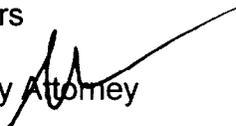




**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney 

FROM: Herbert S. Zischkau III, Assistant County Attorney 
Ext. 5736

CONCUR: Kathleen Myer, Principal Engineer/Engineering Division  
Pam Hastings, Administrative Manager/Public Works Department

DATE: June 6, 2003

SUBJECT: Settlement Authorization
Wymore Road Project
Parcel No. 126
Seminole County v. EQR-BOND Partnership, et al
Case No.: 03-CA-315-13-L
Owner: EQR-BOND Partnership

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 126 on the Wymore Road Project. The recommended settlement is at the total sum of \$10,000.00.

I PROPERTY

A. Location Data

The parent tract is improved by apartment buildings known as the Springs Colony Apartments on the west side of Wymore Road and the south side of Westmonte Drive, south of State Road 436 in Altamonte Springs, Seminole County, Florida. See, Location Map and Sketch attached as Exhibits A and B, respectively. The tax parcel identification number is 14-21-29-300-014F-0000.

B. Street Address

264 Springs Colony Circle, Altamonte Springs, FL 32701

II AUTHORITY TO ACQUIRE

The BCC adopted the Resolution No. 2001-R-31 on February 13, 2001, for the Wymore Road road improvement project, authorizing the acquisition of the above-referenced property, and finding that the construction of the Wymore Road road improvement project is necessary and serves a county and public purpose and is in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The fee simple acquisition consists of 679 square feet acquired from the total parcel of 455,246 square feet leaving a remainder of 454,567 square feet. The acquisition is a strip about 4 feet wide and 169.5 feet long running along the west boundary of the pre-existing Wymore Road right-of-way.

IV APPRAISED VALUES

The County's appraisal report was prepared by Clayton, Roper & Marshall and as of April 3, 2001, reported a value of \$5,200.00 for Parcel No. 126. An updated appraisal by Clayton, Roper & Marshall, as of April 7, 2003, was for \$7,190.00.

As far as we know, the property owner did not have an appraisal performed.

V BINDING OFFER/NEGOTIATIONS

On March 22, 2002, the County extended a binding written offer to the property owner in the amount of \$6,000.00, based upon the initial appraisal of \$5,200.00. At the time litigation was commenced, the responsible Assistant County Attorney extended an offer, subject to BCC approval, of \$10,000.00 inclusive of fees and costs, but the owner did not respond to that offer until about the time of the Order of Taking hearing; litigation was commenced in the absence of such response. EQR-BOND Partnership then accepted the County's offer of \$10,000.00 for the land, subject to BCC approval.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

This is a small acquisition, 679 sf, from a relatively large (over 10 acres), already developed multifamily residential parcel (the "parent tract"). Though it exceeds the nominal appraised value of \$7,190.00, the agreed price of \$10,000.00 saves the County the cost of having to pay the owners' expenses in ordering their own appraisal, which by itself would far exceed the settlement premium of \$2,810.00. Statutory attorney's fees, were the owner to hire an attorney to appear in this action, would be calculated at thirty-three percent (33%) of the excess of a settlement over the \$6,000.00 first written offer. The proposed settlement of \$10,000.00 is therefore highly beneficial both to the County, which saves eminent domain litigation costs and attorney's fees, and to the property owner, who receives proportionally more than if it sold the 679 sf in issue for its market

value. This kind of settlement directs into the pocket of the owner money that would otherwise pay for attorneys and expert witnesses, and saves the County money it would otherwise be obligated to pay by statute at some uncertain time in the future.

VI RECOMMENDATION

For the foregoing reasons, County staff recommends that the BCC approve this settlement in the amount of \$10,000.00, inclusive of attorney's fees and costs. The responsible Assistant County Attorney will then prepare the appropriate motion and other papers for submission to the court to obtain entry of a final judgment.

HZ/dre

Attachments:

Exhibit A – Location Map

Exhibit B - Sketch

\\CAHZ01\BCC\BCCWYMORE0030530EQR.doc

