

The Compensation Question

When it comes to determining crop damages, experience proves vital after all

BY MARC BARLOW, MAI, CCIM

In the May/June 2014 issue of Right of Way Magazine, Craig Bennett wrote about “The Value of Experience” in compensating a property owner for crop loss. He explained that his experience-derived calculation (market price multiplied by acreage impacted) had been accepted in hundreds of prior claims, but in court, when he quoted “experience” as the source, he was told that this was insufficient.

I recently encountered the issue of crop compensation on an appraisal I prepared for a partial acquisition from some vacant agricultural land. The property was located along a rural road that was being widened by the town. The proposed acquisition for new right of way was a mostly linear strip that ran parallel with the existing road. It represented about 2.3 acres.

During the site visit and review of the staking for the proposed acquisition, the landowner asked me how much he would be paid for the taking of the land where he grew hay. However, there was no crop present or planted at the time of my site visit (the effective date of valuation). I told the owner I would opine the value of the larger parcel (80 acres of land), and he would be paid a value per square foot for the part taken based on the value of the larger parcel. He said that sounded reasonable, however, he wanted compensation beyond just the value of the land to be taken because he was losing land area where he could grow future crops.

The property owner gave me some figures as to how much money he made each year from growing hay on his land. He believed that he should receive additional compensation for the lost opportunity to grow hay in the area that would be lost due to the taking. He felt that this additional compensation should include his intention to own and farm this



land for the next 20 to 25 years. Thus, the part taken should include lost income from the sale of hay – in addition to the value of the land area taken.

I knew that the town would compensate him for crop damage/loss during construction. And from experience, I have found municipalities to be fair in their compensation. They will determine what crop is actually damaged during construction and using the market price, establish the amount by multiplying the price and the impacted acreage. If we paid him additional compensation for lost hay sales, it would be akin to paying him twice for the part taken. Fortunately, we were able to come to an agreement, and no additional compensation was paid for the potential loss of future hay sales.

I have also encountered farmers who will simply not plant if they know that a project is going to impact their land. With regard to Craig’s situation in court, I think the value of experience is vital, but is often downplayed by the opposing counsel. That’s not unusual. I would stick to my guns on that one, and even recount, if necessary, the number of crop damage cases one has been involved with over the years. Experience is important, and Craig’s explanation as to how he opines compensation sounds reasonable. 🗳️

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