



MEMORANDUM

TO: CFX Board Members CLIENT-MATTER NO.: 19125.0148

FROM: Sidney C. Calloway, Esq., Right-of-Way Counsel

DATE: April 25, 2017

RE: CFX v. Aran Carter, et al.
Parcel 253
Case No.: 2015-CA-003555

Shutts & Bowen LLP, Right-of-Way Counsel, submits this Memorandum in support of its request to the CFX Board for approval to serve an offer of judgment, pursuant to Section 73.032 upon Respondent, Aran Glen Carter (“Owner”) as full compensation and complete settlement of all of the Owner’s claims for compensation and damages associated with CFX’s acquisition of Parcel 253.

DESCRIPTION, CFX MARKET VALUE CONCLUSIONS AND RECOMMENDATION

The subject property is located at 3239 Ondich Road in Apopka, Orange County, Florida. Parcel 253 is a fee simple partial taking consisting of 7.959 acres. The parent tract from which Parcel 253 was acquired encompassed about 10.546 acres before the taking. The Owner's remainder property is 2.587 acres in size. As of June 18, 2015, the date of value for this case, the subject property was improved with a three-bedroom, three-bath single family residence containing 1,926 square feet of living area that was built in 2006. Additional improvements include a 1,404 square foot manufactured home containing 3 bedrooms and 3 bathrooms built in 1987, and also several animal pens and a shed structure apparently used for storage of a recreational vehicle. The subject property is zoned A-1, Citrus Rural District by Orange County.

The CFX's appraisal of the property was prepared by Chad Durrance of Durrance and Associates. Mr. Durrance opined that the highest and best use of the subject property, as of the date of value, is for continued residential use. Mr. Durrance utilized seven (7) comparable land sales with prices ranging from \$24,200 per acre to \$29,300 per acre to arrive at an estimate of the fair market value of the subject's land of \$27,500 per acre, which unit value was then used to opine the value of the part taken (Parcel 253) at \$218,900.

Mr. Durrance also used five (5) improved single family home sales transactions with prices ranging from \$96 p.s.f to \$134 p.s.f. to arrive at an estimate of the fair market value of the subject's single family residence at \$116.82 p.s.f. or \$225,000. The entire single family residential structure was located on Parcel 253 and thus acquired. Similarly, Mr. Durrance used five (5) improved manufactured home sales transactions to determine the estimated fair market value of the manufactured home and its associated improvements with prices ranging from \$17 p.s.f. to \$32 p.s.f. His opinion of the fair market value for the manufactured home and associated improvements is \$17.81 p.s.f. or \$25,000.

After the taking of Parcel 253, the manufactured home is still situated on the Owner's remainder property, but it is also located within 23 feet of the new right-of-way line for the SR 429 roadway, which condition substantially changes the character of the Owner's neighborhood. Mr. Durrance after condition analysis included his review of several proximity studies, upon which he concluded the Owner would suffer severance damages in the amount of \$95,100 because of the remainder property's (including the manufactured home) close proximity to the new Wekiva Parkway right-of-way and the change in character of the neighborhood. Accordingly, Mr. Durrance's total valuation opinion for the taking of Parcel 253 is \$439,000, which includes \$218,900 for value of land encompassed in Parcel 253, plus \$225,000 for the value of the single family residence and \$95,100 in damages to the remainder property.

At the time of this Memorandum, CFX has not received any expert reports from the Owner, who is represented by Maguire Lassman PA. However, this case is currently set on the Court's January 8, 2018 jury trial docket and is scheduled for court ordered mediation in June, 2017. In an effort to move this case forward and to provide the Owner with a good faith settlement offer, as well as to attempt to cap the expert costs to be incurred by the property owner (which are recoverable against the CFX), we recommend that an offer of judgment be served on the Owner, which if accepted would conclude the case. The Owner may choose to reject CFX's offer of judgment or simply allow it to expire within the 30-day time prescription. Should the offer be rejected or allowed to expire and a jury later renders a verdict in an amount equal to or less than CFX's offer of judgment, the Owner would be legally barred from recovering any costs (including expert fees) that were incurred after the date the offer of judgment was rejected or expired.

RECOMMENDATION

For the reasons set forth in this Memorandum, Right-of-Way counsel respectfully requests the CFX Board to approve counsel's recommendation to serve an offer of judgment in the amount of \$695,075, in full settlement of all the Owner's claims for full compensation for the taking of Parcel 253. The recommended Offer of Judgment does not include the Owner's statutory rights to attorney's fees or costs under section 73.092 and 73.091, Florida Statutes.

ATTACHMENTS

Exhibit "A" – Before Acquisition Sketches of the Subject Property

Exhibit "B" – After Acquisition Sketch of the Subject Property and Area

Reviewed by: Joseph A. Cassiata



BEFORE ACQUISITION
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PARCEL 253



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