

## Wooldridge, John

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**From:** Wooldridge, John  
**Sent:** Tuesday, March 28, 2023 12:34 PM  
**To:** Justine Allen; Heim, Kimber; Gilmore, Drew  
**Cc:** Corinna Efke; Avery Young; Miller, Jared  
**Subject:** RE: Motion for Statutory Costs; FAI 37-6.10 Parcels 1-SH1, 1-SH2, 1-T  
**Attachments:** ODOT v. Eicchorn Memo in Opposition (v.03) (D5 Edits).docx

Thanks Justine,

Attached are the edits from D5 (tracking turned on). Minor changes were made (typos and dollars/FMVE) and two sentences added to Section I and III. Please let us know if anything else is needed. Thank you, Justine.

Respectfully,

### John R. Wooldridge

*Real Estate Administrator*

ODOT District 5

9600 Jacksontown Road, Jacksontown, OH 43030

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**From:** Justine Allen <Justine.Allen@OhioAGO.gov>  
**Sent:** Tuesday, March 28, 2023 9:47 AM  
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**Cc:** Corinna Efke <Corinna.Efke@OhioAGO.gov>; Avery Young <Avery.Young@OhioAGO.gov>; Miller, Jared <Jared.Miller@dot.ohio.gov>  
**Subject:** RE: Motion for Statutory Costs; FAI 37-6.10 Parcels 1-SH1, 1-SH2, 1-T

Hi Everyone,

I've attached a draft of the Memo in Opposition. Please feel free to review and send any suggestions or edits that you would like me to consider. I plan to file this Thursday morning and I will probably make my final edits and adjustments Wednesday afternoon.

Thanks,  
-Justine

### **Justine A. Allen**

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**Sent:** Wednesday, March 8, 2023 11:18 AM  
**To:** Avery Young <[Avery.Young@OhioAGO.gov](mailto:Avery.Young@OhioAGO.gov)>; [Kimber.Heim@dot.ohio.gov](mailto:Kimber.Heim@dot.ohio.gov)  
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**Subject:** RE: Motion for Statutory Costs; FAI 37-6.10 Parcels 1-SH1, 1-SH2, 1-T

Thanks Avery,

Your timing of email is great as I was planning to inquire about this later this week.

As for the Attorney fees, please also add the factual "exclusive" argument that I explained in addition to the 'policy' argument. I think that is a stronger position and would provide a second reason to disallow the fees. District greatly appreciates your willingness to combat that claim. Thank you.

As for appeal, I still believe it was in error to allow the \$85K/AC of the neighbor property's appraisal report. It was irrelevant to the subject property and overly prejudicial as evidenced by the Jury deliberation question and discussions with Juror after the case. It did not impeach the witness regarding H&BU nor Larger Parcel as opposing counsel successfully argued to the Judge to get that line of questions in after the objection. I would like that issue appealed but understand the position taken by your office. I appreciate that you considered our arguments. Please let me know if any additional information can be provided to change that decision regarding appealing the overruled objection on the testimony of another property appraisal on cross by owner's Attorney.

Thank you and have a great day.

Respectfully,

**John R. Wooldridge**

*Real Estate Administrator*

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**From:** Avery Young <[Avery.Young@OhioAGO.gov](mailto:Avery.Young@OhioAGO.gov)>  
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**Subject:** RE: Motion for Statutory Costs; FAI 37-6.10 Parcels 1-SH1, 1-SH2, 1-T

John,

Thank you for meeting with us last week to discuss this case. Following our conversation I spoke with Justine and Corinna regarding the issue of attorney's fees and we agree that combating the landowner's request for attorney's fees with the policy argument of having to pay fees when the Defendant reached the CAUV threshold by arguing the land

should be valued as commercial land is a worthwhile argument. Justine filed a motion to extend our time to respond to the Defendant's request for fees and the Court has set a non-oral hearing on March 24, 2023, to consider the issue. In the meantime we will prepare a response to the Defendant's request arguing our policy position.

Considering the issue of appeal in this case, we have discussed this topic amongst ourselves as well as with other attorneys in our unit and have also performed additional research on all potential appealable issues. Through this research and discussions we have come to the conclusion that there are no appealable issues that we can argue in this case and will not be appealing the jury verdict.

We will keep you updated on our fees argument with the Court. Let us know if you have any questions. Thanks!



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**Subject:** RE: Motion for Statutory Costs; FAI 37-6.10 Parcels 1-SH1, 1-SH2, 1-T

Thanks Avery,

We appreciate the opportunity to meet today and discuss this issue. Attached are the Fairfield County Auditor records regarding the CAUV. The property is not "exclusively" in the CAUV program, and the appropriated property (part of land and all the structure) is not taxed as CAUV/Agricultural. As you can see, the building in the take is classified as 'restaurant' use and is not part of the CAUV reduced valuation. It is also noted that the 0.9570 AC at the corner (all the take from SR256 side and a portion of the SR37 side) is "NONAG" Type and not within the CAUV discount. It has not been used as "agricultural" as defined in ORC currently or for about 100 years.

For reference, the original offer was the FMVE of \$19,440 and ODOT made offers to settle the parcel for \$25,000 before filing the case and \$24,000 after getting their appraisal. I would agree that the settlements offered at mediation would not meet the time deadlines in the ORC. If the Motion is not dismissed altogether, then it should at least be reduced accordingly (both by offers and building value).

Thank you for considering our recommendations. Please keep us informed of the attorney fees motion and the appeal opportunity that we previously discussed. Thank you, Avery and have a nice day.

Respectfully,

**John R. Wooldridge**

*Real Estate Administrator*

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**From:** Avery Young <[Avery.Young@OhioAGO.gov](mailto:Avery.Young@OhioAGO.gov)>

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**Subject:** Motion for Statutory Costs; FAI 37-6.10 Parcels 1-SH1, 1-SH2, 1-T

John,

Please see the attached Motion that opposing counsel has filed to recover statutory costs of \$24,400.62 for court costs and attorney's fees. This would be additional funds on top of the verdict of \$112,472.50. Justine and I have discussed this issue with our office and done additional research on the issue. We have come to the conclusion based on a close reading of R.C. 163.21, that Mr. Eichhorn's property does in fact qualify for the additional costs given its current agricultural use and its designation of CAUV on the Fairfield County Auditor's website. Due to this information we are not able to oppose the payment of these costs due to there being no legal argument against the request.

The only thing we could potentially contest on this issue would be the specific dollar amount. We have reached out to opposing counsel to get an itemized list of their fees. Once we get that information we will review it for accuracy and will update you once that is done.

Let us know if you have any questions. Thanks!



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