

26

CL 02



**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Henry M. Brown, Assistant County Attorney *HMB*  
Ext. 5736

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

DATE: September 11, 2003

SUBJECT: Settlement Authorization  
Dodd Road Project  
Parcel Nos.: 156, 756 and 856  
Owner(s): David F. Sumner and Odette I. Nimmo (Sumner)  
*Seminole County vs. Erdman, et al.*  
Case No.: 01-CA-1900-13-K

This Memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel Nos. 156, 756 and 856 on the Dodd Road Project. The recommended mediated settlement is at the total sum of FIFTY-SEVEN THOUSAND ONE HUNDRED NINETY-SIX AND 25/100 DOLLARS (\$57,196.25), inclusive of all land value, severance damage, statutory interest, attorney's fees, and reimbursable costs. Allocated:

- |     |                                     |                   |
|-----|-------------------------------------|-------------------|
| (1) | Land, Severance Damage and Interest | \$28,875.00;      |
| (2) | Reimbursable Costs                  | \$23,000.00; and, |
| (3) | Attorney's Fees                     | \$ 5,321.25       |

**I PROPERTY**

**A. Location Data**

Parcel Nos. 156, 756, and 856 are located in the Amberwood Subdivision south of Red Bug Lake Road and north of Dike Road.

**B. Street Address**

The street address is 1146 Dodd Road, Winter Park, Florida 32792. A location map is attached as Exhibit A and a parcel sketch is attached as Exhibit B.

**II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 95-R-230, on September 26, 1995, authorizing the acquisition of Parcel Nos. 156, 756 and 856 and finding that Dodd Road was necessary and served a public purpose and was in the best interest of the citizens of Seminole County.

**III ACQUISITIONS AND REMAINDER**

Parcel No. 156 is a fee simple acquisition of 1,010 s.f., Parcel No. 756 is a temporary construction easement of 1,500 s.f., and Parcel No. 856 is a permanent wall easement of 500 s.f. The remainder parcel will be 17,497 s.f. encumbered by the permanent and temporary easements.

**IV APPRAISED VALUES**

**A. County Appraisals**

The Dodd Road project was stopped twice and later restarted twice. Each time, including the original start of the project, appraisals were performed by the County. Each of these reports was produced to the owners:

1. Nations 1995 Report

A 1995 report was prepared by Ron L. Nation of Just Valuation, Inc., and opined full compensation to be \$3,500.00 with no severance damages. The design plans were subsequently changed and this report was not pursued after the project was stopped.

2. Bullard 1997 Report

A 1997 report was prepared by Gary E. Bullard of Bullard and Associates, Inc., and opined full compensation to be \$22,500.00 with severance damages of \$15,900.00. This report addressed the current design; however, the report was not used by the County after the project was stopped the second time.

3. Current Report 2001

The County's current report was prepared by C. Lee Lobban of Diversified Property Specialists, Inc., and opined full compensation to be \$12,100.00 with severance damages of \$3,500.00.

**B. Owner's Appraisals**

The owner's reports were prepared by Richard C. Dreggors of Calhoun, Dreggors and Associates, Inc. A draft report was prepared in 1997 and a complete report currently prepared to report full compensation to be \$40,600.00. The Dreggors report opined significant severance damages (\$29,000.00) resulting from the proximity of the new roadway and reconstruction of the access road to the driveways.

**V NEGOTIATION**

The County position at mediation was \$12,100.00 with severance damage of \$3,500.00. However, the 1997 Bullard report at \$22,500.00 was difficult to address because it opined \$15,900.00 in severance damage due to proximity.

The owners were at \$40,600.00 with severance damages of \$29,000.00.

The negotiated land value is at \$28,875.00 inclusive of land value and severance damages.

**VI ATTORNEY FEE REIMBURSEMENT**

The statutory benefit based attorney fee is \$5,321.25 based on a settlement sum of \$28,875.00 and a first offer of \$12,750.00.

**VII COST REIMBURSEMENTS**

As previously reported, costs on Dodd Road are significant as a result of the delays. The owner's claimed costs totaled \$35,610.00 allocated:

A) Appraisal Costs	\$20,600.00;
B) Land Planner	\$ 1,800.00; and,
C) Engineering	\$13,210.00
<b>TOTAL COSTS</b>	<b>\$35,610.00</b>

A negotiated cost settlement at \$23,000.00 or 64% of the asserted claim was achieved.

## VIII ANALYSIS

The settlement for land value and severance damage is at \$28,875.00 which is \$16,775.00 above the County's current appraised value but only \$6,375.00 above the County's 1997 report. The settlement is \$11,725.00 below the Owner's position.

Severance damage was the critical issue with the County's 1997 report opining severance at \$15,900.00 to be troublesome.

The reduction of costs down 36% from a claim of \$35,610.00 is one of the better negotiated results on Dodd Road. The engineering design on this parcel and the current appraisal by Lobban were excellent. As a result, staff was able to use this as leverage to include costs at mediation and achieve one of the better negotiated cost results on Dodd Road.

## IX COST AVOIDANCE

By this settlement, the County avoids the following additional costs beyond those for which it is already liable by law:

- a. A potential jury verdict in excess of the land value settlement of \$28,875.00;
- b. All statutory interest;
- c. Attorney fees in excess of the statutory sum of \$5,321.25;
- d. Costs above the settlement sum of \$23,000.00 to proceed further; and
- e. All costs that could be incurred at a cost hearing.

## RECOMMENDATION

County staff recommends that the BCC approve this settlement in the total inclusive amount of \$57,196.25.

HMB/sb

Attachments:

Exhibit A

Exhibit B

P:\USERS\CASB01\MY DOCUMENTS\MEMMAGENDA ITEM DODD LIT SETTMT AUTH SUMNER 156 756 856.DOC



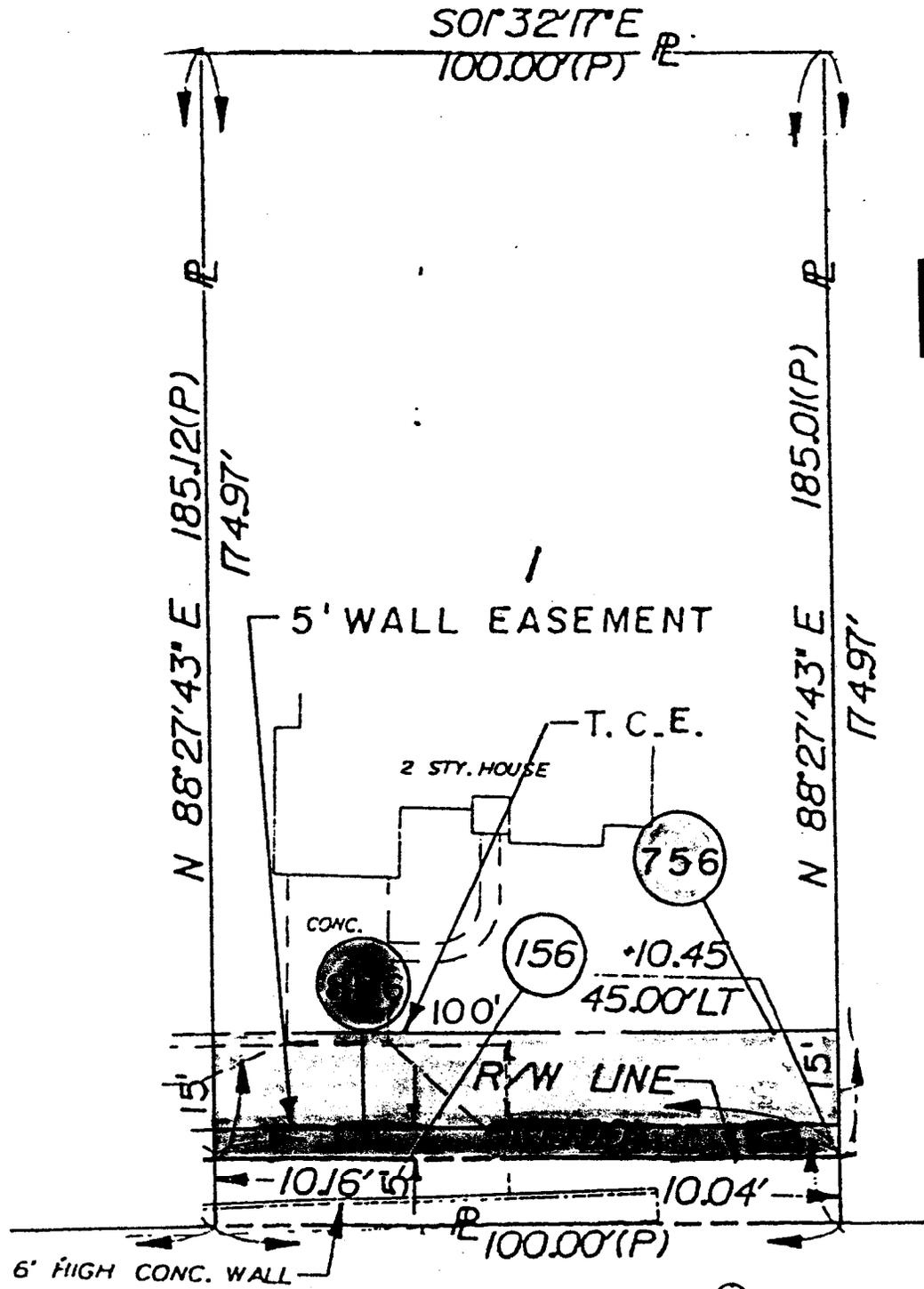


EXHIBIT B

- FEE TAKE
- ◐ TEMPORARY EASEMENT
- ◑ PERMANENT EASEMENT

RIGHT OF WAY MAP SKETCH