

Consideration of enhancements in the appraisal process

by Lawrence D. Dupree

. . . in order for enhancements to be applied to the property being appraised, the appraiser must determine that benefits are permanent, not temporary.

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Prior to joining the Department, Dupree built single-family and multi-family structures, as well as, commercial and light industrial structures. He received his degree from the University of Arkansas at Little Rock in 1971.

The consideration of enhancement or, if you will, the importance of enhancement under the Constitution of the United States and delegated to the various States, places the appraiser in a position where he must consider enhancement in his estimated value and appraisal of the property in question when a part taken is required.

You know, as professionals in the Right of Way field, that this puts the appraiser in a position where he must seek legal advice from attorneys in the area as to whether or not enhancement can be considered and, if it can, how can it be considered. The breakdown of general and special benefits under the appraiser's known situation will lead him to conduct his investigations of the facts in one of several ways.

There are four states and one territory

which do not allow the consideration of benefits, either general or special, in determining just compensation under an eminent domain action. These are Iowa, Mississippi, Oklahoma, Kentucky (except as consequential damages) and Puerto Rico.

Other states do allow the consideration of enhancement under varying conditions. These conditions range from special benefits being offset against damages to the remainder, but not the value of the part taken, to both special and general benefits being set off, not only against the damages to the remainder but also the part taken. The former condition exists in twenty-one states and the latter condition exists in five states. The state from which I hail (Arkansas) is one of thirteen states which allow only special benefits to be offset. But these special benefits may be offset against both the damages to the remainder and the value of the part taken. This leaves only one category in which benefits may be handled differently from those already mentioned. This is the situation where both special or general benefits may be offset against damages to the remainder and not the part taken. This situation applies to two states only.

The difference between special and general benefits are held out to be that special benefits are those benefits which

cause the land value to increase due to its particular location when related to the improvement or project. General benefits, on the other hand, are those benefits which cause the value to increase due to the project or improvement which is common to the properties located along or adjacent to its route or location.

In the process of making a determination of whether or not enhancements should be applied to the property being appraised, the appraiser must consider permanent and not temporary benefits. But, at the same time, he must not disregard the benefits of the project just because there is a possibility that the project may be terminated. She or he must take into consideration that benefits to other tracts cannot be taken into consideration just because of the project or improvement.

Also, the appraiser must consider only a specific property involved in the part taken and the damages purported to this specific property due to the project or improvement considered in the application of enhancement.

The property to which the consideration of benefits are applied must be one ownership, and further, these benefits, whether general or special, must come as a result of the project or the improvement in order for them to be considered.



The fact that properties along, say a newly located roadway, have increased in value to a degree above those properties that do not enjoy this frontage, is that measure of general benefits enjoyed by these properties as a result of the project. This degree of general benefit is enjoyed by all properties along the newly located roadway and any property that enjoys a greater degree of benefit due to its specific location along the newly located roadway may, in fact, be enjoying special benefits.

The appraiser must go back into the real estate sales market at this point, talk to brokers, investors, bankers, and individual buyers and sellers, to gather material facts that can be relied upon for his opinion as to whether or not the property he is appraising enjoys *special* rather than general benefits.

This determination of whether or not a property enjoys a general or special benefit should result in the appraiser going into as much detailed research of each comparable sale as he can. It is the opinion of the appraiser, based upon the facts surrounding the properties situation,

that determines the type and measure of benefits or damages. Therefore, it is the appraiser's obligation to gather all the relevant facts that he can surrounding each sale.

Such a gathering of information could lead an appraiser to discover that a lot, which was once an interior lot has been made into a corner lot by a project or improvement, and as a result of this particular project or improvement the land increased in value. This would, upon further investigation by the appraiser, be found to be classified as a special benefit under several jurisdictions. Similarly, if the property being appraised enjoyed this same distinction of being transformed from an interior lot into a corner lot, then it follows that there is a high possibility that the property being appraised has received special benefits as a result of the project which transformed it.

There are several instances where certain benefits occurring to a property have been classified as special benefits. Some of these are as follows:

1. The draining of low lands as a

result of the construction of improvements.

2. A water course opened or made available for irrigation as a result of the construction of an improvement.
3. Where a parcel of land has been filled, leveled, and made more usable as a result of surplus dirt being used.
4. Where the improvement has made ingress and egress better and more usable.
5. Where a particular property was made more desirable and salable.
6. Where a property was rendered better suited for billboard advertising.

These instances are but a few special benefits I have come across in my investigation of the subject of enhancement.

General benefits, on the other hand, may be those benefits such as increased real estate sales along the project, or just the reduced time it takes to reach a property as a result of the project. Under Arkansas law, it has been held that the

(see *Enhancements*, pg 21)

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