



CITY
OF
SPRINGDALE

ANALYSIS
OF
CONDEMNATION
CASES



Prepared by:
Springdale City Attorney's Office

INTRODUCTION

The report that follows is an analysis of condemnation cases handled by the Springdale, Arkansas City Attorney's Office since 1999. These projects have been funded by a one cent sales tax passed in 1992 (CIP Projects) and a one cent sales tax passed in 2003 (Bond Projects).

In the past, City Council members have requested information concerning these projects, including the total number of projects involved, how many resulted in condemnation, as well as other information. Hopefully this report will answer all of these questions.

Since the first condemnation case was referred to our office in 1999, there have been 109 total condemnation cases handled by the Springdale City Attorney's Office. Condemnation cases are some of the most difficult type of litigation for cities to handle because people who have no choice in the matter are losing their property, sometimes their homes or businesses.

This report was compiled primarily by Ernest Cate, Senior Deputy City Attorney, who has handled most of the condemnation cases which have been referred to our office. Hopefully, the information contained in this report will be beneficial to you.

Jeff C. Harper
City Attorney

ANALYSIS OF CONDEMNATION CASES CITY OF SPRINGDALE, ARKANSAS

A. 2003 Street Improvement Bond Program ("Bond Projects")

1. Overview of Bond Projects

In 2003, a special election was held in the City of Springdale on the question of issuing bonds for the construction of specific street improvement projects in the City of Springdale. The citizens of the City of Springdale approved the issuance of these bonds for these street construction projects. These street improvement projects became known as "the 2003 Street Improvement Bond Program".

In order to handle the massive amount of land acquisition needed to get these projects moving, the City enlisted the services of Universal Field Services (UFS). UFS was responsible for making the necessary contacts with affected property owners, presenting offers, and securing the easements and property necessary for the construction of the Bond Projects. The City also enlisted the services of Construction Dynamics Group to oversee the planning and construction of the Bond Projects.

To ensure that taxpayer funds were being properly managed and invested, and to ensure that the Bond Projects were proceeding as planned, the City Council created a separate committee, called the Bond Committee. This Committee met periodically to review specifics of the

Bond Program, to listen to affected property owners, and to make recommendations to the full City Council regarding Bond Projects.

If a property owner and the City were unable to agree on an amount of compensation to be paid to the property owner for the property needed for the Bond Project, the City Council would authorize the City Attorney's Office to file an eminent domain (condemnation) action in court. This would allow the City to obtain an Order of Possession for the property that was needed, thereby preventing any delays in the construction of the Bond Projects. The issue of the amount of compensation due the property owner would be dealt with at a later time. Sometimes, the issue of just compensation was eventually decided by a jury. However, most cases were ultimately resolved by the Springdale City Council approving an amount of compensation that was acceptable both to the property owner and to the City.

All condemnation cases involving Bond Projects were handled by the Springdale City Attorney's Office. No money was spent on outside legal counsel to handle any of the Bond Project cases. In other words, the City did not have to enlist the assistance of outside legal counsel, as the Springdale City Attorney's Office handled these cases in addition to their regular case and work load.

2. Analysis of Condemnations in Bond Projects

Prior to the construction of the Bond Projects, the City had to acquire the necessary property and easements. In all, it was necessary to acquire easements and property involving 551 tracts of property. These 551 tracts can be broken down as follows:

Breakdown of Bond Projects No. of Tracts Acquired		
Bond Projects	No. of Tracts Acquired	Percentage
Southern Corridor	127	23.05%
Central Corridor	213	38.66%
Northern Corridor	79	14.34%
Other Bond Projects*	<u>132</u>	<u>23.95%</u>
Total	551	100%

*Includes Harber Avenue, Turner Street, 48th Street, and Silent Grove Road

Of the 551 total tracts acquired for the Bond Projects, 46 of them were acquired by condemnation. In other words, 8.35% of Bond Project properties were acquired by eminent domain. Of these 46 cases, settlements were ultimately reached in 41 cases, 3 resulted in a jury trial, and 2 cases are still pending.

Of the 127 tracts acquired for the Southern Corridor, 18 of them were acquired by condemnation. In other words, 14.17% of Southern Corridor projects were acquired by eminent domain. Of these 18 cases, settlements were ultimately reached in 16 cases, 1 case resulted in a jury trial (Kent Dobbs), and 1 case (Parker) is still pending and is set for trial in November 2009.

Of the 213 tracts acquired for the Central Corridor, only 7 were acquired by condemnation. In other words, 3.28% of Central Corridor projects were acquired by eminent domain. Of these 7 cases, settlements were ultimately reached in 6 cases, and 1 case resulted in a jury trial (Triple T Foods).

Of the 79 tracts acquired for the Northern Corridor, 8 of them were acquired by condemnation. In other words, 10.13% of Northern Corridor projects were acquired by eminent domain. Of these 8 cases, settlements were ultimately reached in 7 cases, and 1 case (Walker) is still pending.

Of the 132 tracts acquired for other Bond Projects, 13 of them were acquired by condemnation. In other words, 9.85% of other Bond Projects were acquired by eminent domain. Of these 13 cases, settlements were ultimately reached in 12 cases, and 1 case resulted in a jury trial (Mike Baker).

Analysis of Condemnations

Bond Projects

Project Number Tracts Acquired Condemnations

Southern Corridor

Southern Corridor - Carley to Turner
 Southern Corridor - Turner to Hwy 265
 Southern Corridor - 40th to 48th
 Butterfield Coach w/ Southern Corridor to Hwy 265

BP0101 50 6
 BP0102 27 7
 BP0103 11 0
 BP0500 39 5
Southern Corridor Total **127** **18**

14.17%

Central Corridor

Central Corridor - Huntsville Avenue Phase I
 Central Corridor - Huntsville Avenue Phase II
 Central Corridor - Emma to Hwy 412

BP0201 145 5
 BP0202 19 2
 BP0203 49 0
Central Corridor Total **213** **7**

3.28%

Northern Corridor

Northern Corridor - Wagon Wheel Phase I
 Northern Corridor - Wagon Wheel Phase II

BP0301 28 2
 BP0302 51 6
Northern Corridor Total **79** **8**

10.13%

Other Bond Projects

Harber Avenue - Jones to Hwy 112
 Harber Avenue - 48th to Brush Creek
 48th Street - South of Brush Creek
 Turner Street - Colorado to Henson
 Silent Grove Road

BP0401 25 4
 BP0402 36 6
 BP0600 14 3
 BP0700 48 0
 BP0900 9 0
Other Bond Projects Total **132** **13**

9.85%

B. Capital Improvement Projects ("CIP Projects")

1. Overview of CIP Projects

The City of Springdale currently receives revenue from a sales tax that is levied for the sole purpose of funding capital improvement projects in the City of Springdale. These capital improvement projects are known as "CIP Projects".

As opposed to Bond Projects, City staff handles the land acquisition needed to get CIP projects moving. To assist staff, the City Council has adopted a formal land acquisition policy which addresses contacts with affected property owners, presenting offers, and securing the easements and property necessary for the construction of CIP Projects. The City oversees all aspects of the planning and construction of CIP Projects.

To ensure that taxpayer funds are being properly managed and invested, and to ensure that CIP Projects proceed as planned, the City Council has created a separate committee, called the Capital Improvement Project (CIP) Committee. This Committee meets periodically to review specifics of the CIP Program, to prioritize projects, and to make recommendations to the full City Council regarding CIP Projects.

If a property owner and the City are unable to agree on an amount of compensation to be paid to the property owner for the property needed for

a CIP Project, the City Council will authorize the City Attorney's Office to file an eminent domain (condemnation) action in court. This allows the City to obtain an Order of Possession for the property needed, thereby preventing any delays in the construction of CIP Projects. The issue of the amount of compensation due the property owner is dealt with at a later time. Sometimes, the issue of just compensation is eventually decided by a jury. However, most cases are ultimately resolved by the Springdale City Council approving an amount of compensation that is acceptable both to the property owner and to the City.

All condemnation cases involving CIP Projects are handled by the Springdale City Attorney's Office. No money is spent on outside legal counsel to handle CIP Project cases. In other words, the City does not have to enlist the assistance of outside legal counsel, as the Springdale City Attorney's Office handles these cases as part of their regular case and work load.

2. Condemnations in Capital Improvement Projects (CIP)

In all, 11 different CIP Projects have resulted in condemnation proceedings being filed by the City. In these 11 CIP projects, it was necessary to acquire easements and property involving 423 tracts of property. These 423 tracts can be broken down as follows:

**Breakdown of CIP Projects
No. of Tracts Acquired**

CIP Projects	No. of Tracts Acquired	Percentage
Turner Street – Hwy 412 to Colorado	86	20.34%
West Huntsville	107	25.29%
48 th St. (Elm Springs to Brush Creek)	23	5.44%
Backus – West End to 71B	60	14.18%
West End – Hwy 412 to Watson	7	1.65%
Gutensohn – Huntsville to Backus	53	12.53%
Oaklawn	27	6.38%
Brush Creek	31	7.33%
Intersection Improvements	6	1.42%
Electric Avenue	17	4.02%
Indianhead Estates Drainage	<u>6</u>	<u>1.42%</u>
Total	423	100%

Of the 423 tracts acquired for CIP Projects, 59 (13.95%) were acquired by condemnation. Of these 59 cases, settlements were ultimately reached in 55 cases, 3 resulted in a jury trial, and 1 resulted in a bench (non-jury) trial.

Analysis of Condemnations

CIP Projects	Project Number	Tracts Acquired	Condemnations
Turner Street - Hwy 412 to Colorado	CP9903	86	10
West Huntsville	CP9906	107	26
48th Street - Elm Springs Road to Brush Creek	CP0301	23	7
Backus Avenue - West End to 71B	CP0208	60	5
West End - Hwy 412 to Watson	CP0103	7	3
Gutensohn - Huntsville to Backus	CP0209	53	2
Oaklawn	CP9803	27	1
Brush Creek	CP9907	31	1
Electric Avenue	CP0101	17	1
Indianhead Estates Drainage	CP0107	6	1
	CP0511	6	2
Intersection Improvements (West End/Robinson, McRay/Gutensohn, McRay/40th, 71B/Arapaho)			
TOTAL (CIP Projects)		423	59
			13.95%

C. Bond Projects + CIP Projects

Between the Bond Projects and CIP Projects, the City had to acquire easements and property on a total of 974 tracts of land. Of the 974 total tracts acquired for these projects, 105 were acquired by condemnation. In other words, 10.78% of the properties needed were acquired by eminent domain. Of these 105 cases, settlements were ultimately reached in 96 cases, 6 resulted in a jury trial, 1 resulted in a bench (non-jury) trial, and 2 cases are still pending.

D. Miscellaneous Condemnation Cases

In addition to the condemnation cases resulting from Bond Projects and CIP Projects, the City Attorney's Office has handled other condemnation cases as well. Specifically, the City Attorney's Office has handled 4 other condemnation cases. These cases involved: 1) an expansion project for the Springdale Municipal Airport; 2) construction of North 45th Street in connection with a new business; 3) the widening of Watkins Avenue from 56th Street to 64th Street in connection with the construction of Arvest Ballpark; and 4) the protection of public utility easements in Hidden Hills Subdivision. Of these 4 cases, settlements were ultimately reached in 3 of them, and 1 case resulted in a jury trial (Sequoia Engineering).

E. Summary of Condemnation Cases

In total, the City Attorney's Office has handled 109 total condemnation cases. These 109 cases can be broken down as follows:

Breakdown of Condemnation Cases		
Origin	No. of Cases	Percentage
Bond Projects	46	42.20%
CIP Projects	59	54.13%
Miscellaneous	<u>4</u>	<u>3.67%</u>
Total	109	100%

Of these 109 condemnation cases, settlements were ultimately reached in 99 of them, 7 resulted in a jury trial, 1 resulted in a bench trial, and 2 cases are still pending (as of November 3, 2009).

F. Conclusion

This report clearly indicates that the City of Springdale, through its staff, its Bond Committee, its CIP Committee, and its City Council, has made every effort to resolve condemnation cases in a manner that is fair to property owners, as well as the taxpayers of our City.

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