

FILED

IN THE COMMON PLEAS COURT OF FAIRFIELD COUNTY, OHIO

JACK MARCHBANKS, Director, Ohio :
Department of Transportation,

Plaintiff, :

v. :

EICHHORN LIMITED :
PARTNERSHIP, et al.

Defendants. :

Case No. 21CV457

JUDGE RICHARD E. BERENS

**ENTRY REGARDING MOTION
TO TAX STATUTORY COSTS**

2023 APR 13 AM 11:36

BRANDEN C. MEYER
CLERK OF COURTS
FAIRFIELD CO. OHIO

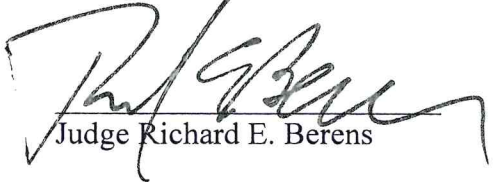
This matter is before the Court on Defendant Eichhorn Limited Partnership's ("Defendant") Motion to Tax Statutory Costs to Plaintiff pursuant to O.R.C. 163.21(C), filed February 23, 2023. Plaintiff filed a memorandum in opposition on March 30, 2023, to which Defendant replied on April 7, 2023.

The Court finds, based on evidence presented during the proceedings in this case, including the appraisal reports of both parties, that the property appropriated was used for agricultural purposes as defined in O.R.C section 303.01 and 519.01 and that the final award of compensation, to wit, \$112,472.50, is more than one hundred fifty percent of Plaintiff's last offer, to wit, \$25,000. *see*, O.R.C. 163.21(C)(2). Therefore, "the court shall enter judgment in favor of the owner for costs and expenses, including attorney's and appraisal fees, that the owner actually incurred . . . *Id.*

The Court further finds that the record of this case lacks evidence of "costs and expenses" that were "actually incurred". Therefore, while the Court GRANTS judgment in favor of Defendant Eichhorn Limited Partnership, for costs and expenses pursuant to O.R.C. 163.21(C) the Court ORDERS a hearing be scheduled to establish the amount of "costs and expenses" that

were “actually incurred” unless the parties are otherwise able to reach an agreement as to the costs and expenses actually incurred by Defendant.

IT IS SO ORDERED.



Judge Richard E. Berens

Copies to:

Aaron E. Kenter, Attorney for Defendant Eichhorn Limited Partnership, 500 South Front Street, Suite 1200,
Columbus, OH 43215

Justine A. Allen & Avery T. Young, Attorneys for Plaintiff, 300 East Broad Street, 26th Floor, Columbus, OH
43215

Amy Brown-Thompson, Attorney for Fairfield County Auditor and Treasurer, via Courthouse Mailbox

Jeff J. Spangler & Bryan M. Everitt, Attorneys for Defendant Vinton County National Bank, 144 East Main Street,
P.O. Box 667, Lancaster, OH 43130