THE VALUE OF PROPERTY TAKEN

Appraising real estate acquired through eminent domain

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A typical appraisal provides an opinion of market value and is required for lending and other real estate purposes. However, in cases where eminent domain is involved, the market value is essentially an interim step leading to the final conclusion of just and adequate compensation.

The complexity of the eminent domain appraisal depends on the nature of the acquisition. A full acquisition is just like any other appraisal and values the entire property. Partial acquisitions are referred to as strip takes or before and after appraisals. A strip take is when a small portion is being taken from a property, and there is no impact on the remaining property beyond the part acquired. A partial acquisition requires an analysis that compares the value before the acquisition to the value after the acquisition, which includes the resulting changes to the property.

In appraising changes to the property, we consider access, exposure and the grade of the roadway relative to the rest of the property. We also evaluate the distance between the improvements and the new right of way, as well as the distance between the improvements and the pavement. If it's a road project, we must determine whether parking is impacted and if the access or the interior circulation of the site has changed.

Determining the Damages

Under Georgia law, a consequential damage is a reduction in value to a property as a result of an acquisition. The damages flow from the difference between the value of the "remainder before" (calculated by deducting the value of the part acquired from the total property value before the acquisition) and the value of the "remainder after."

Examples of changes that could lead to consequential damages can include a reduction in parking and changes in access or in the grade of the roadway relative to the remainder. It can also include a change in distance from the new pavement and/or new right of way to a building located on the remainder.

If the impact is extensive, the remainder's highest and best use may change. Alternatively, if the highest and best use does not change, the tenant profile may be altered. For example, if there are substantial changes to parking, access, and/or exposure, a major retail tenant may be replaced by a small local shop that pays less rent.

In some instances, the result of the acquisition may actually benefit the property. For example, if a new road alignment bisects a tract, corner sites may be created that are much more valuable. The result is called a consequential benefit. In Georgia, consequential benefits can offset consequential damages, but they cannot offset the value of the part acquired. ✪

THE 5 STEP RULE

Under Georgia eminent domain law, assessing the value requires a specific procedure known as the 5-Step rule. It requires that the appraiser:

1. State their opinion of the market value of the property before any part is taken.
2. Give their opinion of the value of the property taken, both land and improvements.
3. State the value of the remaining property before the part is taken. This is a mathematical calculation resulting in subtracting step one from step two.
4. Give their opinion of the value of the remaining property after the taking, considering any negative impact of the taking. The difference in step three and step four may indicate consequential damages.
5. Give their opinion of the value of the remaining property after the taking, considering any positive impacts of the taking. The difference in step three and step five may indicate consequential benefits.

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