



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

To: Board of County Commissioners

Through: Robert A. McMillan, County Attorney

From: David G. Shields, Assistant County Attorney
Ext. 5736

Concur: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division

Date: April 18, 2006

Subject: Settlement Authorization
Bunnell Road
Parcel Nos. 113/713
Owners: Jose A. Garcia and Milagros Garcia
Seminole County v. Garcia, et al.
Case No. 2005-CA-1123-13-G

DVJ 4/19/06

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel Nos. 113/713 on the Bunnell Road project. The proposed negotiated settlement is \$62,447.75. The total sum is allocated as follows:

\$47,000.00	land value, severance damage, and statutory interest
\$ 7,647.75	statutory attorney's fee; and
\$ 7,800.00	experts' fee and cost reimbursements

I PROPERTY

A. Location Data. Parcel Nos. 113/713 are located on the north side of Bunnell Road approximately 100 feet west of First Avenue in unincorporated Seminole County. A location map depicting the location of the parcels is attached as Exhibit A.

B. Street Address. The street address of the property is 1160 Bunnell Road, Altamonte Springs, Florida. A Parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2004-R-72 and Resolution No. 2005-R-70 on April 13, 2004, and April 12, 2005, respectively, authorizing the acquisition of Parcel Nos. 113/713. 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 4, 2005, with title vesting in Seminole County on August 15, 2005, the date of the good faith deposit.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 113 totaled 2,421 square feet from a parent tract of 22,095 square feet leaving a remainder of 19,674 square feet. Parcel No. 713 is a temporary construction easement that totals 105 square feet and will be used to tie the existing driveway with the driveway apron constructed as a part of the improvement project.

IV APPRAISED VALUES

A. County Reports. Clayton, Roper and Marshall, Inc., performed the County reports.

Parcel Nos. 113/713. The initial appraisal reported full compensation as of November 16, 2004, at \$23,825.00. The updated appraisal opined the value as of June 25, 2005, to be \$25,250.00. An appraisal for trial purposes was not prepared.

B. Owners' Report. The owners' report was prepared by Erickson Appraisers, Inc., as of August 15, 2005 (the date of the good faith deposit), and reported full compensation at \$106,125.00.

V BINDING OFFERS/NEGOTIATION

The Board approved a first written offer of \$23,825.00. As stated previously, the owner's appraised value was \$106,125.00 and the County's updated appraised value was \$25,250.00.

Through negotiations, the parties agreed to compensation of \$47,000.00 for all land value, severance damages, and statutory interest.

The difference between the County's \$25,250.00 appraisal value and the owner's \$106,125.00 appraisal value is \$80,875.00. Both appraisals appear to represent good faith efforts to arrive at a fair valuation, though perhaps the property owners' appraisal was on the high end of "reasonable". When faced with two "reasonable," but differing appraisals, juries tend to return a verdict around midpoint. The midpoint of the two appraisals is \$65,687.50. A settlement at \$47,000.00 is significantly 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 \$7,647.75. The sum is statutorily computed based upon a settlement sum of \$47,000.00 less the written offer of \$23,825.00 to produce a benefit of \$23,175.00.

B. Cost Reimbursements. The owners' cost claim of \$7,800.00 for appraisal services is reasonable.

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 negotiated settlement in the total sum of \$62,447.75 inclusive of land value, improvements, cost to cure, severance damage, statutory interest, and total statutory attorney's fees and expert fees and cost reimbursements.

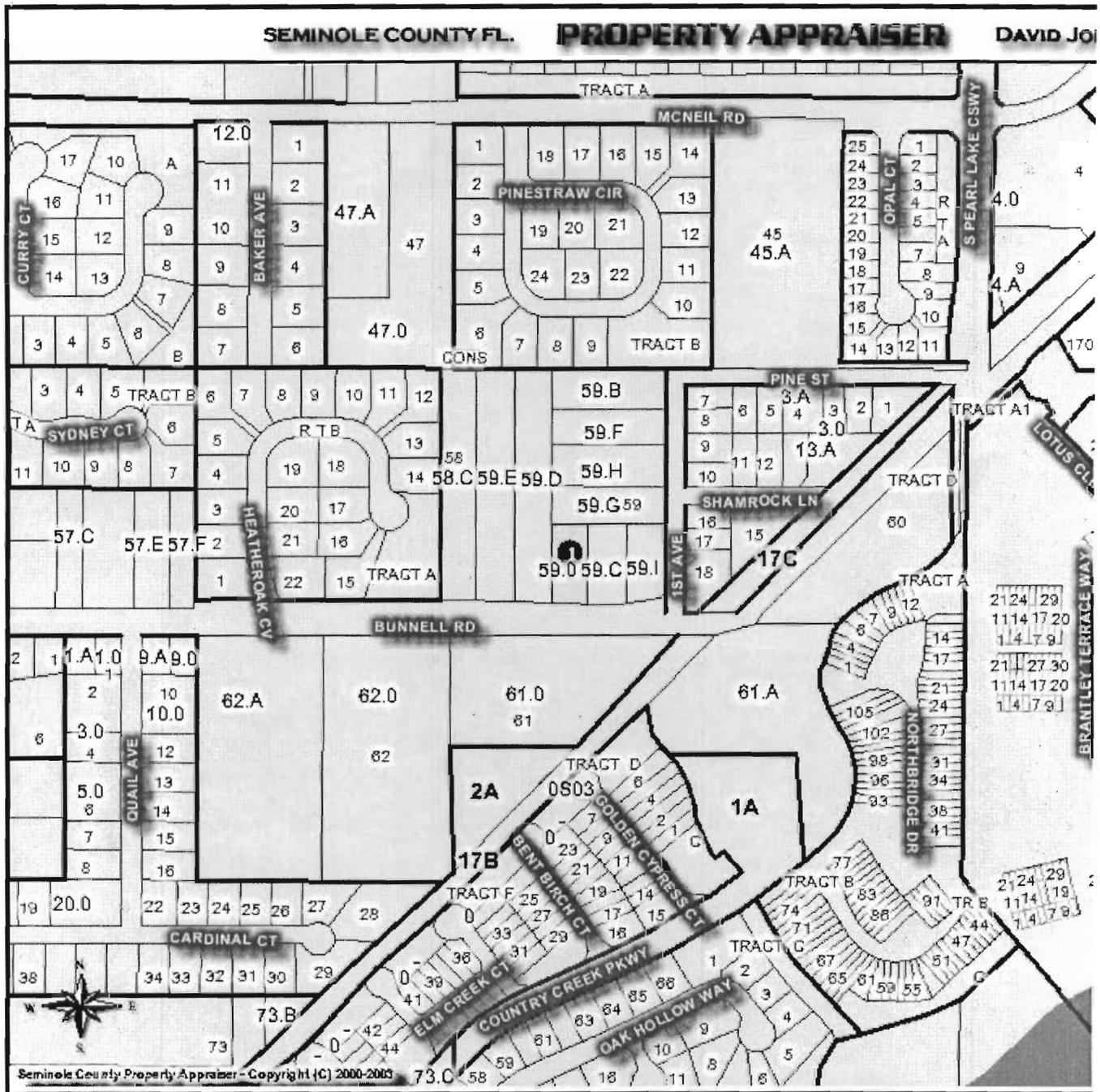
DGS/dre

Attachments

Exhibit A - Location map

Exhibit B - Parcel sketch

P:\USERS\DEDEMY\DOCUMENTS\MEMAGENDA ITEM GARCIA 113 713 BUNNELL.DOC



Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	1721295BG00000590	GARCIA JOSE A & MILAGROS	1160 BUNNELL RD	ALTAMONTE SPRINGS	FL	32714

EXHIBIT A

