

Condemnation & Land Acquisition

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Governing Board Workshop



Pending Condemnation Cases

<u>Project Name</u>	<u>Parcels</u>
Kissimmee River	5
Corkscrew Regional Ecosystem Watershed (CREW)	10
C-4 Gravity Wall	15
Federal C-111/ L31 North	5
Biscayne Coastal Wetlands	1

Eminent Domain may be used only for acquiring real property for:

§373.139: Flood control and water storage,
and to cure title defects

§373.1501: Kissimmee River Project
Ten Mile Creek
Water Preserve Areas
Southern Crew
Pal-Mar
C-111

Voluntary Land Acquisition

- Land is often voluntarily acquired without filing suit
- If we have statutory authority to condemn, the District must pay the landowner's attorney's fees & costs



Two Choices:

Quick Take (Chapter 74, F.S.)

- District takes title immediately after making deposit and Court Order finding public purpose and necessity
- Jury determines value at a later time
- District must pay whatever value is determined by the Jury

Slow Take (Chapter 73, F.S.)

- Agency takes title only if it wants to after value is established

Quick Take

- Obtain title within 4 months of filing case
- Can start construction quickly
- Establishes date of taking quickly for purpose of determining value
- Useful in an escalating real estate market
- Must pay interest from date of deposit until jury verdict and payment

Slow Take

- Obtain title after trial (usually > 1 year)
- Must wait to start construction
- Date of taking occurs after verdict and deposit
- Useful in a decreasing real estate market
- No interest payment

Presuit Negotiation Required

The District must:

- Make offer and give landowner 30 days to respond before the District files suit
- Inform Landowner of statutory rights
- Identify the nature of the project and land needed
- Provide a copy of the appraisal and engineering design if requested

Award to Landowner

Land Value

Severance Value, if any

Interest

Attorneys Fees

+ Costs

Total Paid by District to Landowner

Condemnation for Federal Projects

- Projects with federal funding or match
- District condemnation through State Court process
- Additional Federal law requirements:
 - Must offer appraised value according to “Uniform Appraisal Standards for Federal Land Acquisitions”
 - Must pay relocation benefits if applicable

Land Value

- fair market value
- price on which a willing buyer and a willing seller would agree
- valued at property's "highest and best use"
- must consider all facts and circumstances that bear a reasonable relationship to the owner's loss
- may consider market value of other comparable property

Other Key Issues

- **Attorneys Fees**

- **Interest**



Attorney's Fees Formula

Based on “**Benefit**” achieved for the landowner

Final Award By Jury

**District's last offer before
— landowner hires attorney**

Benefit

Attorney's Fees

- Statute provides incentive for District to make reasonable 1st offer
- Attorney's fees shall be awarded based on:
 - 33% of any benefit up to \$250,000
 - 25% of any benefit between \$250,000 - \$1 million
 - 20% of any benefit > \$1 million

Attorney's Fees Pursuant to §73.093, F.S.

	A	B	C	D
Final Award	\$2,250,000	\$2,250,000	\$2,250,000	\$2,250,000
District's Offer	\$2,000,000	\$1,750,000	\$1,500,000	\$1,000,000
Difference	\$ 250,000	\$ 500,000	\$ 750,000	\$1,250,000
Attorneys Fees	\$ 82,500	\$ 145,000	\$ 207,500	\$ 320,000

Statutory Interest

- Currently set at 11%
- Paid on the difference between amount of deposit and final verdict
- Paid from date of taking to date of final verdict and payment
- Reducing the gap between dates and amounts reduces interest paid

Summary

- District has condemnation authority for flood control, water storage, and named projects
- Landowners get full compensation
- Use Quick Take process to obtain title immediately upon deposit
- Reducing gap between initial offer/deposit and final verdict results in lower condemnation costs

