



DAVE YOST

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PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

TO: John Wooldridg, ODOT District 5, Real Estate Administrator

THROUGH: Rachel O. Huston, Chief, Executive Agencies
Corinna V. Efkeman, Unit Coordinator, Transportation Unit

FROM: Justine A. Allen, Assistant Attorney General

DATE: August 19, 2022

RE: CASE SETTLEMENT REVIEW

Marchbanks, Director of ODOT v. ACT Investments, LLC, et al.,
Fairfield County Case No. 21CV456, Judge David A. Trimmer

Date Case Filed: October 6, 2021

Amount of Deposit: \$18,218

Total FMVE: \$55,700

Landowner's Demand: \$63,770

Landowner's Second Demand: \$62,000

Additional monies needed: \$40,782

FAI 37-6.10

PID 110412

Parcel No. 2-SH1, 2-SH2

Matrix [605179](#)

Landowner's Counsel: Aaron E. Kenter
Clinton P. Stahler

Settlement Amount: \$59,000

Accordingly, please do the following:

- **Process a warrant for an additional \$40,782.**
- **Do NOT mail or deliver the warrant until you get a file-stamped copy of the settlement entry**
- **After you get a file-stamped copy of the settlement entry:**
 - **Mail or deliver the warrant to the Fairfield County Clerk of Courts—NOT the Attorney General's Office, and**
 - **Email the assigned AAG that you have mailed or delivered the warrant**

ODOT's Project: This project includes the widening of 1.2 miles of roadway at the intersection of State Routes 37 and 256, providing a left-turn lane for each approach and reconstructing the existing traffic signals in Fairfield County, Ohio.

Subject Property and Takings: The subject is identified as Auditor’s parcel numbers 0490263400 and 0490263420 located on the southwest corner of Lancaster-Newark Road and Baltimore-Somerset Road NE, Baltimore, Walnut Township, Fairfield County, Ohio. Per the county auditor and right of way plans provided, the subject is owned by ACT Investments LLC and contains a record area of 67.340 net acres.

There are two standard highway easements needed from the subject property.

Parcel 2-SH1 is a permanent standard highway easement, containing 0.190 net acres. This proposed acquisition lies along the western half of the northern portion of the subject site along Baltimore-Somerset Road. The proposed acquisition has a maximum depth of approximately 20 feet. The acquisition is irregular in shape.

Parcel 2-SH2 is a permanent standard highway easement, containing 0.721 net acres. This proposed acquisition lies along the eastern half of the northern portion of the subject site along Baltimore-Somerset Road. The proposed acquisition has a maximum depth of approximately 45 feet. The acquisition is irregular in shape.

ODOT’s Appraisal: Jeffery Helbig prepared the appraisal on behalf of ODOT. Using the sales comparison approach Helbig determined a reconciled land value of \$14,000 per acre for Larger Parcel A and \$85,000 per acre for Larger Parcel B.

Helbig’s figure for the land taken for Parcels 2-SH1 and 2-SH2 is **\$55,700**.

Allocation of Compensation to the Part Taken					
	Parcel No.	Area	Description	Amount	
Land	2-SH1	0.190 Ac	Land @ \$14,000/Ac, Less \$1, Rnd. (LP A)	\$2,699	
	2-SH1	0.417 Ac	P.R.O.	\$1	
	2-SH2	0.118 Ac	Land @ \$14,000/Ac, Less \$1, Rnd. (LP A)	\$1,700	
	2-SH2	0.603 Ac	Land @ \$85,000/Ac, Less \$1, Rnd. (LP B)	\$51,299	
	2-SH2	0.775 Ac	P.R.O.	\$1	
	Total Allocation to Land Taken				\$55,700
Site Improvements					
	Total Allocation to Site Improvements Taken				\$0
Structures					
	Total Allocation to Structures Taken				\$0
	Total Allocation to the Part Taken				\$55,700

Helbig’s appraisal did not find any damages to the residue nor were there any improvements taken.

Total FMVE = **\$55,700**

Landowners' Appraisal: Richard Vannatta prepared the appraisal on behalf of the property owner. Using the sales comparison approach Vannatta determined a reconciled land value of \$70,000 per acre.

Vannatta's figure for the land taken is **\$63,770**.

Negotiation:

On March 11, 2022 opposing counsel provided the landowner's full Summary appraisal as well as a counter offer of \$63,770. After receiving and discussing our full summary appraisal report with ODOT I responded to opposing counsel on April 27, 2022 declining their previous offer and offer our new FMVE of \$55,700. On May 2, 2022, opposing counsel declined this offer and offered \$62,000. After a discussion with ODOT on May 13, 2022 I declined opposing counsel's previous offer and offered \$59,000 to settle this matter.

On May 26, 2022 I received an email from the district indicating that they would like to add repair or replacement of a field tile (damaged by tree roots) to the settlement. While the replacement of the field tile was not necessary to complete the project, it would prevent additional issues. I reached out to opposing counsel via phone to discuss this matter. On June 2, 2022 I followed up with him about this matter via email. On June 16, 2022 Opposing Counsel reached out via phone and accepted ODOT's offer. After several rounds of Revisions to the Work Agreement and Judgment Entry on Settlement all documents were signed or approved by all parties. This matter is closed.

PHOTOGRAPHS OF PARCEL 2



State Route 37 looking north



State Route 256 looking west



State Route 256 looking east



View of Larger Parcel B looking southwest.



View of western portion of site from State Route 256
(Larger Parcel A)



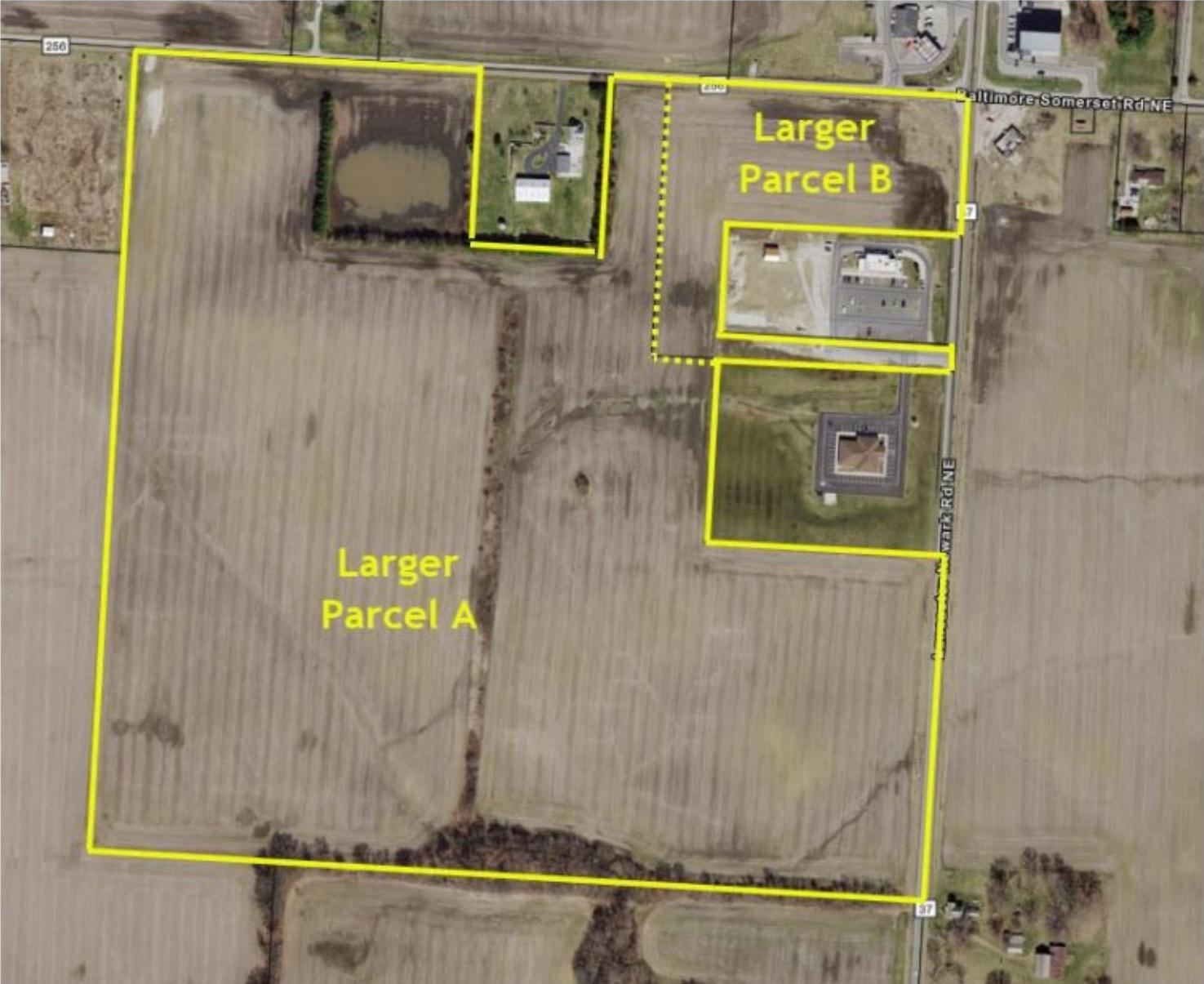
View of Parcel 2-SH1 looking east (Larger Parcel A)



View of Parcel 2-SH2 looking east (Larger Parcel A)



State Route 37 looking south



TAKE DIAGRAM

