



AGENDA REPORT
November 13, 2018

Appraisal Fees Award, Brevard County, FL v B West Townhouses, et al

SUBJECT:

Appraisal Fee Award, Brevard County, FL v B West et al, Case Number 05-2013-CA-025677-XXXX-XX

FISCAL IMPACT:

\$36,600.00 paid from Public Works Department.

DEPT/OFFICE:

County Attorney Office

REQUESTED ACTION:

Acknowledge order awarding appraisal fees on Barnes Boulevard for appraisers representing two property owners involved in condemnation actions. Direct staff to take no further action as to appraisal fee order.

SUMMARY EXPLANATION and BACKGROUND:

This award arises from a condemnation case brought to acquire two parcels necessary to widen Barnes Boulevard. On November 1, 2016, Final Judgments were entered authorizing payment for value and severance damages to the two property owners. Florida Statutes, Section 73.091 provides that the County is required to pay reasonable appraisal fees for property owners in condemnation cases. On February 28, 2018, and May 1, 2018 a hearing took place before Judge Mahl with testimony and evidence being presented on the appraisal fee issue. On October 24, 2018, Judge Mahl ordered that Respondents/Defendants are entitled appraisal fees totaling \$36,600 for two appraisals, depositions and trial preparation. A copy of the Order is attached.

In addition to payment of appraisal fees, the County will be responsible for Respondents' claims for attorneys' fees in litigating the appraisal fees at the trial level. It is likely the bill for attorneys' fees may need to be litigated. If so, this portion of the lawsuit will be returned to the Board at an executive session.

The County has the option to pursue an appeal on issues involving reasonableness of fees awarded by Judge Mahl. An appeal would need to be filed within 30 days of the date of the order. Due to the costs which will be incurred on appeal, staff is not recommending an appeal in this case.

Options:

1. Appeal
2. Do not appeal.

ATTACHMENTS:

Description

- **Order**



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November 14, 2018

MEMORANDUM

TO: Eden Bentley, County Attorney

RE: Item F.19., Appraisal Fees Award, Brevard County, FL v. B West, et al – Case No. 05-2013-CA-025677-XXXX-XX

The Board of County Commissioners, in regular session on November 13, 2018, acknowledged the order awarding appraisal fees on Barnes Boulevard for appraisers representing two property owners involved in condemnation actions for Brevard County, FL v. B West Townhouses, et al – Case No. 05-2013-CA-025677-XXXX-XX; and directed you to take no further action.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

cc: Finance
Budget

IN THE CIRCUIT COURT OF THE
18TH JUDICIAL CIRCUIT, IN AND FOR
BREVARD COUNTY, FLORIDA

BREVARD COUNTY, FLORIDA, a
political subdivision of the State of Florida,
Petitioner,

CASE NO. 05-2013-CA -025677-XXXX-XX

vs.

B WEST TOWNHOUSES, LTD., a
Florida Limited Partnership, et al.,
Respondents/Defendants.

**AMENDED ORDER GRANTING, IN PART, RESPONDENTS/DEFENDANTS,
MEADOWBROOK, LLC AND TRADEWINDS PLAZA, LLC'S, MOTION FOR AWARD OF
EXPERT FEES AND COSTS**

THIS CAUSE came to be heard on February 28, 2018 and May 1, 2018 on Respondents/Defendants' Meadowbrook, LLC and Tradewinds Plaza, LLC's, Motion for Award of Expert Fees and Costs filed on November 7, 2016, and for Rehearing on September 26, 2018. The Court having reviewed the file including exhibits entered into evidence and other documents presented at the hearings, heard the argument of counsel and testimony of witnesses, and being otherwise fully advised in the premises, it is hereby found that:

1. On November 1, 2016, the Court entered Final Judgments and reserved jurisdiction to award expert fees and costs, and on November 7, 2016, Respondents/Defendants filed their Motion for Award of Attorneys' Fees.

2. During the February 28, 2018 and May 1, 2018 hearings, the Court heard argument of counsel and the testimony from Respondents/Defendants' witnesses: Patricia Garagozlo, Jack Kirschebaum, Richard Dreggors, and Barry Diskin; and Petitioner's witnesses: John Denninghoff, Daniel Jones, William Benson.

3. The Court has reviewed all of the evidence provided during the hearings, including the invoices from Calhoun, Dreggors & Associates, Inc., which contained itemized billing by each individual who billed on this project from their office.

4. The Court has compared the time billed for both Tradewinds and Meadowbrook by each of the individuals and has considered all witness testimony and argument of counsel at the hearings held on February 28, 2018, May 1, 2018 and September 26, 2018 as to amounts billed and tasks performed.

Therefore, it is ORDERED AND ADJUDGED as follows:

1. Respondents/Defendants, Meadowbrook, LLC and Tradewinds Plaza, LLC's, Motion for Award of Expert Fees and Costs is hereby GRANTED, in part.

2. Respondents/Defendants, Meadowbrook, LLC and Tradewinds Plaza, LLC, are entitled to the following expert fees:

a. Calhoun, Dreggors & Associates, Inc. is awarded expert fees in the reduced amount of \$18,537.50, for Tradewinds, Parcel No.: 117, 706 & 828:

	Researcher:	10.75 hrs x \$ 75.00 =	\$ 806.25
	Thomas:	10.00 hrs x \$150.00 =	\$ 1,500.00
	Labarre:	35.00 hrs x \$150.00 =	\$ 5,250.00
	Dreggors	25.50 hrs x \$275.00 =	<u>\$ 7,012.50</u>
	SUBTOTAL		\$14,568.75
Deposition:	Labarre:	9.50 hrs x \$150.00 =	\$1,425.00
	Dreggors:	9.25 hrs x \$275.00 =	<u>\$2,543.75</u>
	SUBTOTAL		\$3,968.75
	TOTAL:		\$18,537.50

b. Calhoun, Dreggors & Associates, Inc. is awarded expert fees in the amount of \$18,062.50, for Meadowbrook, Parcel No.: 115:

	Thomas:	7.25 hrs x \$150.00 =	\$ 1,087.50
	Labarre:	30.25 hrs x \$150.00 =	\$ 4,537.50
	Abrams Schmidt:	12.50 hrs x \$175.00 =	\$ 2,187.50
	Dreggors	22.50 hrs x \$275.00 =	<u>\$ 6,187.50</u>
	SUBTOTAL		\$14,000.00
Deposition:	Labarre:	8.75 hrs x \$150.00 =	\$ 1,312.50
	Dreggors:	10.00 hrs x \$275.00 =	<u>\$ 2,750.00</u>
	SUBTOTAL		\$ 4,062.50
	TOTAL:		\$18,062.50

DONE AND ORDERED in chambers, in Viera, Brevard County, Florida this 24th day of October, 2018.

JEFFREY F. MAHIL
CIRCUIT JUDGE

Copies furnished via e-service to:
All Counsel of Record