



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/Major Projects

DATE: June 6, 2006

SUBJECT: Settlement Authorization  
Bunnell Road improvement project  
Parcel No.: 149  
Owner: Thomas Lane  
*Seminole County v. Moran, et al.*  
Case No.: 05-CA-1144-13-W

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This memorandum requests settlement authorization by the Board of County Commissioners (BCC) as to Parcel No. 149 on the Bunnell Road improvement project. The recommended settlement is at the total sum of \$31,518.00. The total sum is allocated as follows:

\$20,000.00	Compensation for land value, severance damages and Statutory interest;
\$ 6,000.00	Appraisal fee;
\$ 4,818.00	Statutory attorney's fee; and
\$ 700.00	Tree expert fee

**I PROPERTY**

- A. Location Data. Parcel No. 149. The property is located on the north side of Bunnell Road, approximately 638.37 feet west of Eden Park Avenue, within unincorporated Seminole County, Florida. See Location Map attached as Exhibit A.
- B. Street Address. The property address is 1353 Bunnell Road, Apopka, FL. See parcel sketch 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. 149 and finding that the Bunnell 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 \$5,400.00.

## **III ACQUISITIONS AND REMAINDER**

The fee acquisition of Parcel No. 149 totaled 1,248 square feet from a parent tract of 29,477 square feet, leaving a remainder of 28,229 square feet.

## **IV APPRAISED VALUES**

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

Parcel No. 149. The initial appraisal reported full compensation as of December 8, 2004, at \$5,000.00. The updated appraisal opined the value as of July 18, 2005, to be \$5,400.00. 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 \$80,400.00.

## **V BINDING OFFER/NEGOTIATION/ISSUES**

On February 8, 2005, the BCC authorized a binding written offer in the amount of \$5,000.00. As stated previously, the owner's appraised value was \$80,400.00 and the County's updated appraised value was \$5,400.00.

The difference between the County's \$5,400.00 appraisal value and the owner's \$80,400.00 appraisal value is \$75,000.00. Both appraisals appear to represent good faith efforts to arrive at a fair valuation. On this particular case, the owner's appraisal was reasonable in some respects and perhaps exaggerated in others. When faced with two "reasonable," but differing appraisals, juries tend to return a verdict around midpoint. The midpoint of the two appraisals is \$42,900.00. The final negotiated compensation of \$20,000.00 is significantly below midpoint and reasonable.

## **VI ATTORNEY'S FEES AND COSTS**

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$4,818.00. The sum is statutorily computed based upon a settlement sum of \$20,000.00 less the written offer of \$5,400.00 to produce a benefit of \$14,600.00.

B. Cost Reimbursements. The owner's cost claim of \$6,000.00 for appraisal services and \$700.00 for a tree expert are reasonable.

## **VII COST AVOIDANCE**

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

## **VIII RECOMMENDATION**

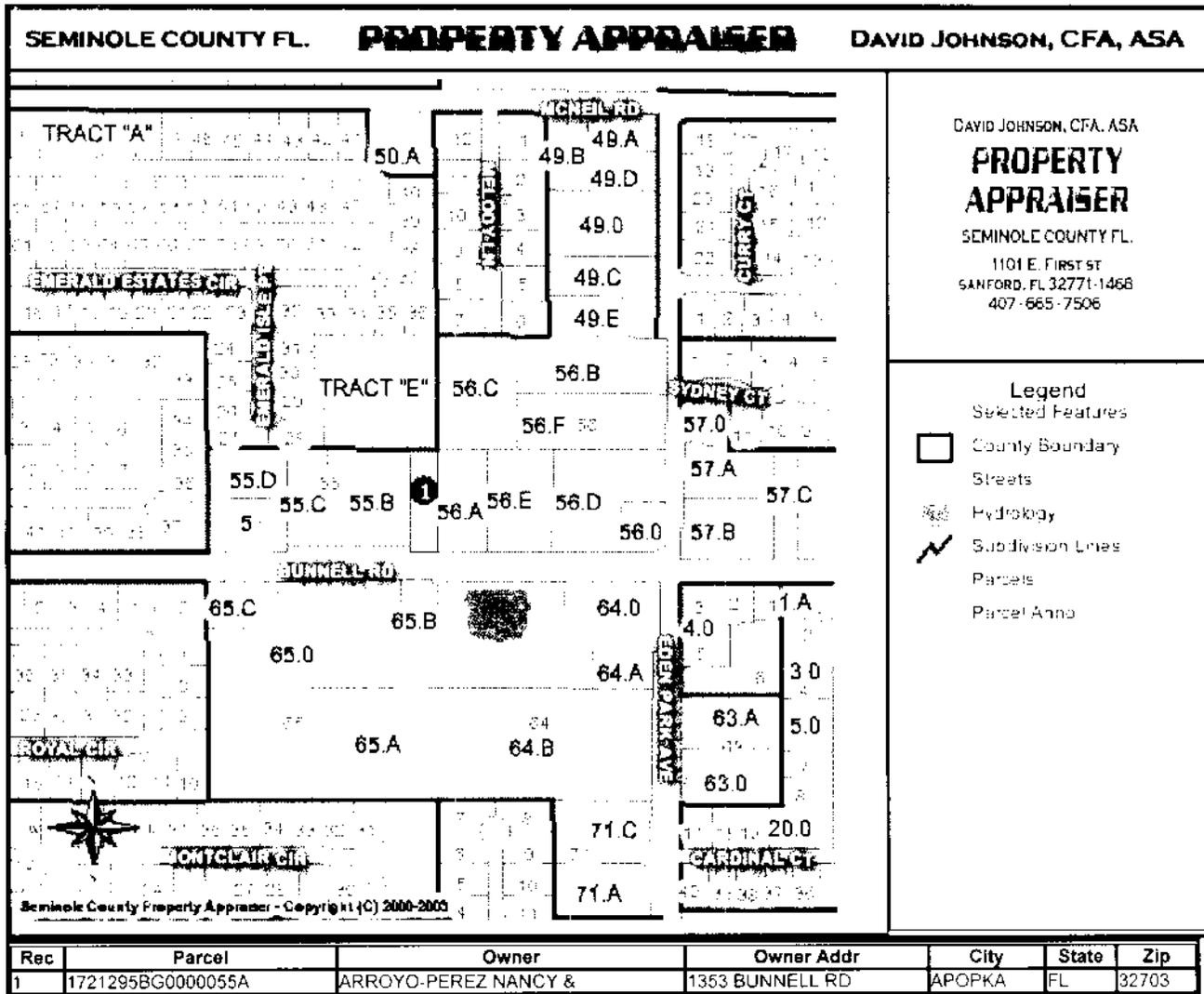
County staff recommends that the BCC approve this negotiated settlement in the total sum of \$31,518.00 inclusive of land value, improvements, cost to cure, severance damage, statutory interest, and total statutory attorney's fees and expert fees and cost reimbursements.

DGS:krc

Attachments:

Exhibit A - Location Map

Exhibit B - Parcel Sketch



**EXHIBIT A**

