

Wooldridge, John

From: Wooldridge, John
Sent: Friday, March 25, 2022 3:52 PM
To: Justine Allen; Heim, Kimber
Cc: Miller, Jared; Corinna Efke
Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

Good Evening Justine,

I have looked over this report and I do not understand the determination of the larger parcel (the same issue with Vanetta's reports). Jeff states:

23. Identification of the Larger Parcel – Before the Taking

Test of the Larger Parcel

Unity of Ownership: The subject consists of tax parcel(s) 0490263400 and 0490263420, confirmed by R/W plans and the title report. According to the county auditor and the title report, the owner of record is ACT Investments LLC, who acquired the property on November 20, 2020 from Wagner Rentals LLC for \$969,360. The transaction is recorded in 202000026495.

To the best of our knowledge, no other sale or transfer of ownership has occurred within the past five years, and as of the effective date of this appraisal, the property is not subject to an agreement of sale or option to buy, nor is it listed for sale.

Unity of Use: The subject consists of a 67.340 net acre site.

Contiguity: The entire subject site consists of one contiguous site, which is irregular in shape.

Larger Parcel A is identified as a 61.158 net acre mixed-use site.

Larger Parcel B is identified as a 6.182 net acre commercial site at the corner of State Route 256 and State Route 37.

I do not understand how a parcel meets all three tests of one (1) larger parcel but then becomes two (2) for the valuation. He clearly states that it was purchased and owned as one, is all used as one (agricultural interim while holding for mixed use), and is clearly contiguous. He then separates the corner 'commercial' from the 'mixed' use. That is the whole report. This larger parcel distinction results in an apparent increase in property value of the whole (before) of about 40% over the last 16 months when purchased. I recall from appraiser classes that "the sum of the parts cannot be greater than the whole." We paid for an opinion of value and received it. I would also note that the Subject property (as one whole piece) sale from 2020 was used as a comp for LP1 without an adjustment for the corner (LP2) being included in that sale.

I agree that we should have a meeting and discuss next steps, such as negotiating a settlement given that the valuations are not so far apart with this report. Thank you Justine; we hope you have a great weekend too.

Respectfully,

John R. Wooldridge

Real Estate Administrator

ODOT District 5

9600 Jacksontown Road, Jacksontown, OH 43030

740.323.5427

transportation.ohio.gov

From: Justine Allen <Justine.Allen@OhioAGO.gov>

Sent: Friday, March 25, 2022 3:10 PM

To: Wooldridge, John <John.Wooldridge@dot.ohio.gov>; Heim, Kimber <Kimber.Heim@dot.ohio.gov>

Cc: Miller, Jared <Jared.Miller@dot.ohio.gov>; Corinna Efke <Corinna.Efke@OhioAGO.gov>

Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

Good Afternoon Everyone,

Yesterday I received Jeff Helbig's appraisal for parcel 2. Please review and share your thoughts. Please note in the appraisal summary the price per acre for parcel 2-SH2 should be \$85,000 not \$14,000.

We should have the appraisal for parcel 1 sometime next week. Let's look at scheduling a Teams meeting the week of April 4, 2022 to discuss next steps for these parcels. Have a great weekend!

Thanks,
-Justine

Justine A. Allen

Assistant Attorney General – Executive Agencies Section

Transportation Unit

Office of Ohio Attorney General Dave Yost

Office number:(614)466-5829

Fax number:(866) 815-2731

Justine.Allen@OhioAGO.gov

From: John.Wooldridge@dot.ohio.gov <John.Wooldridge@dot.ohio.gov>

Sent: Tuesday, March 15, 2022 12:52 PM

To: Justine Allen <Justine.Allen@OhioAGO.gov>; Kimber.Heim@dot.ohio.gov; Jared.Miller@dot.ohio.gov; Corinna Efke <Corinna.Efke@OhioAGO.gov>

Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

Hello Justine,

Hope you are doing well today. I have looked through this Owner's Appraisal Report by Vanetta and can provide a few comments at this time. Additionally, I would also like us to discuss in a Teams meeting upon your return and when it works for your schedule. I think it would be best to receive the requested summary appraisal from Jeff Helbig prior to making any counter offers or having a formalized mediation or even an informal attempt to negotiate. The Vanetta Appraisal report did not contain any surprises to me and was actually a little lower than expected by me from him. Jeff's report is due on 4/1/22 per the contract authorization and he verbally mentioned he would attempt to get it to us a little earlier if possible. Here are some of my comments regarding the Vanetta Appraisal:

- Deja Vue! This was a 'rinse n repeat' of the Eichhorn report without the comments about building structure or the zoning error:
- Did not appraisal the whole (only what he defined as Larger Parcel A which happens to be only the project take area as squared off).
- Did not adjust his Parcel "A" in the after even though an end user would (i.e. user would use more of the farm to have the desired size if subdivided).
- Comps were 2, 2, 3, & 16 acres without consideration of the parcel being ~70 acres.

- Upon using comps that would be for 2-3 acres, the report does not address the holding costs for the time to sell off such properties (such as the DQ comp out-sale); i.e., no discount rate or adjustment for what would be a subdivision of outparcels (last one was sold about 7 years ago).
- The differences are rather simplistic in that it is only price per acre.

For both, the entirety of the issue is the Larger Parcel and therefore comps to use. Has the AGO had recent luck at trial with this issue (small comps for large tracts or differences in size of larger parcel)? Something to discuss at a meeting next week.

I would like to receive Jeff's report before discussing next steps, including any counter offers. Thank you and have a nice evening.

Respectfully,

John R. Wooldridge

Real Estate Administrator

ODOT District 5

9600 Jacksontown Road, Jacksontown, OH 43030

740.323.5427

transportation.ohio.gov



**OHIO DEPARTMENT OF
TRANSPORTATION**

From: Justine Allen <Justine.Allen@OhioAGO.gov>

Sent: Friday, March 11, 2022 3:39 PM

To: Heim, Kimber <Kimber.Heim@dot.ohio.gov>; Miller, Jared <Jared.Miller@dot.ohio.gov>; Corinna Efke <Corinna.Efke@OhioAGO.gov>; Wooldridge, John <John.Wooldridge@dot.ohio.gov>

Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

Good Afternoon Everyone,

Today I received landowners appraisal for parcel 2 along with the following counter offer:

Hi Corinna and Justine,

I have received our appraisal in the ACT Investments appropriation and attached it here for your review. Consistent with the findings of the appraisal, my client has authorized me to submit a counter offer of \$63,770. I look forward to receiving ODOT's response.

Please review and share your thoughts. Let's look at scheduling a Teams meeting the week of the March 21, to discuss next steps for these parcels. Have a great weekend!

Thanks,

-Justine

Justine A. Allen

Assistant Attorney General – Executive Agencies Section

Transportation Unit

Office of Ohio Attorney General Dave Yost

Office number:(614)466-5829

Fax number:(866) 815-2731
Justine.Allen@OhioAGO.gov

From: Kimber.Heim@dot.ohio.gov <Kimber.Heim@dot.ohio.gov>
Sent: Friday, March 11, 2022 9:31 AM
To: Jared.Miller@dot.ohio.gov; Corinna Efke <Corinna.Efke@OhioAGO.gov>; John.Wooldridge@dot.ohio.gov; Justine Allen <Justine.Allen@OhioAGO.gov>
Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

Wow Jared, you are quick... I am in the middle of my thoughts and here you are....I concur with your statements below concerning the **creation** of 12.5 acres of commercial land which was created to coincide with our acquisition area.

Counter value **under** the initial request and demand to be appropriated of \$175,00.00.

If we agree to any counter offer, can we negotiate the 150% rule for ag land not applying if we allow commercial land appraisal change to support the increase in compensation?

Access to develop this 12.5 acres would not be allowed. The project is being done for safety and the SR 37 and SR 256 acquisition areas will not allow accesses to be **ADDED**. So no additional drive, but the field drive off of SR 37, will be allowed. Actual access for the larger parcel of 111 acres is off SR 37 at the residential location past the acquisition area..

I also am available the week Corinna returns to discuss, week of 03/21, available Monday 03/21 all day and Friday, 03/25. Available all week 03/28 to 04/01.

The appraiser is \$10K per acre under what we determined the commercial compensation for the other parcels, i.e. PCL 015, 017, etc. I do not concur at all with \$45K for the structure...the pics from outside and far away to make sure the missing roof not caught in the pics??

Hope everyone has a great Friday and weekend...and glad we are finally getting in to counter offer details.

Kimber L. Heim

Realty Specialist Manager
ODOT – District 5
9600 Jacksontown Road
Jacksontown, OH 43030
Ph: 740-323-5422 (direct) Cell: 740-814-0708
FAX: 740-323-5125



From: Miller, Jared <Jared.Miller@dot.ohio.gov>
Sent: Friday, March 11, 2022 9:12 AM
To: Corinna Efke <Corinna.Efke@OhioAGO.gov>; Heim, Kimber <Kimber.Heim@dot.ohio.gov>; Wooldridge, John <John.Wooldridge@dot.ohio.gov>; Justine Allen <Justine.Allen@OhioAGO.gov>
Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

All,

My initial thought is there is a discrepancy between the appraiser's opinions on the likelihood of commercial development. The best way to understand this concept is a continuum between pure agricultural value and commercial development value. As the demand for commercial development increases and the needed infrastructure (water &

sanitary) is constructed, the property value will begin to move toward commercial values. Here, we have a property that does have some commercial development potential (justified by the adjacent commercial development) but does not have public utilities. A developer purchasing this site would consider the holding cost of the property until utilities (and demand) for commercial development are available or discount the price by the cost associated with constructing a well, septic, and storm (permits, design, and construction). A proper appraisal would use sales that are in a similar stage of this continuum between agricultural and commercial development.

Let me know when you want to meet and I will have both appraisals reviewed and more detailed comments to help with mediation.

Jared T. Miller, MAI | CPM | MBA

Appraisal Section Manager

Office of Real Estate

1980 W. Broad Street, MS 4120, Columbus, Ohio 43223

(p) 614.752.6151 (m) 419.569.3113

transportation.ohio.gov



From: Corinna Efkehan <Corinna.Efkehan@OhioAGO.gov>

Sent: Thursday, March 10, 2022 9:17 PM

To: Heim, Kimber <Kimber.Heim@dot.ohio.gov>; Wooldridge, John <John.Wooldridge@dot.ohio.gov>; Justine Allen <Justine.Allen@OhioAGO.gov>; Miller, Jared <Jared.Miller@dot.ohio.gov>

Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Appraisal and Mediation

Good evening!

Earlier today, I received the landowner's appraisal (see attached) and the companion email:

Hi Corinna and Justine,

I have received our appraisal in the Eichhorn appropriation and attached it here for your review. This appraisal found no residue damages, but found a much higher value for the property taken and the improvements taken than that found by ODOT's appraiser. I believe that ODOT's appraiser was mistaken in valuing the property at an agricultural use rather than a commercial use. Given the uses of the neighboring properties at the intersection, it is clear that the property's highest and best use is commercial. Additionally, ODOT's appraiser used sales that are quite distant from the subject and overlooked nearby sales that support a much higher value. In consideration of these facts, my client has authorized me to submit a counter offer of \$131,432.50. I look forward to receiving ODOT's response.

I also received a second email today in which landowner's counsel agreed to scheduling a mediation with Frank Ray, as we had previously discussed. I have not had an opportunity to review the appraisal provided, but I would ask you all to take a look at it. I would like to schedule a meeting to discuss next

steps, e.g. do we want to stall a formal mediation until we receive our full appraisal? Do we want to attempt an informal negotiation?

I am off all of next week, but Justine can answer any questions/concerns as well as me, so please feel free to respond with your thoughts.

Thanks,
Corinna

From: Kimber.Heim@dot.ohio.gov <Kimber.Heim@dot.ohio.gov>
Sent: Wednesday, February 16, 2022 6:41 AM
To: John.Wooldridge@dot.ohio.gov; Corinna Efkehan <Corinna.Efkehan@OhioAGO.gov>; Justine Allen <Justine.Allen@OhioAGO.gov>; Jared.Miller@dot.ohio.gov
Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Discovery Mtg w/Landowner's Counsel

What a great email for the morning. Sounds like an agreement is going to be in our future.

I have the photos organized for printing...no worries. Would take me a day to put together the Red Book, if requested.

Thanks ladies...good to know same attorney for both parcels.

Kimber L. Heim

Realty Specialist Manager
ODOT – District 5
9600 Jacksontown Road
Jacksontown, OH 43030
Ph: 740-323-5422 (direct) Cell: 740-814-0708
FAX: 740-323-5125



From: Wooldridge, John <John.Wooldridge@dot.ohio.gov>
Sent: Tuesday, February 15, 2022 5:12 PM
To: Corinna Efkehan <Corinna.Efkehan@OhioAGO.gov>; Heim, Kimber <Kimber.Heim@dot.ohio.gov>; Justine Allen <Justine.Allen@OhioAGO.gov>; Miller, Jared <Jared.Miller@dot.ohio.gov>
Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Discovery Mtg w/Landowner's Counsel

Thanks Corinna,

We appreciate the updates. Here are my thoughts:

- If you have an opinion about mediators, please advise.
 - D5 has used Frank Ray to successfully mediate before and we do not have an objection to him. I recall he demands a lot of front end effort before the mediation (statements, etc.).
 - I am unfamiliar with John Alton but have no reason to exclude his use.
 - We have worked with Frank Hinkle as an Appraiser before (but not mediator). I could see value in his Appraisal AND Attorney background given the issue seems to be solely based on the valuation.

- If you know the time-frame for the structure removal, please advise.
 - Contract awarded to the Shelly Company on 1/20/22. They are approved to begin construction (including demo) on 4/1/22. Please let me know if you would like for me to inquire with construction as to a more specific time frame (it will be towards the beginning of project as it needs removed to do the drainage grading which is done before roadway or signalization, etc.).
- You might want to hold-off on the redbook process.
 - Kimber has all the electronic photos. She can prepare the 'redbook' at any time without losing the opportunity (she could just provide the files if that is the best evidence for the case). She can hold.

I do not have any questions. We will review appraisals when available and entertain counter offers if provided through your office. Thanks and have a great evening.

Respectfully,

John R. Wooldridge

Real Estate Administrator

ODOT District 5

9600 Jacksontown Road, Jacksontown, OH 43030

740.323.5427

transportation.ohio.gov



**OHIO DEPARTMENT OF
TRANSPORTATION**

From: Corinna Efkehan <Corinna.Efkehan@OhioAGO.gov>

Sent: Tuesday, February 15, 2022 4:42 PM

To: Wooldridge, John <John.Wooldridge@dot.ohio.gov>; Heim, Kimber <Kimber.Heim@dot.ohio.gov>; Justine Allen <Justine.Allen@OhioAGO.gov>; Miller, Jared <Jared.Miller@dot.ohio.gov>

Subject: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Discovery Mtg w/Landowner's Counsel

Good afternoon!

Justine and I had a telephone meeting with opposing counsel this afternoon for parcels 1 and 2 to discuss our discovery plan as required by the civil rules.

Opposing counsel is the same person for both parcels and the discovery plan is due to the court by March 10, 2022.

During the meeting, opposing counsel indicated he did not have a counteroffer for us yet, because he has not received the final appraisal reports from his appraiser yet. He did state, rather surprisingly, that he did not think this would be a case of large damages, but rather an issue of differing land values. He thinks his reports will come back within a range that would make settlement a possibility.

We then discussed scheduling this matter for mediation. He suggested we mediate sometime in March, however I suggested we look into April (knowing that we will not have our full appraisals back until then. We did not disclose that we are having full appraisals done). He recommended using Frank Ray or John

Alton for the mediator. I suggested Frank Hinkle. We agreed to revisit which mediator we would use at a later date.

Next, I let him know that ODOT was putting together a redbook for the structure on Parcel 1. He stated he would consider agreeing to a waiver of the redbook requirement if we could provide him with the date/time-frame of its removal.

Finally, we agreed that the deadlines provided by the court are still attainable by both parties, so we would not need to request any altering of deadlines at this time. Opposing counsel requested we block out some time over the summer for depositions, just in case we are unable to settle and our calendars fill up, but I thought that doing that was a bit premature.

- If you have an opinion about mediators, please advise.
- If you know the time-frame for the structure removal, please advise.
- You might want to hold-off on the redbook process.

I will update you as soon as we receive landowner's appraisals for these parcels.

Please let me know if you have any questions –
Thanks,
Corinna

From: Corinna Efke <Corinna.Efke@OhioAGO.gov>
Sent: Wednesday, February 9, 2022 12:08 PM
To: John.Wooldridge@dot.ohio.gov; Kimber.Heim@dot.ohio.gov; Justine Allen <Justine.Allen@OhioAGO.gov>; Jared.Miller@dot.ohio.gov
Subject: FW: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Additional Information for Appraisals

Just to close the loop for you – Jeff responded and confirmed receipt of the documents provided. He will reach out if he requires anything additional. See below.
Thanks,
Corinna

From: Jeffrey Helbig <jhelbig@irr.com>
Sent: Tuesday, February 8, 2022 5:03 PM
To: Corinna Efke <Corinna.Efke@OhioAGO.gov>
Subject: RE: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Additional Information for Appraisals

Corinna,

I have downloaded the information from the ftp site. I will contact you if any questions occur during review of the documents.

Thanks again,

Jeffrey R. Helbig

Director
Integra Realty Resources
6233 Riverside Drive, Suite 2N, Dublin, OH 43017
T 614.398.4319
jhelbig@irr.com | www.irr.com/columbus | [IRR Viewpoint](#)
Cincinnati/Dayton | Columbus

From: Corinna Efkehan <Corinna.Efkehan@OhioAGO.gov>
Sent: Tuesday, February 08, 2022 4:24 PM
To: Jeffrey Helbig <jhelbig@irr.com>
Cc: John.Wooldridge@dot.ohio.gov; Kimber.Heim@dot.ohio.gov; Justine Allen <Justine.Allen@OhioAGO.gov>; Jared.Miller@dot.ohio.gov
Subject: FAI 037, 110412, Pcl 1 & 2 / ATTORNEY-CLIENT PRIVILEGED COMMUNICATION - Additional Information for Appraisals

Jeff –

Thank you for meeting with us to discuss the appraisals for FAI 37-06.10, 110412, Parcels 1 and 2.

As requested, please find all the plans, legal descriptions, titles, and other information for your use. The items were all saved to the FTP site as the total size of files exceeds the send or receive limits. Please note that the plans called “110412_Confirmed.pdf” are from 1/31/22 and are the most current and accurate; they also include the final R/W Plans.

<ftp://ftp.dot.state.oh.us/pub/districts/d05/Projects/FAI/110412/Real%20Estate/>

Additionally, to the best of ODOT’s knowledge; no utility work (or any other work) has been performed on the Parcel 1 or Parcel 2. Utilities just approved a permit and that work will begin in the near future, but not yet started. Therefore, I believe the date of valuation should be the date of accompaniment for your report.

Please let us know if you need anything additional.

Thanks,

Corinna

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Corinna V. Efkehan
Unit Coordinator - Transportation
Executive Agencies Section
Office of Ohio Attorney General Dave Yost
Office: (614) 466-3036
Direct: (614) 466-4856
Fax: (866) 411-5681
Corinna.Efkehan@OhioAGO.gov



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