW.EXPRESSWAYAUTHORITY.COM



EXAMPLE OF CFX 1ST WRITTEN OFFER LETTER

STATEMENT OF OFFER
PAGE 2

Land:	\$563,200.00
Improvements:	\$270,100.00
Real Estate Damages &/or	
Net Cost to Cure:	\$ 0
Total:	\$833,300.00

This statement of offer is not a contract: if you agree to accept this offer, you will be required to sign a purchase agreement. Any additional information you may require can be obtained by contacting your assigned agent Jeffrey A. Bender, at 407-806-4348 or 407-493-5892.

Sincerely,

Joseph L. Passiatore, Esquire
General Counsel
By: Deborah S. Poindexter, Esquire
Atkins Project Manager

cc: Tom Callan, Esquire

Delivered By

Jeffrey A. Bender
Print Name

1/23/15
Date

ACKNOWLEDGMENT OF RECEIPT

Received By

David Aberman
Print Name

1/23/15
Date



EXAMPLE OF NOTICE OF TAKING

ATKINS

Atkins North America, Inc.
482 S. Keller Road
Orlando, Florida 32810

Telephone: +1.407.647.7275
Fax: +1.407.806.4500
www.atkinsglobal.com/northamerica

January 23, 2015

Daryl A. & Laura L. Alderman
3252 Ondich Road
Apopka, Florida 32712

RE: PROJECT: 429-204
STATE ROAD NO.: 429
PROJECT NAME: Wekiva Parkway
COUNTY: Orange
PARCEL NO.: 241

Dear: Mr. & Mrs. Alderman:

Atkins North America, Inc., is under contract with the Central Florida Expressway Authority ("Expressway Authority") to assist them with the acquisition of right-of-way regarding the above-referenced project. The Expressway Authority will need all or a portion of your property for the road project. The Expressway Authority now has in its possession an approved appraisal report. This offer package represents the Expressway Authority's offer to you for the purchase of your property as described in the enclosed documents. Enclosed please find the following:

- (1) **Approved Appraisal Report** – A copy of the Expressway Authority's approved appraisal report for your property is being provided for your use. The purpose of this appraisal is to estimate the market value of the property being acquired. The appraisal is for land and affected improvements only, if any, that are being acquired. Please sign and date the enclosed receipt and return to us.
- (2) **Statement of Offer** – This provides an explanation of the real property and affected improvements, if any, to be acquired. The summary of values is based on the approved appraisal. Please sign and return one copy of this letter to acknowledge receipt of this offer. **This is not an agreement and in no way will bind you to a settlement.**
- (3) **Donation Letter** – In the event you wish to donate the needed property to the Expressway Authority, please sign, date, and return to us.



EXAMPLE OF NOTICE OF TAKING

January 23, 2015

Page 2

Daryl A. & Laura L. Alderman
3252 Ondich Road
Apopka, Florida 32712

- (4) **Hazardous Substances Letter** – This provides an explanation regarding the Expressway Authority's position as it relates to hazardous substances which may be classified as hazardous and/or of environmental concern.
- (5) **Parcel Legal Description and Sketch** – Provides a written legal description, area and drawing of the property to be acquired.

Please review the enclosed documents carefully, and if you have any questions regarding this offer or any of the enclosed documents, please feel free to contact me at the number listed below.

I sincerely believe that we can reach an amicable and mutually satisfactory agreement and look forward to working with you. Any additional information you may require can be obtained by contacting your assigned agent, Jeffrey A. Bender, at 407-806-4348 or 407-493-5892.

Sincerely,



Deborah S. Poindexter
407-925-7418

Enclosures (as stated above)

Cc: Tom Callan, Esquire



FILING OF PETITION IN EMINENT DOMAIN

The owner must be given thirty (30) days after receipt of notice before a condemning authority files a condemnation proceeding for the parcel identified in the offer

F.S. 73.015(4) If a settlement is reached between condemning authority and a property or business owner prior to a lawsuit being filed, the property or business owner who settles compensation claims in lieu of condemnation shall be entitled to recover costs and attorney fees.

Condemnor can scuttle the project and avoid attorney and expert fees if no suit is filed. *Calhoun, Dreggors & Associates v. Volusia County*, 26 So.3d 624 (Fla. 5th DCA 2010)



EXAMPLES OF ATTORNEY'S SOLICITATION TO PROPERTY OWNER



Callan Law Firm, P.A.

September 24, 2015

Central Florida Expressway Authority
Property Owner
4974 Ori Tower Rd.
Orlando, FL 32807

**Re: Richard Crotty Parkway/East West Segment 2
Condemnation or Acquisition of Parcel: 302213000000160**

28 SEP '15 PM 2:13

Dear Property Owner:

If you have already obtained an attorney for this matter, please disregard this letter. The public records of Orange County indicate that they may condemn part or all of your property for the Richard Crotty Parkway/East West Segment 2 project. This process is known as condemnation or eminent domain. This process can be complicated and adversarial.

The government will assemble attorneys and experts to represent them, you should too. Florida law requires Orange County to pay for your defense including your attorney fees and expert costs. Should you choose to retain our firm, the representation is **at no cost to you**. As a result, you should retain legal counsel to defend your interests as soon as possible.

The attorneys of Callan Law Firm, P.A. have over 30 years of experience representing landowners and business owners in eminent domain and related land use issues. We employ state of the art technology and the services of qualified experts in many fields such as appraisal, civil engineering and accounting. We will analyze the taking for you, assemble your claim and vigorously represent you throughout this process. We will also advise you throughout to insure that all issues, legal and non-legal, are addressed.

There is no greater or hard earned right than the right to own property; it is one of our fundamental rights. Since the government is required to pay for your defense, there is no risk in retaining our firm to represent you. Enclosed is my resume. You may contact our Project Coordinator, Katherine Ewing at 407-426-9141 or toll free at 1-877-426-9141.

Sincerely,

Thomas P. Callan

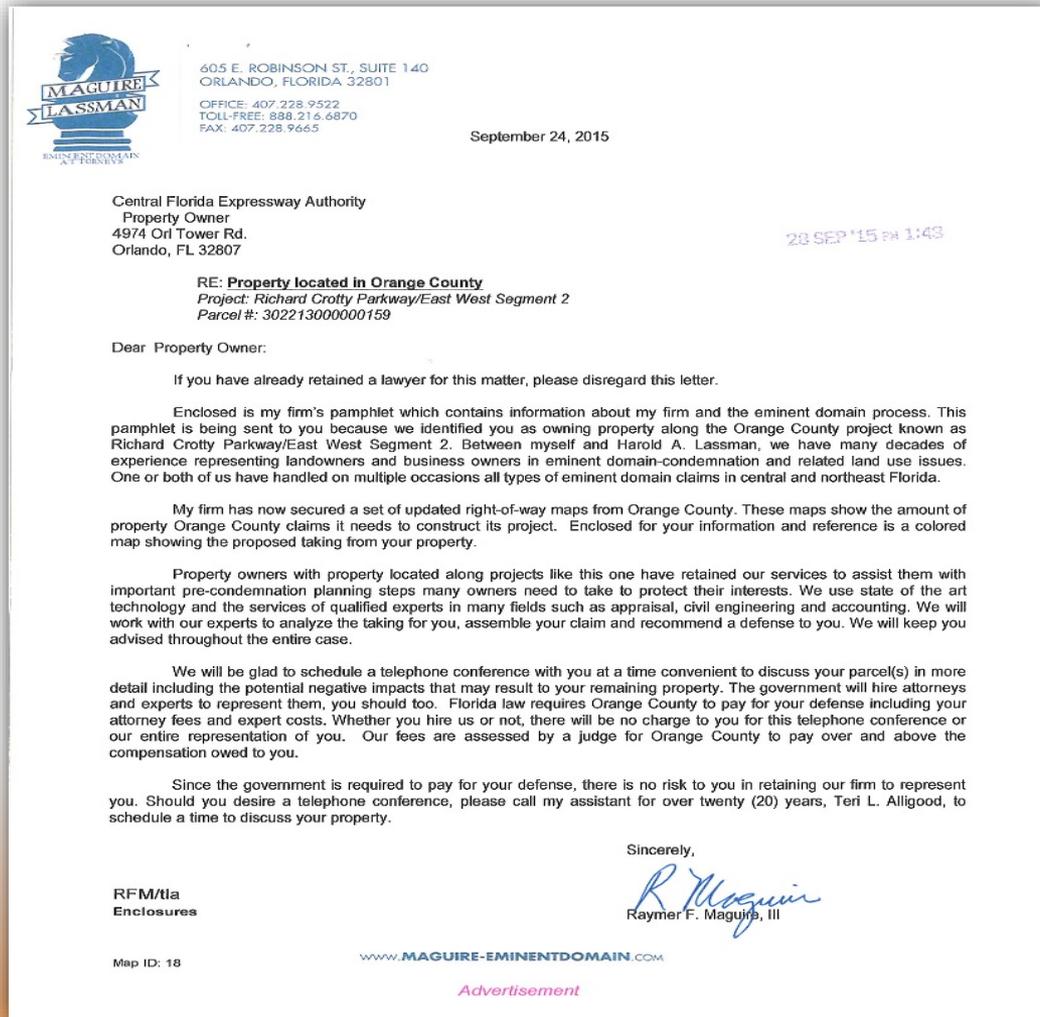
921 Bradshaw Terrace • Orlando, Florida 32806
407-426-9141 • Fax: 407-426-0567 • www.callanlaw.com

Advertisement

Map ID: 19



EXAMPLES OF ATTORNEY'S SOLICITATION TO PROPERTY OWNER





UNITED STATES CONSTITUTION

Amendment V

- “No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.”
- Just compensation “is for the property, and not to the owner.” U.S. Supreme Court in 1893.
- “Attorney’s fees and expenses are not embraced within just compensation.” *Donahy v. Rogers*, 50 S. Ct. 299 (1930).
- Appraisal fees are not recoverable, “such compensation is a matter of legislative grace rather than constitutional command. The respondent’s appraisal expenses were not part of the “just compensation” required by the Fifth Amendment. *United States v. Bodcaw Company*, 99 S. Ct. 1066 (1979).



FLORIDA CONSTITUTION

Article X, Section 6. Eminent Domain

- (a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.
- “Full compensation” has been interpreted by the Florida Supreme Court to include the property owner’s expert witness fees. *Dade County v. Brigham*, 47 So. 2d 602 (Fla. 1950).
- “He does not want to sell. The property is taken from him through the exertion of the high powers of the state and the spirit of the Constitution clearly requires that he shall not be thus compelled to part with what belongs to him without the payment, not alone of the abstract value of the property, but of all the necessary expenses he incurred in fixing that value.”
- The term “full compensation” also includes the owner’s attorney fees. *Breibart v. State Road Department*, 116 So.2d 458 (Fla. 3d DCA 1959.)



ELEMENTS OF FULL COMPENSATION

- Land
- Improvements Taken
- Cost to Cure
- Severance Damages
- Business Damages
- Attorney's Fees and Costs
- Expert Fees and Costs
- Interest



COMPARISON CHART BETWEEN FL & US

ITEM	FLORIDA	FEDERAL
Pay for Part Taken	X	X
Pay for Severance Damages	X	X
Pay for Business Damages	X	X
Attorney Fees	X	
Expert Fees	X	
Relocation Benefits	*	X
Trial	12 person jury	Jury or Commission

*For federalized projects i.e. Wekiva Parkway Project



TEXAS COST SHIFTING STATUTE 21.047

(a) Special commissioners may adjudge the costs of an eminent domain proceeding against any party. If the commissioners award greater damages than the condemnor offered to pay before the proceedings began or if the decision of the commissioners is appealed and a court awards greater damages than the commissioners awarded, the condemnor shall pay all costs. If the commissioners' award or the courts determination of the damages is less than or equal to the amount the condemnor offered before the proceedings began, *the property owner shall pay the costs.*



INDIANA FEE STATUTE I.C. 32-24-1-14

Sec 14. (b) If there is a trial, the additional costs caused by the trial shall be paid as ordered by the court. However, if there is a trial and the amount of damages awarded to the defendant by the judgment, exclusive of interest and costs, is greater than the amount specified in the last offer of settlement made by the plaintiff . . . the court shall allow the defendant the defendant's litigation expenses, including reasonable attorney's fees, in an amount not to exceed the lesser of:

- (1) twenty-five thousand dollars (\$25,000);
- (2) the fair market value of the defendant's property or easement as determined under this chapter.



FLORIDA'S ATTORNEY FEE STATUTE

Pursuant to Section 73.092, Florida Statutes, the owner's attorney is entitled to a fee based upon:

- 33% of any benefit up to \$250,000
- 25% of any benefit between \$250,000 and \$1,000,000
- 20% of any benefit above \$1,000,000

“Benefit” is defined as the difference between the final judgment and the last written offer made by the condemning authority before the owner hires an attorney.

The Court may also consider non-monetary benefits if identified and quantified, F.S. 73.092(1)(b).



FLORIDA'S STATUTE ON EXPERT FEES AND COSTS

Section 73.091, Florida Statutes, requires the condemning authority to pay “all reasonable costs incurred in the defense of the proceedings.”

Types of Experts

- Appraiser
- Planner
- Engineer
- General Contractor
- CPA



REPORT TO FLORIDA TRANSPORTATION COMMISSION

Expressway Authorities report Operating Indicators for Property Acquisition.

These are:

- Amount of Agency Appraisals
- Amount of Initial Offers
- Amount of Owner's Appraisals
- Amount of Final Settlements



REPORT TO FLORIDA TRANSPORTATION COMMISSION

**TRANSPORTATION AUTHORITY
MONITORING AND OVERSIGHT**
FISCAL YEAR 2014 REPORT



A REPORT BY THE
FLORIDA TRANSPORTATION
COMMISSION





REPORT TO FLORIDA TRANSPORTATION COMMISSION

Miami-Dade Expressway Authority (MDX)

Table 7
Miami-Dade Expressway Authority
Summary of Operating Indicators (in millions)
FY 2012 through FY 2014

Indicator	Detail	Actual 12 Results (millions)	Actual 13 Results (millions)	Actual 14 Results (millions)
Operations				
Growth in Value of Transportation Assets	Land Acquisition	\$292.1	\$316.9	\$324.1
	Infrastructure Assets	\$470.7	\$517.1	\$496.3
	Construction in Progress	\$437.5	\$454.0	\$562.5
	Total Value of Transportation Assets	\$1,200.2	\$1,288.0	\$1,383.0
Preservation of Transportation Assets	Renewal & Replacement of Infrastructure	\$0.0	\$0.0	\$0.0
	Routine Maintenance of Infrastructure	\$6.5	\$5.9	\$6.4
	Total Preservation Costs	\$6.5	\$5.9	\$6.4
Toll Collection Transactions	Revenue from Electronic Transactions	86.6%	85.3%	92.9%
Annual Revenue Growth	Toll and Operating Revenue	0.7%	9.7%	-4.0%
Operations and Budget				
Operating Efficiency	Toll Collection Expense as % of Operating Expense	40.3%	29.6%	35.6%
	Routine Maintenance Expense as % of Operating Expense	10.8%	10.4%	9.7%
	Administrative Expense as % of Operating Expense	8.3%	9.1%	10.2%
	Operating Expense as % of Operating Revenue	49.0%	41.6%	50.9%
Rating Agency Performance	Toll Operations and Maintenance Expense as % of Operating Revenue	25.1%	16.7%	23.0%
Property Acquisition				
Right-of-Way	Agency Appraisals	\$0.0	\$0.0	\$0.0
	Initial Offers	\$0.0	\$0.0	\$0.0
	Owners Appraisals	\$0.0	\$0.0	\$0.0
	Final Settlements	\$0.0	\$0.0	\$0.0
Revenue Management and Bond Proceeds				
Underlying Bond Ratings (Uninsured)	Standard & Poor's Bond Rating	A	A-	A-
	Moody's Bond Rating	A3	A3	A3
	Fitch Bond Rating	A-	A-	A-

Note: Amounts in table may not sum exactly due to rounding.

The current approved FY 2015-2019 Work Program (\$879 million) continues capacity and operational improvements for ongoing construction in progress projects described above. MDX's planning efforts continue with the award of a

planning study for extending SR 836 to the southwest while studies are ongoing for extending SR 924 to the east and west. MDX continues the study of the conversion of the existing Miami Dade Transit bus-way along US 1 to an Express Managed



REPORT TO FLORIDA TRANSPORTATION COMMISSION

Tampa-Hillsborough County Expressway Authority (THEA)

Table 22
Tampa-Hillsborough Expressway Authority
Summary of Operating Indicators (in millions)
FY 2012 through FY 2014

<i>Indicator</i>	<i>Detail</i>	<i>Actual 12 Results (millions)</i>	<i>Actual 13 Results (millions)</i>	<i>Actual 14 Results (millions)</i>
Operations				
Growth in Value of Transportation Assets	Land Acquisition	\$91.0	\$91.0	\$91.0
	Infrastructure Assets	\$531.8	\$532.9	\$608.4
	Construction in Progress	\$38.5	\$97.6	\$33.1
Total Value of Transportation Assets		\$661.3	\$721.5	\$732.5
Preservation of Transportation Assets	Renewal & Replacement of Infrastructure	\$0.6	\$1.6	\$0.2
	Routine Maintenance of Infrastructure	\$3.4	\$2.6	\$2.8
	Total Preservation Costs	\$4.0	\$4.2	\$3.0
Toll Collection Transactions	Revenue from Electronic Transactions	100.0%	100.0%	100.0%
Annual Revenue Growth	Toll and Operating Revenue	6.2%	-2.7%	7.9%
Operations and Budget				
Operating Efficiency	Toll Collection Expense as % of Operating Expense	31.5%	33.8%	34.4%
	Routine Maintenance Expense as % of Operating Expense	24.9%	20.5%	23.9%
	Administrative Expense as % of Operating Expense	19.7%	22.0%	27.5%
	Operating Expense as % of Operating Revenue	32.0%	30.6%	25.6%
Rating Agency Performance	Toll Operations and Maintenance Expense as % of Operating Revenue	18.1%	16.6%	15.0%
Property Acquisition				
Right-of-Way	Agency Appraisals	\$0.0	\$0.0	\$0.0
	Initial Offers	\$0.0	\$0.0	\$0.0
	Owners Appraisals	\$0.0	\$0.0	\$0.0
	Final Settlements	\$0.0	\$0.0	\$0.0
Revenue Management and Bond Proceeds				
Underlying Bond Ratings (Uninsured)	Standard & Poor's Bond Rating	A-	A-	A
	Moody's Bond Rating	A3	A3	A3
	Fitch Bond Rating	A-	A-	A-

Note: Amounts in table may not sum exactly due to rounding.



REPORT TO FLORIDA TRANSPORTATION COMMISSION

Central Florida Expressway Authority (CFX)

Table 12
Central Florida Expressway Authority
Summary of Operating Indicators (in millions)
FY 2012 through FY 2014

Indicator	Detail	Actual 12 Results (millions)	Actual 13 Results (millions)	Actual 14 Results (millions)
Operations				
Growth in Value of Transportation Assets	Land Acquisition	\$549.1	\$655.6	\$658.4
	Infrastructure Assets	\$2,177.1	\$2,509.7	\$2,535.4
	Construction in Progress	\$444.5	\$139.1	\$230.2
	Total Value of Transportation Assets	\$3,170.7	\$3,304.3	\$3,423.9
Preservation of Transportation Assets	Renewal & Replacement of Infrastructure	\$13.7	\$0.9	\$0.5
	Routine Maintenance of Infrastructure	\$12.4	\$13.6	\$14.3
	Total Preservation Costs	\$26.1	\$14.5	\$14.8
Toll Collection Transactions	Revenue from Electronic Transactions	74.7%	75.6%	76.9%
Annual Revenue Growth	Toll and Operating Revenue	1.7%	13.8%	7.2%
Operations and Budget				
Operating Efficiency	Toll Collection Expense as % of Operating Expense	36.8%	43.9%	46.3%
	Routine Maintenance Expense as % of Operating Expense	13.8%	17.5%	18.7%
	Administrative Expense as % of Operating Expense	6.3%	7.1%	6.6%
	Operating Expense as % of Operating Revenue	33.5%	25.6%	23.5%
Rating Agency Performance	Toll Operations and Maintenance Expense as % of Total Operating Revenue	17.0%	15.7%	15.3%
Property Acquisition				
Right-of-Way	Agency Appraisals	\$4.2	\$9.8	\$1.1
	Initial Offers	\$4.3	\$0.0	\$1.0
	Owners Appraisals	\$10.5	\$13.5	\$1.2
	Final Settlements	\$8.1	\$7.2	\$2.4
Revenue Management and Bond Proceeds				
Underlying Bond Ratings (Uninsured)	Standard & Poor's Bond Rating	A	A	A
	Moody's Bond Rating	A2	A2	A2
	Fitch Bond Rating	A	A	A

Note: Amounts in table may not sum exactly due to rounding.

increased approximately \$26 million and \$91 million, respectively. Major capital asset events in FY 2014 included the completion of the SR 451 and Vick Road intersection, completion of the second phase of the SR 417/Boggy Creek Road interchange and the bridge deck replacements on

SR 528 west of the Airport Plaza. In addition, construction started on the widening of SR 417 from Curry Ford Road to Lake Underhill Road and the third phase of the SR 417/Boggy Creek Road interchange began. Construction in progress is expected to increase in FY 2015 as work continues



NEW PERFORMANCE MEASURES PROPOSED BY CFX (as of June 13, 2016)

Right-of-Way (ROW) acquisition activities are currently reported as dollar amounts in four areas (agency appraisals, initial offers, owners appraisals, and final settlements). CFX proposes to change the reporting categories to five areas (# of projects requiring ROW acquisition, # of parcels needed to be acquired for projects, # of parcels acquired via negotiations, # of parcels acquired via condemnation, and # of parcels acquired with final judgments at or less than one-half the range of values). The proposed indicators are associated with parcel quantities rather than dollar expenditures and would serve as better gauges, representing volume of ROW project and parcel activities rather than dollars expended. See the CFX handout for a detailed write-up.



FDOT REPORTS SECONDARY MEASURES TO THE FLORIDA TRANSPORTATION COMMISSION

- Number of parcels successfully acquired via negotiation
- Number of parcels negotiated within 20% of appraised value
- Percentage of condemned parcels acquired with final judgments equal to or less than one-half the range
- Amount of money spent for land compared to amounts for ancillary ROW expenditures. Goal is Land not less than 75%



FDOT'S PRIMARY REPORTING MEASURE

- The Department's only Primary reporting measure is the percentage of ROW projects certified (all parcels acquired per FHWA guidelines) compared to the number of projects scheduled for certification during the reporting period.
- CFX was able to "certify" the acquisition of all of 151 parcels necessary to commence each of the five phases of the Wekiva Parkway as scheduled in the CFX's work plan.



CFX PERFORMANCE

CFX is performing well on Wekiva when using the FDOT secondary measure for monies spent for land vs. ancillary expenses.

- \$27,538,061 for settlements; \$3,911,946 for owner's experts and attorney's fees
- CFX is paying 88% of settlements towards land value, business damages and relocation benefits.
- The remaining 12% is allocated to landowner attorney fees and expert costs.



CFX TRIALS

CASE	CFX APPRAISAL	OWNER APPRAISAL	OWNER TESTIMONY	JURY VERDICT
Kelly	\$719,000	\$4.2M	\$5.1M	\$2,634,000
Hatcher	\$81,000	\$782,000	Declined Testifying	\$260,000



LINDA'S REPORT ON THE HATCHER TRIAL

Joe Passiatore

From: Linda Lanosa
Sent: Friday, April 29, 2016 1:24 PM
To: Mimi Mederos-Lamaute; Joe Passiatore
Subject: Re: Status

Tom just rested. Tom was excluded from presenting evidence on blight and hbu of subdivisions. Trippe moved for mistrial because dreggors used improper comps with a hbu that was for subdivision even that use was not physically possible.

Site visit had construction noise in background. Half of site was a junkyard. Hope I didn't touch poison oak but feeling a little itchy. Glenn saw a coyote. Apparently they can attack humans.

Big spread. 81k vs 782k.

Sent from my iPhone

On Apr 29, 2016, at 10:42 AM, Mimi Mederos-Lamaute <Mimi.Lamaute@CFXWay.com> wrote:

Do we have a status on the trial?

.....
Mimi Lamaute
Paralegal

Mimi Lamuate
Paralegal
Central Florida Expressway Authority
4974 ORL Tower Road • Orlando, FL 32807
407.690.5380 (p) • (f) 407.690.5034
CFXway.com

PLEASE NOTE: Florida has a very broad public records law (F. S. 119). All emails to and from CFX are kept as a public record. Your email communications, including your email address may be disclosed to the public and media at any time.

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HATCHER TRIAL: SITE VISIT





KELLY CASE: ATTORNEY FEE ORDER

are hereby awarded attorney's fees in the amount of **Fourteen Thousand One Hundred Ninety and 00/100 Dollars (\$14,190.00)**, and it is further;

ORDERED and ADJUDGED:

5. Within twenty (20) days of the entry of this order, Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY, shall forthwith pay to BRIGHAM PROPERTY RIGHTS LAW FIRM, PLLC, the total combined sum of **Four Hundred Fifty Eight Thousand Five Hundred Ninety and No/100 Dollars (\$458,590.00)** as and for Defendants' attorneys' fees incurred in the instant eminent domain taking of Parcels 221 and 209 by Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY, and further Petitioner, Central Florida Expressway Authority shall forthwith forward said payment by U. S. Mail to Andrew Prince Brigham, BRIGHAM PROPERTY RIGHTS LAW FIRM, PLLC, 2963 Dupont Avenue, Suite #3, Jacksonville, Florida 32217-2740.

6. Upon Petitioner's payment of the amount set forth in paragraph 5 of this Order, Defendants shall make nor be entitled to any additional monies from Petitioner, excepting (including experts fees and costs) incurred in accordance with section 73.091, Florida Statute, and for such attorneys' fees and costs, if any, as may have been incurred in any apportionment or supplemental proceedings to this case;

7. The Court hereby reserves jurisdiction to enforce the terms of this Order and such other matters as may arise in accordance with paragraph 6 of this Order.

DONE and ORDERED in Chambers, in Orange County, Florida, this 18 day of April, 2016.


John Marshall Kest
Circuit Court Judge
3



KELLY CASE: COSTS REQUESTED BY OWNER

Appraisal Fee	\$176,069
Engineer	\$19,868
Planner	\$26,101
<i>Subtotal</i>	<u>\$222,038</u>
Grand Total (including court reporters, exhibits, etc.)	\$260,242



ATTORNEY'S FEES FOR SUPPLEMENTAL PROCEEDINGS

- Allowed
 - To defeat an Order of Taking
 - For apportionment
 - For supplemental proceedings
- Lodestar Method
 - Novelty, Difficulty, Importance of Questions
 - Skill
 - Amount
 - Responsibility
 - Time and Labor
 - Rate Customarily charged
 - Award Under F.S. 73.092(1)



PROBABILITY OF REZONING JURY INSTRUCTION

In determining full compensation, you are permitted to:

- Weigh the effect of a zoning restriction against a prospective use that the restriction currently prohibits; and
- To weigh the question as to whether there is a reasonable probability that the parcel will be rezoned within the reasonable future to make it available for a use over that which is limited by the ordinance.



MAPS OF RESERVATION

- We hold that when a governmental entity, by use of a recorded reservation map, attempts to “land bank” private property in a thinly veiled attempt to acquire such property by avoiding constitutionally and legislatively mandated procedural and substantive protections, and in the process freezes property and depresses land values in anticipation of eminent domain proceedings, such action constitutes a taking of property and an inverse condemnation action will lie.” *Orange County Expressway Authority v. W & F Agrigrowth-Fernfield, LTD.*, 582 So.2d 790 (Fla 5th DCA 1991).
- Right of Way reservation maps were held unconstitutional. *Tampa-Hillsborough Expressway Authority v. A.G.W.S. Corporation*, 640 So.2d 54 (Fla. 1994).



ASSIGNMENT OF WEKIVA PARCELS

RIGHT OF WAY LEGAL COUNSEL	# OF PARCELS ASSIGNED	# OF PARCELS CLOSED
Shutts & Bowen, LLP	89	32
Winderweedle, Haines, Ward & Woodman, P.A.	46	33
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.	4	0
Linda Brehmer Lanosa	12	9



CFX RIGHT OF WAY ACQUISITION TEAM

- Atkins
- Shutts & Bowen, LLP
- Winderweedle, Haines, Ward & Woodman, P.A.
- CFX Staff
- CFX Right-of-Way Committee



FUTURE CONSIDERATIONS

- Should CFX federalize future projects?
 - Federal process is time consuming and highly regulatory
 - TIFIA loan will yield \$150M in present value interest savings
- Encourage donations of Right-of-Way for Interchange Locations
- Retain Real Estate Acquisition Firms to Negotiate Presuit
- Incentivize First Written Offers
- Encourage early mediations, settlement discussions and Offers of Judgment
- Foster empathetic culture for displaced property owners



WILD RIVER

Wild River (film)

From Wikipedia, the free encyclopedia

See also: U.S. National Wild and Scenic Rivers. Not to be confused with The River Wild.

Wild River is a 1960 American drama film directed by Elia Kazan, and stars Montgomery Clift, Lee Remick, Jo Van Fleet, Albert Salmi and Jay C. Flippen. The film was shot on location in the Tennessee Valley, and was adapted by Paul Osborn from two novels: Borden Deal's *Dunbar's Cove* and William Bradford Huie's *Mud on the Stars*, drawing for plot from Deal's story of a battle of wills between the nascent Tennessee Valley Authority and generations-old land owners, and from Huie's study of a rural Southern matriarchal family for characters and their reaction to destruction of their land. It marked Bruce Dern's film debut.

In 2002, the film was selected for preservation in the United States National Film Registry by the Library of Congress as being "culturally, historically, or aesthetically significant".

Contents

- 1 Plot
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Plot

In the early 1930s, Chuck Glover (Montgomery Clift) arrives in Garthville, Tennessee, upstream from a newly constructed hydroelectric dam of the Tennessee Valley Authority, to head the TVA's land purchasing office after its previous supervisor abruptly quit. He has the responsibility for supervising the clearing of land to be flooded but must first acquire Garth Island on the Tennessee River, the last piece of property yet to be sold to the government. The previous supervisor was unable to convince the elderly Ella Garth (Jo Van Fleet), matriarch of a large family that has lived on the island for decades, to sell her land to the government, which to avoid



Theatrical release poster

Directed by	Elia Kazan
Produced by	Elia Kazan
Screenplay by	Paul Osborn
Based on	<i>Wild River</i> by Borden Deal William Bradford Huie
Starring	Montgomery Clift Lee Remick
Music by	Kenyon Hopkins
Cinematography	Ellsworth Fredricks
Edited by	William H. Reynolds
Distributed by	20th Century Fox
Release dates	May 26, 1960
Running time	110 minutes
Country	United States
Language	English
Budget	\$1,595,000 ^[1]
Box office	\$1,500,000 (US/ Canada) ^[2]