



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: A. Herbert Schwarz, Assistant County Attorney
Ext. 5736 *ASB*

Concur: *PH* Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division *DVN* 4/17/06

Date: April 14, 2006

Subject: Settlement Authorization
East Lake Mary Boulevard Phase IIB
Parcel Nos. 214/814A/B
Owners: Sanford Acquisitions Group, LLC
Seminole County v. Helen Howland Holdings, Inc., et al.
Case No. 2003-CA-2087-13-G

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 214/814A/B on the East Lake Mary Boulevard, Phase IIB project. The proposed mediated settlement is at \$82,745.21. The total sum is allocated as follows:

\$52,000.00	land value, severance damage, and statutory interest
\$10,956.00	statutory attorney's fee; and
\$19,789.21	cost reimbursements

I PROPERTY

A. Location Data. Parcel Nos. 214/814A/B are located along the west side of paved Beardall and opposite unpaved Bridges Road. A location map depicting the location of the parcels is attached as Exhibit A.

B. Street Address. The properties are vacant and, therefore do not have addresses assigned to them. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. The BCC adopted Resolution No. 2003-R-47 on February 11, 2003, authorizing the acquisition of Parcel Nos. 214/814A/B. The East Lake Mary Boulevard Phase IIB 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 November 5, 2003, with title vesting in Seminole County on November 12, 2003, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 214 totaled 11,803 square feet from a parent tract of 19,0608 acres leaving a remainder of 18,7899 acres. Parcel Nos. 814A/B, are permanent drainage easements that total 27,652 square feet.

IV APPRAISED VALUES

A. County Reports. The Spivey Group, Inc., performed the County reports.

Parcel Nos. 214/814A/B. The initial appraisal reported full compensation as of December 30, 2002, at \$18,800.00. The update appraisal opined the value as of September 25, 2003, to be \$22,200.00. The trial appraisal shows the value as of November 12, 2003, the date of the good faith estimate, at \$22,800.00.

B. Owner's Report. The owner's report was prepared by Calhoun, Dreggors and Associates, Inc., as of November 12, 2003, and reported full compensation at \$94,900.00.

V BINDING OFFERS/NEGOTIATION

The Board approved a first written offer of \$18,800.00. As stated previously, the owner's appraised value was \$94,900.00 and the County's appraisal for trial purposes was \$22,800.00.

At mediation, the parties agreed to compensation of \$52,000.00 for all land value, severance damages, and statutory interest.

The difference between the County's \$22,800.00 appraisal value and the owner's \$94,900.00 appraisal value was \$72,100.00. Both appraisals appear to represent good faith efforts to arrive at a fair valuation. When faced with two "reasonable," but differing appraisals, juries tend to return a verdict around midpoint. The midpoint of the two appraisals is \$58,850.00. A settlement at \$52,000.00 is 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 \$10,956.00. The sum is statutorily computed based upon a settlement sum of \$52,000.00 less the written offer of \$18,800.00 to produce a benefit of \$33,200.00.

B. Cost Reimbursements. The owner's claimed costs at \$23,089.99 is allocated:

(1)	Surveys	\$ 4,862.50
(2)	Appraisal	\$ 7,295.00
(3)	Civil Engineering	\$ 3,937.40
(4)	Planners	\$ 6,509.31
(5)	Court Reporters	\$ 159.75
(7)	Exhibit Preparation	\$ 122.96
(8)	Miscellaneous	\$ 203.07

TOTAL: \$23,089.99

In negotiation, several non-reimbursable office overhead costs were taken out and several expert claims were reduced as unnecessary and excessive. The negotiated cost settlement is allocated as follows:

(1)	Surveys	\$ 4,862.50
(2)	Appraisal	\$ 5,900.00
(3)	Civil Engineering	\$ 3,544.00
(4)	Planners	\$ 5,200.00
(5)	Court Reporters	\$ 159.75
(7)	Exhibit Preparation	\$ 122.96
(8)	Miscellaneous	\$ 0.00

TOTAL: \$19,789.21

The negotiated cost reimbursement represents a reduction of 14.3% from the total requested costs.

VII COST AVOIDANCE

By this settlement, the County avoids all additional costs associated with litigation.

VIII RECOMMENDATION

County staff recommends that the BCC approve this mediated settlement in the total aggregate sum of \$82,745.21 inclusive of land value, improvements, cost to cure,

severance damage, statutory interest, and total statutory attorney's fees and expert fees and cost reimbursements.

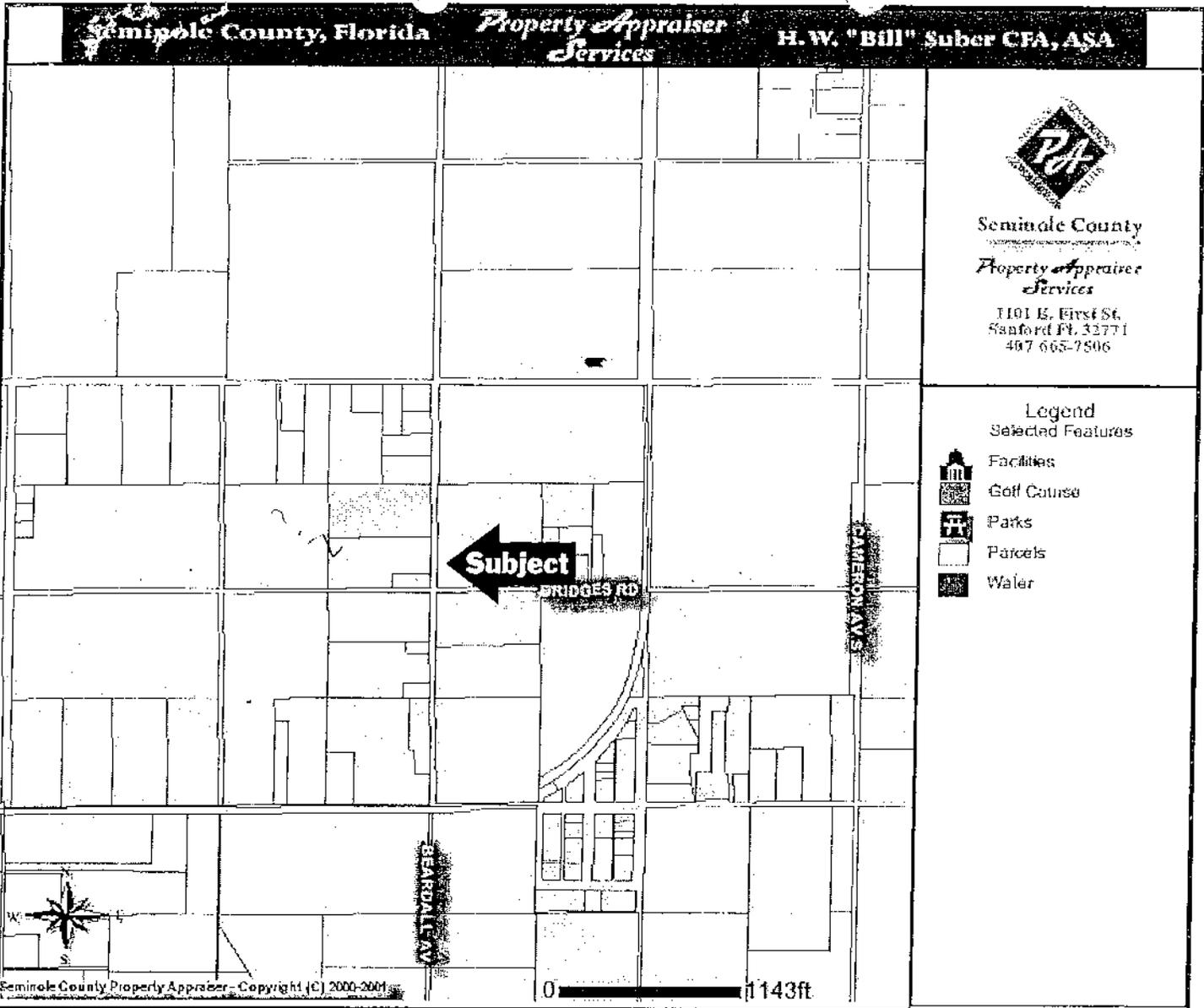
AHS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

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Rec	Parcel	Owner	Street Address
1	0320315AY00000400	SANFORD CITY OF	BEARDALL AVE

