

01



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney *[Signature]*

FROM: Al Schwarz, Assistant County Attorney *AHS*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *[Signature]*
David V. Nichols, P.E./Principal Engineer/Major Projects *[Signature]*

DATE: September 7, 2005

SUBJECT: Offer of Judgment Authorization
Lake Drive road improvement project
Parcel Nos.: 139A
Owners: John Maratta and Mary Maratta
Seminole County v. Suero, et al.
Case No.: 2004-CA-2045-13-G

This Memorandum requests authorization by the Board of County Commissioners (BCC) to issue an offer of judgment on Parcel No. 139A in the amount of \$65,000.00.

I PROPERTY

A. Location Data

Parcel No. 139A is located on the South side of Lake Drive. In the Before, Parcel No. 139A consists of 24,000 square feet and is improved with a single-family residence. See, location Map attached as Exhibit A and a property sketch is attached as Exhibit B.

B. Street Address

The street address for Parcel No. 139A is 1906 Lake Drive, Casselberry, Florida.

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2002-R-70 on April 23, 2002 and Resolution No. 2004-R-75 on April 13, 2004, authorizing the acquisition of Parcel No. 139A and finding that the Lake Drive 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 December 8, 2004, with title vesting in Seminole County on December 17, 2004, the date of the good faith deposit for this parcel in the amount of \$25,000.00.

III ACQUISITIONS AND REMAINDER

The acquisition consists of 6,170 square feet of land area for Parcel No. 139A.

The remainder property for 139A will be 17,830 square feet. In the After for 139A, the structure will remain approximately within 12 feet of the right of way line.

IV APPRAISED VALUES

The County's original report dated March 9, 2004, by Clayton, Roper & Marshall, Inc., reported full compensation for Parcel No. 139A to be \$25,000.00. The updated report dated November 15, 2004, reported full compensation for Parcel No. 139A to be \$25,000.00.

The owners produced an appraisal report as of May 14, 2004 to opine compensation to be \$109,600.00 for Parcel No. 139A, with an updated appraisal report likely. The appraisal report for the owners provide for substantial severance damages due to proximity for 139A.

V BINDING OFFER/STATUS OF THE CASE

The County's initial written offer for Parcel No. 139A was \$35,000.00.

Mediation was held on September 2, 2005, and an impasse resulted. A jury trial is scheduled for the one-week trial period beginning January 30, 2006.

VI ANALYSIS

The Offer of Judgment when made and accepted settles the case and statutory attorney's fees; however, it leaves the costs outstanding. If rejected, the Offer of Judgment has no impact on settlement or statutory attorney's fees. However, it impacts expert costs in two (2) ways:

(1) Expert costs are not reimbursed for time expended after rejection of the Offer of Judgment if a verdict or subsequent settlement is less than the Offer amount;

(2) The owners' experts have their compensation for trial preparation at risk. As a result, the experts slack off on preparation and control their expenditure of time in trial preparation.

If an Offer of Judgment is not made, then the owners' experts are encouraged to run up a tremendous number of hours and prepare hard for trial because reimbursement of costs by the County is assured.

VII RECOMMENDATION

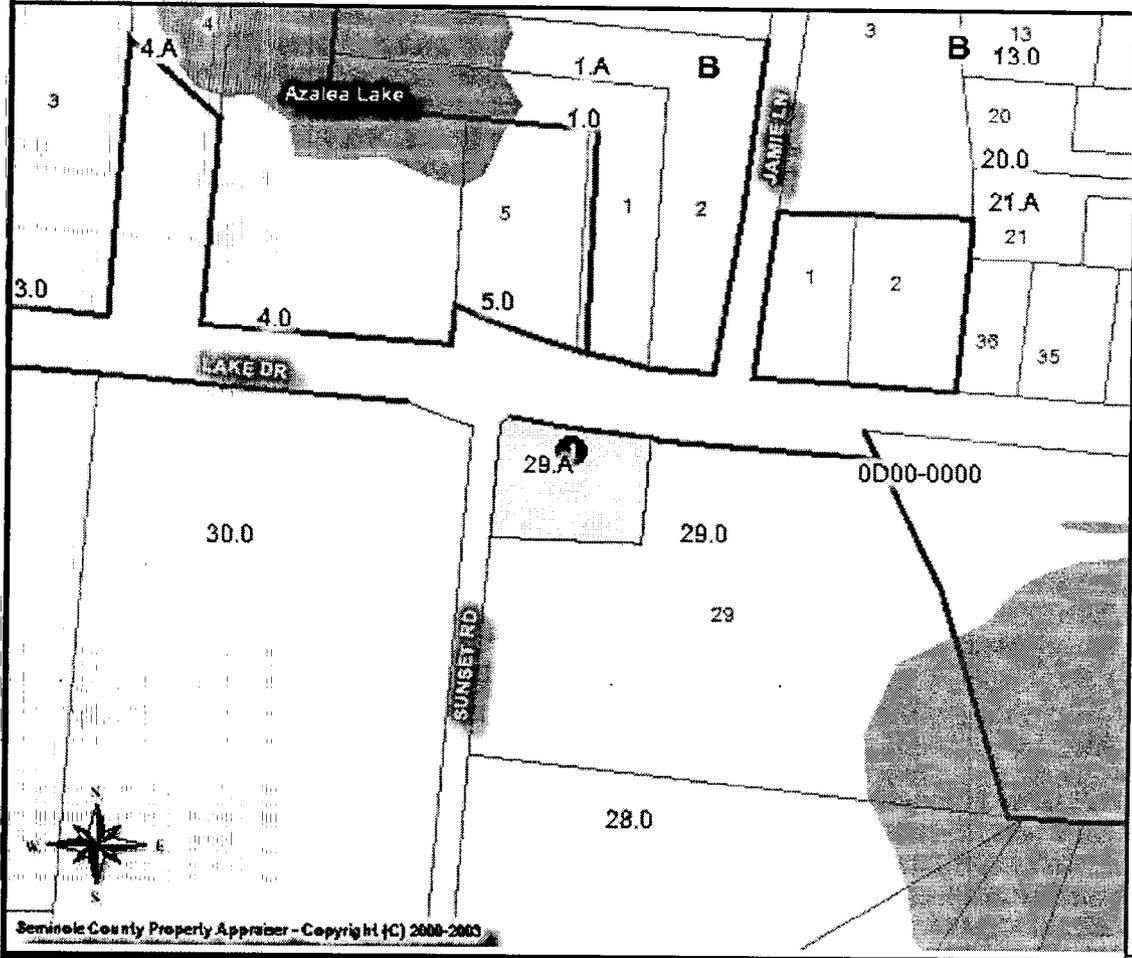
County staff recommends that the BCC authorize the issuance of an Offer of Judgment on Parcel No. 139A in the amount of \$65,000.00.

AHS/dre

Attachments:

Exhibit A - Location Map

Exhibit B – Sketch



Seminole County Property Appraiser - Copyright (C) 2008-2009

Rec	Parcel	Owner	Owner Addr	City	State
1	1021305BQ0000029A	MARATTA JOHN E	193 MANOR AVE	ALTAMONTE SPRINGS	FL

EXHIBIT B

