

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Yates Property

DEPARTMENT: County Attorney's Office

DIVISION: Litigation

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT:

MOTION/RECOMMENDATION:

Yates Property. Approval of proposed settlement relating to Parcel Number 144 on the Bunnell Road improvement project. The proposed settlement is at the sum of \$54,164.69 inclusive of all land value, improvements, cost to cure, severance damage, statutory interest, total statutory attorney's fees, expert fees and cost reimbursements. Judge Dickey.

District 3 Dick Van Der Weide

Bob McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends the Board approves the proposed settlement relating to Parcel Number 144 on the Bunnell Road improvement project. The proposed settlement is at the sum of \$54,164.69 inclusive of all land value, improvements, cost to cure, severance damage, statutory interest, total statutory attorney's fees, expert fees and cost reimbursements.

ATTACHMENTS:

1. Yates property

Additionally Reviewed By: No additional reviews



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

FROM: David G. Shields, Assistant County Attorney
Ext. 5736 *David G. Shields*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David Nichols, Principal Engineer/Engineering Division *DNH 1-31-08*

DATE: January 31, 2008

RE: Settlement Authorization
Bunnell Drive
Parcel No. 144; Yates
Seminole County v. Moran, et al.
Case No. 2005-CA-1144-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 144 on the Bunnell Road project. The proposed negotiated settlement is \$54,164.69. The total sum is allocated as follows:

- \$30,000.00 land value, severance damage and statutory interest
- \$ 7,425.00 statutory attorney's fee
- \$16,739.69 experts' fees and costs
- \$54,164.69 total

I. THE PROPERTY:

A. Location Data

The subject property is located on the north side of Bunnell Road, approximately 538.37 feet west of Eden Park Avenue within unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

B. Property Address

The street address is 1345 Bunnell Road. Apopka, Florida 32703. A parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2004-R-72 on April 13, 2004, authorizing the acquisition of Parcel No. 144. The Bunnell Road improvement project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The Order of Take occurred on August 22, 2005 for Parcel No. 144. Seminole County obtained title to Parcel No. 144 on August 31, 2005, the date of deposit of the good faith amount for Parcel No. 144.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 144 is 1,419 square feet in fee simple from a parent tract of 30,393 square feet with a remainder of 28,974 square feet.

IV APPRAISED VALUES

The County's original report dated December 8, 2004, was prepared by Clayton, Roper & Marshall, Inc., and reported full compensation to be \$7,500.00. An additional report updated for the order of take hearing dated July 17, 2005, opines the value to be \$7,900.00 for Parcel No. 144.

On February 27, 2006, the County received the owners' appraisal report prepared by Erickson Appraisers, Inc., which opines full compensation for Parcel No. 144 at \$92,000.00. The principal reason for the wide difference between the appraisal amounts is that the owners' appraiser opined significant proximity damage which the County's appraiser did not recognize.

V BINDING OFFER/STATUS OF THE CASE/ANALYSIS

The County's initial written offer was \$7,500.00. On February 14, 2007, the County served an Offer of Judgment on the owners at \$20,000.00, exclusive of fees and costs. After further negotiation the owners' compensation exclusive of fees and costs was settled at \$30,000.00.

The difference between the County's \$7,900.00 appraisal value and the owner's \$92,000.00 appraisal value is \$84,100.00. Both appraisals appear to represent good faith efforts to arrive at a fair value, the main difference being over the existence or non-existence of proximity damages. When faced with two "reasonable," but differing appraisals, juries tend to return a verdict around midpoint. The midpoint of the two

appraisals is \$49,950.00. A settlement at \$30,000.00 is substantially below midpoint and reasonable under the circumstances of the case.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$7,425.00. The sum is statutorily computed based upon a settlement sum of \$30,000.00 less the written offer of \$7,500.00 to produce a benefit of \$22,500.00.

B. Cost Reimbursements. The owners' cost claim of \$16,739.69 for expert fees and cost reimbursements, which included appraisal and engineering work, is reasonable. A significant part of the costs were incurred by the owners' engineers who evaluated drainage issues on the property. The County addressed these issues through a change in the construction plans.

VII RECOMMENDATION

County staff recommends that the BCC approve the proposed settlement in the amount of \$30,000.00 for land, severance damage and statutory interest, \$7,425.00 statutory attorney's fee and \$16,739.69 for experts' fees and costs for a total settlement of \$54,164.69.

DGS/dre

Two (2) Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

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