



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 *DGS*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E./Principal Engineer/Major Projects *DVN 5/4/06*

DATE: May 5, 2006

SUBJECT: Settlement Authorization
Eden Park Avenue road improvement project
Parcel No.: 110
Owner: Patricia M. Moran
Seminole County v. Moran, et al.
Case No.: 05-CA-1144-13-W

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 110 on the Eden Park Avenue road improvement project. The recommended settlement is at the total sum of \$56,000.00. The total sum is allocated as follows:

\$45,000.00	land value, severance damage, and statutory interest;
\$ 3,663.00	statutory attorney's fee; and
\$ 7,337.00	experts' fee and cost reimbursements

I PROPERTY

- A. Location Data. Parcel No. 110. The property is located along the west side of Eden Park Avenue, across from Cardinal Court, within unincorporated Seminole County, Florida. See Location Map attached as Exhibit A.
- B. Street Address. The property address is 612 Eden Park Avenue. See parcel sketch attached as Exhibit B.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2004-R-73 on April 13, 2004, authorizing the acquisition of Parcel No. 110 and finding that the Eden Park Avenue road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

The Order of Take occurred on August 22, 2005, with title vesting in Seminole County on August 31, 2005, the date of the good faith deposit for this parcel in the amount of \$35,500.00.

III ACQUISITIONS AND REMAINDER

The fee acquisition of Parcel No. 110 totaled 4,832 square feet (0.111 acres) from a parent tract of 1.262 acres leaving a remainder of 1.151 acres.

IV APPRAISED VALUES

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

Parcel No. 110. The initial appraisal reported full compensation as of January 17, 2005, at \$33,900.00. The updated appraisal opined the value as of July 11, 2005, to be \$35,500.00. An appraisal for trial purposes was not prepared.

B. Owner's Report. The owner's report was prepared by Erickson Appraisers, Inc., as of August 31, 2005 (the date of the good faith deposit), and reported full compensation at \$50,900.00.

V BINDING OFFER/NEGOTIATION/ISSUES

On March 22, 2005, the BCC authorized a binding written offer in the amount of \$33,900.00. As stated previously, the owner's appraised value was \$50,900.00 and the County's updated appraised value was \$35,500.00.

The difference between the County's \$35,500.00 appraisal value and the owner's \$50,900.00 appraisal value is \$15,400.00. 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 \$43,200.00. A settlement at \$45,000.00 for compensation to be paid to the owner is slightly above midpoint and reasonable under the circumstances of the case, which include the owner's expert costs being held to a moderate level.

VI ATTORNEY'S FEES AND COSTS

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$3,663.00. The sum is statutorily computed based upon a settlement sum of \$45,000.00 less the written offer of \$33,900.00 to produce a benefit of \$11,100.00

B. Cost Reimbursements. The owner's cost claim of \$7,337.00 for appraisal and other expert services are 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 \$56,000.00 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:krc

Attachments:

- Exhibit A - Location Map
- Exhibit B – Parcel Sketch

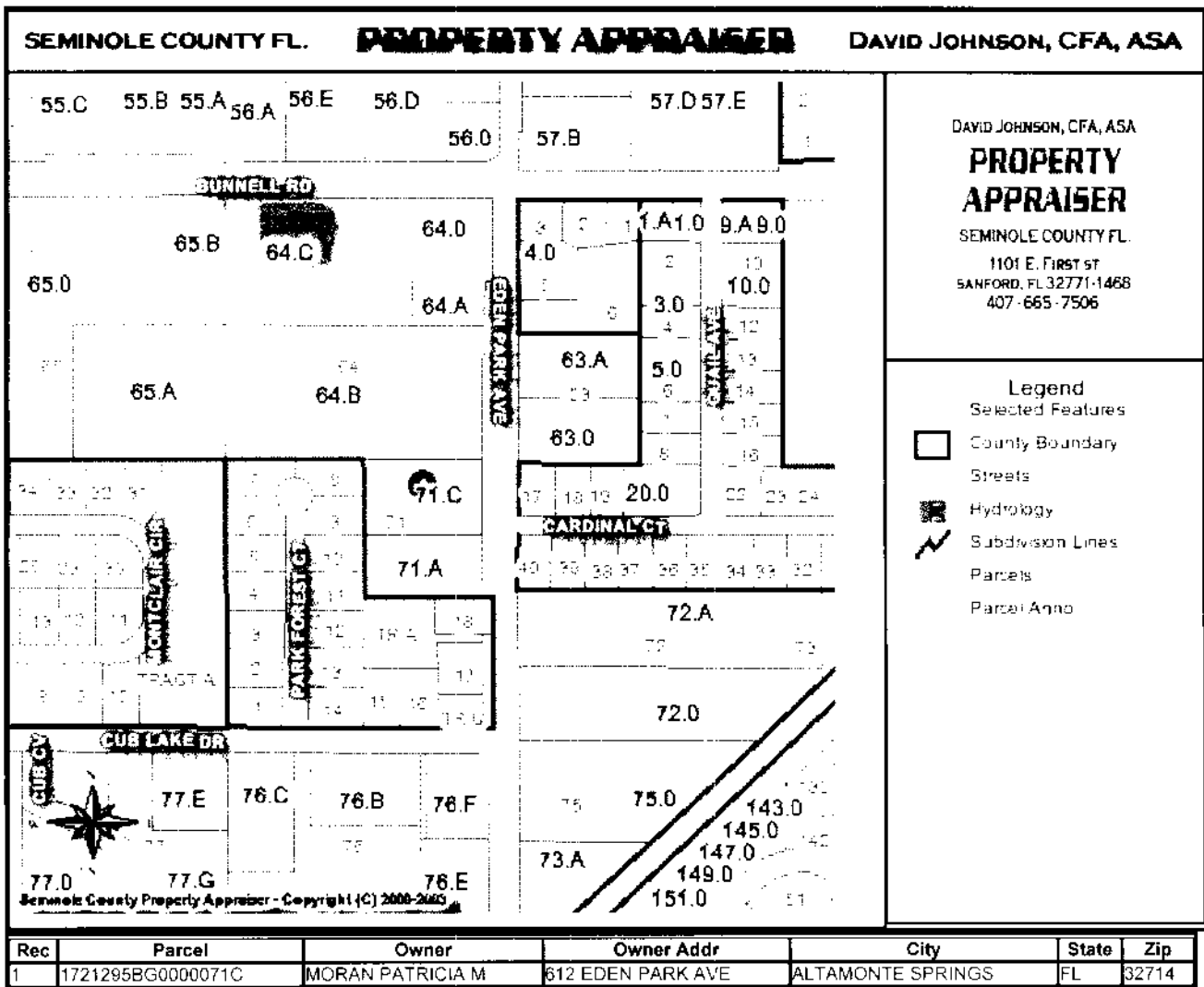


EXHIBIT A

