

ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Master in Equity

Mikell R. Scarborough

Case No. 2010-CP-10-1602

Commissioners of Public Works of the Town of Mt. Pleasant, South Carolina Respondent

v.

Henry Swinton, Jr., Leroy Swinton, Earsilee Nesbit, Jack Swinton, Charles Swinton, Nathaniel Swinton and James Swinton Appellant

RECORD ON APPEAL

Christopher L. Murphy
123 Meeting Street
Charleston, SC 29401
(843) 577-9323
Attorney for Appellant

Timothy J.W. Muller, Esquire
James A. Bruorton, IV, Esquire
Rosen Hagood, LLC
PO Box 893
Charleston, SC 29402
(843) 577-6726
Attorney for Respondent

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SC Court of Appeals

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
CASE NO. 2010-CP-10-1602

COMMISSIONERS OF PUBLIC WORKS)
OF THE TOWN OF MOUNT)
PLEASANT, SOUTH CAROLINA)

Parcel No. 2009

Condemnor,

vs.

ORDER

HENRY SWINTON, JR., LEROY)
SWINTON, EARSILEE NESBITT, JACK)
SWINTON, CHARLES SWINTON,)
NATHANIEL SWINTON, and JAMES)
SWINTON,)

Landowners.

FILED
2012 AUG 10 AM 9:43
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This condemnation action came before this Court on July 31, 2012 for a final hearing solely on the issue of just compensation. Appearing on behalf of the Condemnor were James A. Bruorton, IV and Timothy J.W. Muller, and appearing on behalf of the Landowners was Christopher L. Murphy. The Condemnor presented its evidence through the entry of Exhibits and testimony of Gary L. Pruitt, MAI. Mr. Pruitt is accepted by this Court as an expert in the field of real estate appraisal. The Landowners responded through the entry of an Exhibit and the testimony of James Swinton.

After the hearing of facts of the case and weighing the evidence presented by the parties, this Honorable Court makes the following findings of fact and conclusions of law pursuant to Rule 52 of the South Carolina Rules of Civil Procedure:

1. The Condemnor has exercised its power of eminent domain pursuant to § 5-31-420, Code of Laws of South Carolina, 1976, as amended, to acquire a sewer easement together

with the rights of ingress and egress across the property of the Landowners more particularly described as follows:

A perpetual easement for the construction, location, installation, operation, maintenance, repair, and replacement of one or more underground sewer lines and one or more underground water lines over, under, and upon the following described property:

ALL THAT STRIP of land located in the Town of Mount Pleasant, Charleston County, South Carolina, designated as Parcel 2009, and described as follows: A 30' general utility easement lying adjacent to, parallel with, and generally to the south of the northern boundary of Grantor's property.

Said strip of land contains 8,185 sq. ft. and is more fully shown on a plat prepared by Thomas & Hutton Engineering, Co. entitled "PARCEL #2009, PLAT OF A NEW 30' UTILITY EASEMENT THROUGH THE PROPERTY OF HENRY SWINTON, JR, ET AL, TOWN OF MOUNT PLEASANT, CHARLESTON COUNTY, SOUTH CAROLINA, dated November 29, 2007, a copy of which is attached hereto as an exhibit and which is made a part hereof and incorporated herein by reference.

TMS #: 583-00-00-365

2. The subject property is zoned residential and is located north of the central business district of the Town of Mount Pleasant and is located off of Canyon Lane nearby Highway 41.

3. The property condemned is required for public purposes, more particularly for the construction, location, installation, operation, maintenance, repair, and replacement of one or more sewer transportation lines and appurtenant structures and one or more water lines and appurtenant structures.

4. The easement is located along the northern property line and is appraised as being 30 feet wide and totals 8,185 square feet. The Landowners will not be able to build a permanent structure on top of the easement, but will be able to continue to use the property for any other purpose.

5. The Condemnor has complied with the requirements set forth in § 28-2-70(a) of the Code of Laws of South Carolina, 1976, as amended, by having the subject property appraised and trying to negotiate a resolution with the Landowners.

6. The appraisal presented by the Condemnor utilizes a sales comparison approach to evaluate land value based upon comparable market sales in the subject property area. The comparable sales are then reconciled to determine a value of the overall parent tract. Based upon the comparable sales available as of May 12, 2008, when Gary L. Pruitt's appraisal was conducted, the value of the parent tract is determined by the Condemnor to be \$1.70 per square foot.

7. After considering the total bundle of rights, and the property rights eventually lost, the Condemnor, through the use of Gary L. Pruitt's appraisal, determined that just compensation for the property and the rights to be acquired by the Condemnor was 15% of the total market value of the easement area equaling \$2,087, rounded to \$2,100.

8. The Landowners oppose the valuation set forth by the Condemnor. The Landowners, through their own evaluation of the subject property's value, determined that the value of the easement area is \$100,000 per acre.

9. The Landowner failed to file an action within thirty (30) days from receipt of the Condemnation Notice challenging the Condemnor's right to acquire the property; thus, the only issue before this court is the amount of "just compensation" to be paid by the Condemnor to the Landowner for the acquisition of the easement.

CONCLUSIONS OF LAW

Condemnor's instituted a condemnation action against the Landowners to acquire a perpetual easement for the construction, location, installation, operation, maintenance, repair,

and replacement of one or more underground sewer lines and one or more underground water lines over what is designated by plat as a 8,185 sq. ft. portion of the Landowners' property. The sole issue before this Court is to determine the amount of just compensation to be paid by the Condemnor to the Landowner for the acquisition of the easement.

Just compensation is defined as "a fair payment by the government for property it has taken under eminent domain [using] the property's fair market value, so that the owner is no worse off after the taking." See, BLACK'S LAW DICTIONARY 277 (7th ed.1999). Market value is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably. In determining the amount of just compensation, the total bundle of property rights and the rights eventually lost must be taken into consideration. To determine the market value of the subject property as a whole and the percentage of the subject property to be lost, a real estate appraisal is performed.

An appraisal is a determination of what constitutes a fair price; valuation; or estimation of worth. See, BLACK'S LAW DICTIONARY 97 (7th ed. 1999). An appraisal is a valuation of property value at the time the appraisal is conducted. The appraisal is generated by the use of a sales comparison approach, which evaluates similar land sites in the subject property area that might indicate the value of the subject property. An appraiser uses the resources available to him/her at the time of the appraisal in order to make a fair determination of the property value.

This Court may additionally consider the testimony of the landowner in determining the amount of just compensation. A landowner, who is familiar with his property and its value, is allowed to give his or her estimate as to the value of the land or damages thereto, even though the owner is not an expert. *S. C. State Hwy. Dept. v. Wilson*, 254 S.C. 360 at 370, 175 S.E.2d

391 (1970).

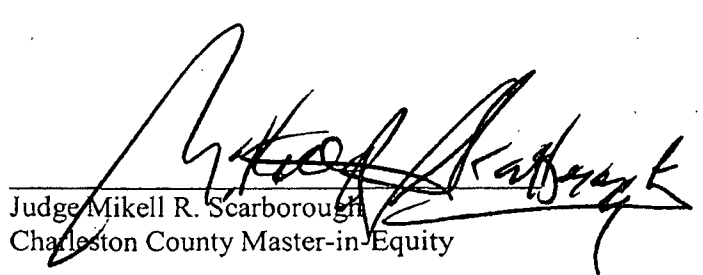
In determining the just compensation for the easement herein, this Court accepts the Landowner's valuation of the parent tract of land of \$100,000.00 per acre but finds that this value must be reduced to \$85,000.00 per acre based on the fact that the Landowners' property is situated in the rear of a subdivided tract of land and has no frontage along Canyon Lane. This Court therefore accepts the amount of \$1.95 per square foot as the market value for the parent tract of land. In determining the just compensation for the easement, this Court finds that the Landowner is entitled to 40% of the market value of the easement reflective of the total bundle of property rights and rights eventually lost.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

1. That the sole damage to the Landowner's property is the loss of the ability to build a permanent structure upon the easement area properly acquired by the Condemnor through its rights of Eminent Domain.
2. That the Condemnor, having caused such loss to the Landowners through the acquisition of a portion of the Landowner's property, must provide the Landowners with just compensation for the same.
3. Using the relevant information before this Court and applying the determination made herein, the total market value of the easement area is determined to be 8,185 sq. ft. @ \$1.95 per sq. ft.
4. Considering the total bundle of property rights and the rights eventually lost, this Court determines that the reasonable just compensation for the acquisition of the easement is 40% of the total market value of the easement area equaling \$6,384.00, which shall be rounded up to \$6,400.

IT IS SO ORDERED.

This 8 day of August, 2012


Judge Mikell R. Scarborough
Charleston County Master-in-Equity

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
CASE NO. 2010-CP-10-1602

COMMISSIONERS OF PUBLIC WORKS)
OF THE TOWN OF MOUNT)
PLEASANT, SOUTH CAROLINA)

Parcel No. 2009

Condemnor,

vs.

HENRY SWINTON, JR., LEROY)
SWINTON, EARSILEE NESBITT, JACK)
SWINTON, CHARLES SWINTON,)
NATHANIEL SWINTON, and JAMES)
SWINTON,)

Landowners.

ORDER OF REFERENCE

JULIE J. ARMSTRONG
CLERK OF COURT

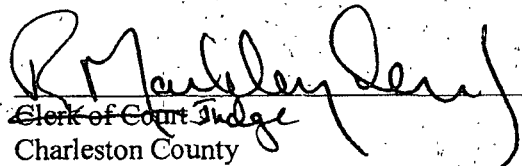
2010 SEP 13 AM 9:27

FILED

IT APPEARING that the within matter is one for a condemnation action and is property within the equity jurisdiction of this Court; it is, therefore,

ORDERD, ADJUGED AND DECREED, that the within action be referred to the Honorable Mikell R. Scarborough, Master-In-Equity for Charleston County, for the purpose of making appropriate findings of facts and conclusions of law with the authority to enter a final judgment in this case. Any appeal from the final judgment in this case shall be directly to the Supreme Court of South Carolina.

Charleston, South Carolina
September 9, 2010


Clerk of Court Judge
Charleston County

Date 8-31-2010
Amount \$50.00
PAID
MIKELL R. SCARBOROUGH
MASTER IN EQUITY
By J. W. Walters

WE SO MOVE:

Rosen, Rosen & Hagood, LLC

A handwritten signature in black ink, appearing to read "David G. Jennings", is written over a horizontal line.

David G. Jennings
James A. Bruorton, IV
Timothy J.W. Muller
134 Meeting St. Suite 200
P.O. Box 893
Charleston, SC 29401

Attorneys for Condemnor

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
CASE NO. 2009-CP- - -

COMMISSIONERS OF PUBLIC WORKS)
OF THE TOWN OF MOUNT)
PLEASANT, SOUTH CAROLINA)

Parcel No. 2009

Condemnor,

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HENRY SWINTON, JR., LEROY)
SWINTON, EARSILEE NESBITT, JACK)
SWINTON, CHARLES SWINTON,)
NATHANIEL SWINTON, and JAMES)
SWINTON,)

Landowners.

CONDEMNATION NOTICE
AND
TENDER OF PAYMENT

FILED
2010 FEB 26 PM 2:23
J. ARISTARCO
CLERK OF COURT

TO: THE LANDOWNERS ABOVE NAMED:

Pursuant to the South Carolina Eminent Domain Procedure Act (§ 28-2-10 et seq. of the Code of Laws of South Carolina, 1976, as amended) you are hereby notified as follows:

1. The Commissioners of Public Works for the Town of Mount Pleasant, South Carolina is the Condemnor herein and seeks to acquire the real property described herein for public purposes.

2. Henry Swinton, Jr., Leroy Swinton, Earsilee Nesbitt, Jack Swinton, Charles Swinton, Nathaniel Swinton and James Swinton are named as a Landowner in this action by virtue of that Title to Real Estate conveying title for the property herein described and recorded on September 7, 2007 in the RMC Office for Charleston County in Book Z637, Page 694.

3. The following is a description of the real property subject to this action and a description of the interest sought to be acquired in and to the property by the Condemnor:

An exclusive perpetual easement for the construction, location, installation, operation, maintenance, repair and replacement of one or more underground sewer lines and/or one or more underground water lines over, under and upon the following described property:

ALL THAT STRIP of land located in the Town of Mount Pleasant, Charleston County, South Carolina, designated as Parcel 2009, and described as follows: A 30' general utility easement lying adjacent to, parallel with, and generally to the south of the northern boundary of Grantor's property.

Said strip of land contains 8,185 sq. ft. and is more fully shown on a plat prepared by Thomas & Hutton Engineering, Co. entitled "PARCEL #2009, PLAT OF A NEW 30' UTILITY EASEMENT THROUGH THE PROPERTY OF HENRY SWINTON, JR, ET AL, TOWN OF MOUNT PLEASANT, CHARLESTON COUNTY, SOUTH CAROLINA, dated November 29, 2007, a copy of which is attached hereto as an exhibit and which is made a part hereof and incorporated herein by reference.

TMS #: 583-00-00-365

TOGETHER with the right of ingress thereto and egress therefrom over and upon the remaining property of the Landowner.

4. The Commissioners of Public Works for the Town of Mount Pleasant, South Carolina is vested with the power of eminent domain pursuant to § 5-31-420, Code of Laws of South Carolina, 1976, as amended.

5. The property sought herein is required for public purposes, more particularly for the construction, location, installation, operation, maintenance, repair and replacement of one or more sewer lines and appurtenant structures and one or more water lines and appurtenant structures.

6. This action is brought pursuant to § 28-2-240 of the Code of Laws of South Carolina, 1976, as amended.

7. Attached to this condemnation notice is a drawing of the property to be taken.

8. The Commissioners of Public Works of the Town of Mount Pleasant, South Carolina has complied with the requirements set forth in § 28-2-70(a) of the Code of Laws of South Carolina, 1976 as amended, by having the subject property appraised and certifies to the

Court that a negotiated resolution has been attempted prior to the commencement of this action and that a copy of the appraisal has been furnished to the Landowners.

9. Project plans may be inspected at the office of the Commissioners of Public Works of the Town of Mount Pleasant, South Carolina, 1619 Rifle Range Road, Mt. Pleasant, South Carolina, 29464. The office of the Commissioners is generally open Monday through Friday from 8:00 a.m. until 5:00 p.m.

10. THE CONDEMNOR HAS DETERMINED JUST COMPENSATION FOR THE PROPERTY AND RIGHTS TO BE ACQUIRED HEREUNDER TO BE THE SUM OF TWO THOUSAND ONE HUNDRED DOLLARS AND 00/100 (\$2,100.00) AND HEREBY TENDERS PAYMENT THEREOF TO THE LANDOWNER.

11. The Landowner shall have thirty (30) days from the service of this condemnation notice to accept the tender of payment and agree to execute and return to the Commissioners of Public Works of the Town of Mount Pleasant any instruments necessary to convey to the Condemnor the property interests and rights described hereinabove. The request and agreement must be sent by first class, certified mail and return receipt requested or delivered in person to the Commissioner of Public Works for the Town of Mt. Pleasant, South Carolina, 29464. If no request and agreement is received by the Condemnor within the thirty (30) day period, the tender is considered rejected.

12. If the tender is rejected, the Condemnor has the right to file the condemnation notice with the Clerk of Court for Charleston County and to deposit the tender amount with the Clerk. The Condemnor shall give the Landowners notice that it has done so and may then proceed to take possession of the property interests and exercise the rights described in this condemnation notice.

13. AN ACTION CHALLENGING THE CONDEMNOR'S RIGHT TO ACQUIRE THE PROPERTY AND RIGHTS DESCRIBED HEREIN MUST BE COMMENCED IN A SEPARATE PROCEEDING IN THE COURT OF COMMON PLEAS FOR CHARLESTON COUNTY WITHIN THIRTY (30) DAYS OF THIS CONDEMNATION NOTICE, OR THE LANDOWNER WILL BE CONSIDERED TO HAVE WAIVED THE CHALLENGE.

14. THE CONDEMNOR HAS ELECTED NOT TO UTILIZE THE APPRAISAL PANEL PROCEDURE. Therefore, if the tender herein is rejected, the Condemnor shall notify the Clerk of Court and shall demand a trial to determine the amount of just compensation to be paid. A copy of that notice must be served on the Landowner. That notice shall state whether the Condemnor demands a trial by jury or by the Court without a jury. The Landowner has the right to demand a trial by jury. The case may not be called for trial before sixty (60) days after the service of that notice, but it may thereafter be given priority for trial over other civil cases. The Clerk of Court shall give the Landowner written notice by mail of the call of the case for trial.

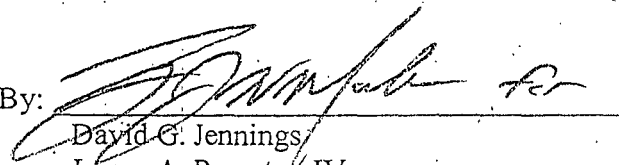
15. THEREFORE, IF THE TENDER HEREIN IS REJECTED, THE LANDOWNER IS ADVISED TO RETAIN LEGAL COUNSEL AT ONCE, IF NOT ALREADY OBTAINED.

16. In the event that the Landowner accepts the amount tendered in this notice and the terms of the agreement, the attached Request for Payment and Agreement form should be signed and returned to the Condemnor within thirty (30) days of your receipt of this notice.

[SIGNATURE TO FOLLOW]

ROSEN, ROSEN & HAGOOD, LLC

By:



David G. Jennings

James A. Bruorton IV

134 Meeting Street, Suite 200

P. O. Box 893

Charleston, SC 29401

(843) 577-6726

CONDEMNATION NON-JURY

December 8, 2009

Charleston, South Carolina

AFFIDAVIT OF SERVICE

State of South Carolina

County of Charleston

Common Pleas Court

Case Number: _____

2010-CP-10-1602

Plaintiff:

COMMISSIONERS OF PUBLIC WORKS OF THE TOWN OF MOUNT PLEASANT, SOUTH CAROLINA

vs.

Defendant:

**HENRY SWINTON, JR., LEROY SWINTON, EARSILEE NESBUTT,
JACK SWINTON, CHARLES SWINTON, NATHANIEL SWINTON AND
JAMES SWINTON**

For:

Timothy Muller
Rosen, Rosen & Hagood, LLC
134 Meeting Street Road, Ste 200
Po Box 893
Charleston, SC 29402

Received by PROCESS SERVICE, INC. to be served on **JAMES SWINTON, 157 Aylesbury Road, Goose Creek, SC 29445.**

I, Bob Clair, being duly sworn, depose and say that on the **8th day of December, 2009** at 6:19 pm, I:

PERSONALLY served by delivering a true copy of the **LETTER, PLAT, CONDEMNATION NOTICE AND TENDER OF PAYMENT AND REQUEST FOR PAYMENT AND AGREEMENT** with the date and hour of service endorsed thereon by me, to: **JAMES SWINTON** at the address of: **157 Aylesbury Road, Goose Creek, SC 29445**, and informed said person of the contents therein.

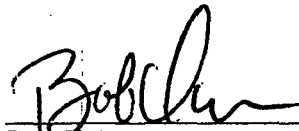
I am over eighteen and have no interest in the above action.

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2010 FEB 26 PM 2:20

FILED



Bob Clair
Process Server

Subscribed and Sworn to before me on the 9th day of December, 2009 by the affiant who is personally known to me.


NOTARY PUBLIC

Commission Expires: 5-6-11

PROCESS SERVICE, INC.
P.O. Box 792
Charleston, SC 29402
(843) 577-2355

Our Job Serial Number: 2009004394

ROSEN, ROSEN & HAGOOD, LLC

ATTORNEYS AND COUNSELLORS AT LAW

134 MEETING STREET, SUITE 200

P.O. Box 893

CHARLESTON, SOUTH CAROLINA 29402

PHONE (843) 577-6726

FAX (843) 724-8036

www.rrhlawfirm.com

Timothy J.W. Muller
tmuller@rrhlawfirm.com

February 25, 2010

VIA HAND DELIVERY

The Honorable Julie J. Armstrong
Clerk of Court
Charleston County Court of Common Pleas
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Mt. Pleasant Waterworks re: Highway 41 Project
Parcel No. 2009

Dear Julie:

Enclosed please find the following regarding the above-referenced parcel:

1. An original and two copies of Lis Pendens;
2. An original and two copies of Condemnation Notice and Tender of Payment;
3. An original and two copies of Notice of Possession by Condemnor;
4. An original and two copies of Affidavit of Service of Process;
5. An original and two copies of Affidavit of Timothy J.W. Muller;
6. A check in the amount of \$150.00 for filing fee;
7. A check in the amount of \$2,100.00 for the condemnation deposit.

Please file the above documents and return two filed copies of each document to me along with the two receipts.

Thank you for your assistance in this matter.

Sincerely,



Timothy J.W. Muller

TJM/sef
Enclosure

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EXHIBITS

Plaintiff's Exhibit 1 (Appraisal)	In evidence
Plaintiff's Exhibit 2 (Photo)	In evidence
Plaintiff's Exhibit 3 (Plat)	In evidence

1 (Hearing commenced.)

2 THE COURT: We're ready to move into the CPW of
3 Mt. Pleasant case verses Swinton and others;
4 condemnation action.

5 MR. MURPHY: It will be very brief.

6 THE COURT: Does that mean you settled it?

7 MR. MURPHY: No, but I can tell you, I know you
8 reserved all day. I'll be shocked if we go more than
9 an hour or so.

10 (Discussion off the record.)

11 THE COURT: Now, in this case the Plaintiff is
12 actually the town; is that right? The city?

13 MR. MURPHY: It's an animal of -- Plaintiff, they
14 are listed first on the Pleadings, but we have the
15 burden of proof.

16 Typically what happens is the Court -- we have the
17 engineer to explain the project as the Court's witness,
18 then we would put on our case and the town would put on
19 their case.

20 THE COURT: We're not challenging the
21 condemnation? I'm assuming we're talking about value?

22 MR. MURPHY: Just value.

23 MR. MULLER: I believe our only witness has to be
24 the appraiser to testify as to the value, and as far as
25 the burden of proof, I mean, we've condemned the

1 property. We've taken possession of the property.
2 We've offered just compensation which was rejected. I
3 think we will call our witness to testify as to what
4 the value of the property is. They can cross examine
5 on the value. If they want to call a witness to give
6 their own interpretation of the value, that's fine, but
7 to only talk about value. No need to get into anything
8 else. I think we start with our witness as it relates
9 to the appraisal and what his determination is of the
10 just compensation.

11 THE COURT: That's the way I've done it in the
12 past.

13 MR. MURPHY: It doesn't matter how we do it.
14 We'll get there anyways.

15 THE COURT: That's fine. The burden of proof --
16 they've got to prove it's a reasonable fair value and
17 that's your-all's position, is to overturn that, say
18 you think it's worth more?

19 MR. MURPHY: They have -- we have the burden of
20 proof to establish what the value of just compensation
21 is under the law. They can present their testimony as
22 to what they believe the value is, then you go
23 somewhere in between.

24 THE COURT: As long as I'm within the range I
25 won't be reversed, is what you're telling me?

1 MR. MURPHY: That's right.

2 THE COURT: I'm with you on that. Let me let the
3 town put their witness up first.

4 (Whereupon Plaintiff's Exhibit 1 is marked.)

5 (Whereupon Plaintiff's Exhibit 2 is marked.)

6 MR. MULLER: May it please the Court.

7 THE COURT: Very good, Mr. Muller.

8 MR. MULLER: I'm here for the Commission of Public
9 Works of the Town of Mt. Pleasant. I would like to
10 first call attention to the Pleadings filed in this
11 action, as we've just recognized that this is just an
12 action debating the value and not a challenge action.
13 I would just like to keep that on the record. That was
14 in the Pleadings, so we noted that to the landowner
15 pursuant to Section 28-2-280. No separate challenge
16 action was filed.

17 The condemnor took possession of the easement on
18 February 26, 2010. I would like to call our first
19 witness to the stand, Gary Pruitt.

20 (Gary Pruitt, 1250 Fairmont Ave., Mt. Pleasant, S.C. 29464,
21 duly sworn, testifies as follows:)

22 DIRECT EXAMINATION BY MR. MULLER:

23 Q Mr. Pruitt, could you please state your name for
24 the record?

25 A Gary Pruitt.

1 Q Gary, what is your occupation?

2 A I appraise real estate.

3 Q Are you a certified appraiser in the State of
4 South Carolina?

5 A I am.

6 Q Do you have any special qualification?

7 A I have the MAI designation.

8 Q What's an MAI designation?

9 A It's the highest designation that we can achieve
10 in the appraisal field.

11 Q How many years experience do you have in
12 performing appraisals?

13 A About 34.

14 Q How long have you been with the current company
15 you're with?

16 A Since 1984.

17 Q The name of that company?

18 A Atlantic Appraisals.

19 MR. MULLER: I would like to tender Mr. Pruitt as
20 an expert in land valuation.

21 MR. MURPHY: No objection.

22 THE COURT: All right. Without objection. So
23 noted.

24 Q Mr. Pruitt, what did you do specifically for this
25 case?

1 A I appraised -- well, the purpose was to come up
2 with a value for the proposed taking an easement. I
3 appraised the parent tract. Whatever I came up with for a
4 value on a unit basis, I applied that to the actual easement
5 area, whatever that is. Then, since it's not a total
6 taking -- if they had taken the property it would have been
7 100% of whatever that multiplies out to. Since the owner
8 keeps the property as it's just an easement, I applied a
9 ratio, and then in my opinion it was the damage, so to
10 speak, or the value of that easement was 15%, because the
11 owner gets to keep the property, can do about anything he
12 wants to do with it that he could do before except build a
13 building on it; and since it was right on the property line
14 and setbacks generally take care of that there was no chance
15 he could build a building on it anyway, so it was --
16 whatever that multiplies out to is -- was my estimate of
17 value for the easement.

18 Q We'll get into that a little more specifically.
19 Did you prepare any documents as a result of your work in
20 this case?

21 A I prepared an appraisal on it; yes, sir.

22 Q Is this document, that's been marked as Exhibit
23 Number 1, your appraisal?

24 A Yes.

25 MR. MULLER: I have an extra copy for Your Honor.

1 THE COURT: Thank you.

2 (Hands up document.)

3 Q I would like to ask you a few questions about this
4 parcel of land, and you may refer to your appraisal to
5 refresh your memory as necessary.

6 What is the TMS number of this property?

7 A 583-00-00-365.

8 Q How was the land zoned?

9 A For residential use.

10 Q In your opinion, what is the best use of the
11 property?

12 A Residential use.

13 Q And what is the size of the parent tract?

14 A 3.98 acres.

15 Q Is there road access to this particular property?

16 A It has no direct frontage on a -- but it does
17 have -- it was a dirt road down beside it that I was able to
18 visit the property via, using that dirt road.

19 Q What is the size of the easement area acquired by
20 Mt. Pleasant Waterworks?

21 A 8,185 square feet.

22 Q Where on the property is the location of the
23 easement?

24 A The very rear.

25 Q I would like to refer to what's been premarked as

1 Exhibit Number 2. It's actually a page from the appraisal.

2 It's just a blown-up copy of page number 2.

3 THE COURT: Okay.

4 (Hands up document.)

5 THE COURT: Thank you, sir.

6 Q In your opinion, does Exhibit Number 2 match page
7 2 of your appraisal?

8 A It does, yes.

9 Q Can you describe the location or the label of the
10 subject property on the photo?

11 A It's actually the rear, about a third of that.
12 There is a larger tract on this map that you show, and the
13 subject property is the rear one third of that, that tract.

14 Q Which parcel are we talking about on that map?
15 Does it have a number or label?

16 A Well, the tax map parcel was 365, but the one --
17 the parcel number that Mt. Pleasant used was 2009.

18 Q To your knowledge is the easement -- is there an
19 easement on this property or -- excuse me, not easement, but
20 a setback on this property?

21 A I did assume that. There always is. Generally
22 it's in that 15 to 20 feet range so --

23 Q Okay. And just for the record, where is the
24 location of the easement that was taken, on the map?

25 A It crosses the rear of the property, rear property

1 line.

2 Q Thank you. All right. We'll go back to your
3 appraisal. What type of appraisal methodology did you apply
4 in this case?

5 A Sales comparison approach.

6 Q What does this involve?

7 A I tried to locate sales of other vacant
8 residential tracts in the area that were similar to the
9 subject parent tract; not the easement itself but the parent
10 tract.

11 Q Can you identify the comparable properties used in
12 your appraisal?

13 A I did. I've used four comparable transactions and
14 they were of residential tracts that were off Highway 41 and
15 with secondary access. These were the best available at the
16 time that I could find.

17 Q That was my next question. Why did you select
18 these particular properties? Is that why?

19 A That is, yes.

20 Q What adjustments, if any, were made in
21 consideration of these comparable properties?

22 A I considered the location, access, shape, size.

23 Q Okay. And I think you're on page 21 right now.
24 But after reviewing these comparable properties what did you
25 determine to be the market value of the parent tract of

1 land?

2 A It comes up to \$74,000 an acre or \$1.70 per square
3 foot.

4 Q In your experience as an appraiser do you believe
5 this is an accurate estimate?

6 A At that time, yes.

7 Q What did you do to determine the value of the
8 easement acquired by Mt. Pleasant Waterworks at the time of
9 the taking?

10 A The easement was 8,185 square feet. Multiply that
11 times \$1.70 per square foot. And, again, if there had been
12 a total taking, whatever that multiplied out to would have
13 been my value estimate but since, again, this is an easement
14 and the owner gets to keep the property, I applied -- I
15 allowed 15% of that total value as just compensation in my
16 opinion.

17 Q You beleive this to be -- that estimated value to
18 be accurate?

19 A Yes.

20 Q In your opinion does the easement result in any
21 diminution of value of the property?

22 A In my opinion it does not.

23 Q Why not?

24 A Well, it's on the -- right on the property line.
25 Again, it's -- the ground was repaired to near its original

1 condition. The owner can continue to use that for whatever
2 he wanted to use it for in the beginning.

3 Q Okay.

4 MR. MULLER: That's all the questions I have. One
5 more question.

6 (Discussion off the record.)

7 MR. MULLER: Two more questions.

8 Q Is access to the dirt road restricted in any way
9 by the easement?

10 A No, it is not.

11 Q And, I guess, why specifically did you use 15%?

12 A Well, there is no particular formula to get to
13 that particular answer, but performing these numerous
14 appraisals in the past, over the years I have found that 15
15 to 20% is generally what's -- what I have allowed. And
16 since -- and there are times when this easement would come
17 directly across the front of the property. And if it had I
18 would have -- probably would have used 20%. Since this was
19 on the rear of the property and, actually -- but that's the
20 reason I used 15. It was -- I can't offer any much more
21 explanation than that. No way I can prove it but -- it's
22 what I've used in the past.

23 Q But you believe the lesser rate is probably
24 appropriate if there is less of an impact?

25 A Yes, sir.

1 MR. MULLER: I don't believe I have any further
2 questions. I would like to offer those into evidence,
3 those exhibits, Exhibits 1 and 2.

4 MR. MURPHY: I don't have any objection. I just
5 want to make sure I know what they are.

6 MR. MULLER: The appraisal is Exhibit 1, and the
7 picture is 2.

8 MR. MURPHY: No objection.

9 (Whereupon Plaintiff's Exhibits 1 and 2 are received in
10 evidence.)

11 CROSS EXAMINATION BY MR. MURPHY:

12 MR. MURPHY: May it please the Court.

13 Q Mr. Pruitt, the appraisal that was submitted as
14 Exhibit 1, is that a complete summary of your thoughts in
15 this case?

16 A Yes, sir.

17 Q Do you have any other opinions outside of that
18 appraisal that you haven't testified about so far with
19 regard to this property?

20 A No, sir.

21 Q And I'm going to hand you what's entitled Notice
22 Of Possession by the condemnor. Do you recognize that?

23 A (Nods negatively.)

24 Q Is that a legal document?

25 A Yes, sir.

1 Q That was filed with the Clerk of Court?

2 A Yes, sir.

3 Q Signed by Mr. Clay Duffy? Flip the page.

4 A Yes, sir.

5 Q Mr. Duffy, do you know Mr. Duffy?

6 A I do.

7 Q He is the manager of CPW; is that correct?

8 A Right.

9 Q And if you look at the description of what's
10 actually acquired, it says fee simple in there; doesn't it,
11 sir?

12 A I guess some place in here?

13 Q Let me show you. I want to make sure we're on the
14 same page.

15 A Yes, sir.

16 Q So if the CPW acquired this according to that
17 document, fee simple, why are we talking about easement
18 value, sir?

19 A Well, I was asked to do an appraisal of the
20 easement.

21 Q But you would agree that that document is contrary
22 to what you actually appraised; is that correct?

23 A Well, I estimated the fee simple value of the
24 easement and -- you know, it's the way I interpreted that,
25 just the fee simple value of the easement is -- as opposed

1 to a leased fee interest.

2 Q I understand. All right. We'll move on. If you
3 look on page 9 or 8 of your appraisal at the very bottom
4 there?

5 A Page 9.

6 Q Yes. At the very bottom it says proposed
7 acquisition. It talks about a 15-foot wide easement area?

8 A Page 8? Proposed acquisition, yes.

9 Q Yes, sir. You're talking about an acquisition
10 that's 15 feet wide?

11 A Right.

12 Q If you look on page 9 the exhibit shows a 30-foot
13 wide utility easement?

14 A Right.

15 Q What did you value -- did you value it as a
16 15-foot or 30-foot easement?

17 A It had to be 30. Whatever multiplies out to the
18 8,185 square feet.

19 Q Had the plans changed that you know of from a
20 15-foot to a 30-foot easement?

21 A No.

22 Q And in terms of any discussion to acquire this
23 property easement fee simple, was there some discussions to
24 acquire this property in fee simple rather than an easement?

25 A Not to my knowledge.

1 Q Do you have any explanation why they would acquire
2 that property according to that document of fee simple and
3 they asked you to appraise it in easement?

4 A No.

5 Q Let's talk about maintenance of this. Who is
6 going to be responsible for maintaining this easement area?

7 A You mean --

8 Q Cutting the grass. Who is going to cut the grass?

9 A The owner.

10 Q Landowner. CPW doesn't send someone out there
11 every week; do they?

12 A No.

13 Q And this easement also gives CPW the right to
14 enter this property whenever they want; isn't that true?

15 A It does.

16 Q Gives them the right to do maintenance on that in
17 perpetuity?

18 A It does.

19 Q We would agree that perpetuity is a long time,
20 sir?

21 A Yes, it is.

22 Q And there was also a number of trees removed from
23 this property as a result of this project. Are you aware of
24 that?

25 A I saw the area. I assume they had to move them,

1 yes.

2 Q Was any type of tree survey performed?

3 A No, sir.

4 Q Did you ask for one?

5 A No, I did not.

6 Q Did you attempt to value the trees that were lost
7 as a result of this acquisition?

8 A I considered it but didn't give them a value.

9 Q And in terms of this easement that's acquired,
10 what is your understanding of exactly what CPW did, why they
11 acquired this easement; what they do?

12 A Put in a sewer line.

13 Q Sewer line, okay. And when you appraised this
14 property did you just assume that a sewer line would be put
15 in?

16 A Say again, sir.

17 Q When you appraised this easement, damage to the
18 remainder, did you assume that just a sewer line would be
19 placed in this area?

20 A That was the way I considered it, yes.

21 Q But you understand that this utility easement is
22 not limited in any way?

23 A I can understand that, yes.

24 Q You understand CPW can put power lines up in this
25 utility easement area; right?

1 A Power lines. I don't -- I would not consider -- I
2 would assume they could use it for water if they had room.

3 Q I'm going to hand you the condemnation notice here
4 that gives a description, and can you point out how that
5 easement area is limited to just a sewer line?

6 A I guess -- I don't know what it actually limits
7 to.

8 Q It just says a 30-foot utility easement; right?

9 A Right.

10 Q No limitation on it; right?

11 A The way I read it, yes.

12 Q There is no vertical limitation on it; right?

13 A The way I read this, no.

14 Q As long as some type of utilities are placed
15 within this 30-foot area they are in compliance with that
16 acquisition; correct?

17 A It appears.

18 Q So they could put in phone lines, power lines;
19 correct?

20 A Appears, yes.

21 Q They could put in those electrical boxes that you
22 see on the side of the road, junction boxes?

23 A I guess they could.

24 Q That would be electricity -- electrical utility.
25 They could also put up a building on this area if it was for

1 utility purposes; correct?

2 A I guess so.

3 Q But you didn't consider any of those options when
4 you damaged the property 15%; did you?

5 A No.

6 Q Okay.

7 Now, you appraised this property as of May
8 2nd, 2008; is that correct?

9 A Yes, sir.

10 Q And technically these appraisals are really only
11 good for one day. Would you agree with that?

12 A The value is that point in time, yes.

13 Q The values change, because any number of factors
14 can occur. You would agree that crime could increase or
15 decrease that would effect the value of the property;
16 correct?

17 A Yes.

18 Q A new school could be built or torn down, that
19 would effect the value of the property; a large business
20 could move in or out, that would effect the value of the
21 property.

22 A Right.

23 Q Zoning can change which has an effect on the value
24 of the property?

25 A Right.

1 Q And you can't testify to the value of this
2 property as of 2010; can you?

3 A I have an opinion but certainly could -- to tell
4 you what I think the value is, no.

5 Q And you can't testify to the value of this
6 property as of February 26, 2010; can you?

7 A Same answer.

8 Q And you actually appraised the property right next
9 door, the estate of Gallen, I believe? Do you recall that?
10 I'll hand you this appraisal to refresh your recollection.

11 A Of the next door parcel, '08?

12 Q Yes, sir.

13 A Right.

14 Q That was a ten-acre tract of property?

15 A That's adjacent to the subject tract.

16 Q That is correct. That was ten acres, I believe.
17 You can look through your appraisal. I'm not trying to
18 trick you.

19 A Right.

20 Q And in that ten-acre tract and this four-acre
21 tract you used the exact same comps, sale comps; didn't you?

22 A I did.

23 Q And when you made adjustments for these sales
24 comps you didn't make any time adjustments; did you? If you
25 could look on page 21 of your appraisal?

1 A I did not.

2 Q And comp number one was sold in September of 2004;
3 correct?

4 A Correct.

5 Q And you would agree that the market appreciated
6 between 2004 and 2008? Wouldn't you agree with that?

7 A Actually, it went up during the '05 and '06
8 period, yes.

9 Q You didn't make any appreciation or upward
10 adjustments for that appreciation; did you?

11 A Did not, no.

12 Q If you did make that upward adjustment it would
13 have the effect of increasing the overall value of the fee
14 simple property; correct?

15 A If I had, it would have, yes.

16 Q And for comp number four, which is a March of 2007
17 sale, you did not make any time adjustments for that?

18 A Wasn't warranted.

19 Q Now, let's talk about the setbacks here. You
20 didn't actually go to the Charleston County Zoning
21 Department and find out what the setbacks were; did you?

22 A I have in the other properties and -- but on this
23 I did not.

24 Q So you can't say for certain what those setbacks
25 are and how they apply to this property; can you?

1 A Negative.

2 Q And you talked about them typically being 15 to
3 20 feet. I assume that's based on other cases you've had?

4 A Yes, sir.

5 Q Don't those 15 to 20 feet setbacks usually start
6 from the road, from the front of the property?

7 A Right.

8 Q They usually decrease significantly when the
9 easement or when the setbacks are applied to the rear of the
10 property; correct?

11 A They have -- they can, yes.

12 Q Usually about ten feet?

13 A Right.

14 Q And under that, regardless of whether or not there
15 are 15 to 20 feet of setbacks, this is a 30-foot easement
16 that's being acquired?

17 A Right.

18 Q So there is some limitation in terms of what the
19 building could be put on the property pursuant to this
20 easement; correct?

21 A Say --

22 Q Let's assume it was a 20-foot setback that's
23 applied. Since the easement is 30 feet, then there is some
24 restriction caused -- some additional restriction caused by
25 this acquisition; wouldn't you agree?

1 A Well, looking strictly at the numbers, yes.

2 Q In terms of the percentage damage caused by this
3 easement, you didn't actually go out and try to find what
4 other encumbered properties sold for or easements -- strike
5 that.

6 What other properties or -- you didn't go out
7 and research what other utility easements sold for; have you?

8 A No.

9 Q And you valued, basically, the fee simple value,
10 and then you damaged it 15%; right?

11 A Right.

12 Q What you're saying is this encumbered property,
13 someone would pay 85% of the fee value for this encumbered
14 property; correct?

15 A Yes.

16 Q There is no publication or peer reviews to
17 determine this 15% damage; is there?

18 A Other than --

19 Q Your opinion?

20 A -- court hearings.

21 Q There is no quality control to ensure this 15%
22 damage is accurate; is there?

23 A No way --

24 Q There is no consistency in the field to determine
25 that this 15% damage is accurate or not?

1 A I assume.

2 Q And the easement places a number of restrictions
3 on the property. Would you agree with that?

4 A It does.

5 Q In your appraisal the only restriction you cited
6 is the that the easement -- the owner could not build a
7 building in this easement area; correct?

8 A Correct.

9 Q But they can't put -- dig a well in this easement
10 area; can they?

11 A No.

12 Q They can't put a pool in the easement area; can
13 they?

14 A No.

15 Q They wouldn't -- can they put a driveway in this
16 easement area?

17 A Oh, yes.

18 Q They can't put any trees in the easement area; can
19 they? Or bushes to create a buffer zone?

20 A I don't -- I'm not sure about trees.

21 Q If they did, CPW would have the right to tear them
22 out if they had to do any maintenance; wouldn't you agree?

23 A Right.

24 Q So it would be silly to spend money to enhance
25 this area if it could be torn out eventually; would you

1 agree?

2 A I agree.

3 Q And because CPW acquired this in easement rather
4 than fee simple, Mr. Swinton still has to pay taxes on that
5 property; correct?

6 A He does.

7 Q He still has to bear the cost of maintaining it;
8 right?

9 A Yes.

10 Q And he also gets to enjoy any potential liability
11 if someone is injured on that property. Would you agree?

12 A Such as is, yes.

13 Q Sound like a pretty good deal to you for
14 Mr. Swinton?

15 A My estimate of value --

16 MR. BRUORTON: Objection; trying to get his
17 opinion.

18 THE COURT: Sustained.

19 Q If this 30-foot easement were put up for sale what
20 type of buyer would it fetch?

21 A The easement itself, you mean the 30-foot strip?

22 Q Right.

23 A I know of no buyer for that.

24 Q It would only have assemblage value; right?

25 A Right.

1 Q No one's going to pay 85% of the fee value for
2 that strip; are they?

3 MR. BRUORTON: Objection. Calls for speculation.

4 THE COURT: Overruled. I think he's qualified to
5 answer that as an expert.

6 A In my opinion they would pay about \$2100 less for
7 the overall tract.

8 Q I'm not talking about the overall tract. I'm
9 talking about the 30-foot strip acquired.

10 A No, I don't think there is a buyer for that.

11 Q If that is the case would that indicate to you
12 that it was damaged more than 15%?

13 A No, sir.

14 Q Doesn't? All right.

15 In terms of the eyes of CPW or any potential
16 buyer, is there any difference between fee simple and
17 easement in this instance?

18 A Well, like I said, I was looking at it as a fee
19 simple value of -- fee simple interest in the easement.

20 Q But when you do an appraisal for a bank for
21 mortgage purposes you parcel out -- do you do a separate
22 valuation for property that's encumbered by an easement as
23 opposed to property that's unencumbered?

24 A No.

25 Q And the reason -- when people purchase property,

1 the purchase price or the per square -- per acre price
2 includes the easement, includes the encumbered area;
3 correct?

4 A It would.

5 Q So there is no real difference in terms of market
6 value between encumbered property and fee simple property;
7 is there?

8 A If it's a narrow strip across the end like this,
9 potential buyer would not -- I don't think would take that
10 into consideration.

11 Q You would agree CPW has complete control over this
12 easement area?

13 A Right.

14 Q They could pave it; couldn't they?

15 A Right.

16 Q Certainly that will effect the market value of the
17 property of the remaining property; wouldn't it?

18 A Well, it -- in my opinion, really, it wouldn't.

19 Q So if CPW put a utility building on this property
20 and paved that 30-foot strip and put in some junction boxes,
21 you don't think that would have any effect on the value?

22 A If they did that it would.

23 Q They have the right to do that; right?

24 A Yes.

25 Q That would have the effect of decreasing the

1 property value of the property; correct?

2 A It would.

3 Q And Mr. Christian also works at your firm?

4 A He does.

5 Q He's worked with you for number of years?

6 A He has.

7 Q Have you talked to him about the value of
8 easements as opposed to fee simple in condemnation matters?

9 A No.

10 Q And were you aware that he was in a trial in
11 Beaufort last week?

12 A Yes.

13 Q Did you talk to him about that trial?

14 A No.

15 Q So you don't know that he was valuing an
16 easement -- an access easement down in Beaufort County; do
17 you?

18 A No.

19 Q You don't know that he valued an acquired easement
20 area -- he gave value equal to the fee simple value; do you?

21 MR. BRUORTON: Objection, Your Honor. He's
22 bringing in testimony of another witness in another
23 trial.

24 THE COURT: Sustained. Sustained.

25 Q If there is no limitation on what CPW can do in

1 this acquired area, isn't there -- would it -- would you
2 agree there is really no difference between fee simple and
3 easement value?

4 A I would have to -- I don't particularly have an
5 opinion on it.

6 Q But if you considered the fact that CPW could pave
7 it, put a building on it, put utility boxes on it, would
8 that change your opinion on this 15% damage?

9 A I don't think it will ever happen, but they
10 certainly could and I would -- I did not take that into
11 consideration.

12 Q Thank you.

13 MR. MURPHY: That's all I have, Your Honor.

14 THE COURT: Mr. Muller

15 MR. MULLER: Thank you.

16 REDIRECT EXAMINATION MY MR. MULLER:

17 Q Mr. Pruitt, I would like to clear up a few things
18 referring to the Pleadings now. That previous discussion
19 was centered around the fact that it was a fee simple
20 sought. Could you please read off, first -- this is the
21 amended notices of possession by condemnor filed -- could
22 you just for the record take a look through that and see if
23 you see anywhere in there that it says fee simple?

24 A I don't see it.

25 Q Okay. And I believe what Mr. Murphy showed you

1 before was the Notice Of Possession previously filed. Is
2 that your understanding?

3 A Right.

4 Q I would also like to reference the condemnation
5 notice and tender of payment. Could you read this limiting
6 language? This is under paragraph -- you can read. Just
7 read paragraph 3 and just read -- I guess you can read all
8 of paragraph 3. That's fine. Let's do the whole paragraph,
9 get that on the record.

10 A Paragraph 3. The following is a description of
11 the real property subject to this action and a description
12 of the interest sought to be acquired in and to the property
13 of the condemnor. Exclusive perpetual easement information,
14 construction, location, installation, operation,
15 maintenance, repair and replacement of one underground sewer
16 lines and one or more underground water lines over, under
17 and upon the following described property.

18 Read the legal --

19 Q You can stop there. I guess the rest of it is
20 just the legal description.

21 But do you believe the language you just read
22 is a limitation?

23 A (Nods negatively.)

24 Q Limiting it to a utility?

25 A Oh, to the utility; yes.

1 Q And do you believe that the language in the Notice
2 Of Possession, that, in fact, does not have fee simple is --
3 would negate much of the questioning that Mr. Murphy
4 presented?

5 A It would appear, yes.

6 Q Also Mr. Murphy brought up speculative uses that
7 are not in effect. In your experience in doing appraisals
8 are you supposed to take speculative unknown uses into
9 account at the time of performing an appraisal?

10 A Negative.

11 Q You're confident with that opinion?

12 A I am, yes.

13 Q Okay. I can grab these back.

14 MR. MULLER: Just one moment.

15 (pause)

16 Q After seeing what you're seeing, do you believe
17 this easement gives a right to Mt. Pleasant Waterworks to
18 grant easement rights to SCE&G, Bell South, AT&T or Comcast?

19
20 A It does not.

21 Q Those entities would have to go to the owner for
22 that, and the owner would receive additional compensation;
23 is that correct?

24 A And I've done those in the past, yes.

25 Q Do you believe that's correct?

1 A That's correct.

2 Q One other question. Mr. Murphy mentioned that
3 there was one comp that was sold in 2004. You had mentioned
4 that the property value probably did go up in the 2005-2006
5 period. When was this appraisal performed?

6 A 2008.

7 Q What happened with the real estate market between
8 2005-2006 and 2008?

9 A Substantial drop.

10 Q And do you think that would effect this
11 calculation?

12 A Well, the substantial drop -- started dropping in
13 '08, but it took the big drop around October of '08 is when
14 everything finally hit the fan so --

15 Q Right. But in terms of comparing that comp, you
16 believe that --

17 A Yes, I would -- certainly looked at the date and
18 when -- when you look at what it actually sold in the later
19 years, I couldn't justify an adjustment for time.

20 Q Thank you.

21 MR. MULLER: I think that's all I have.

22 MR. MURPHY: One question, Your Honor.

23 RE CROSS EXAMINATION BY MR. MURPHY:

24 Q Mr. Pruitt, this Amended Notice Of Condemnation
25 that you were questioned about, that's not filed with the

1 Clerk of Court; is it?

2 A I don't see the stamp.

3 MR. MULLER: That's all I have.

4 EXAMINATION BY THE COURT:

5 THE COURT: Mr. Pruitt, let me just ask you --
6 let's go over to that page 21, if you've got the
7 exhibit in front of you. You came up with an overall
8 unit value per acre, and you came to the figure 74,000.
9 That was based on the four comparables you did. All
10 those comparables are in that immediate area, Highway
11 41 area?

12 A Yes, sir.

13 THE COURT: Then I guess the most significant
14 reduction was in the property number three, deduction
15 for the value of, I think, the house that was on the
16 property. So you're trying to get to price-per-acre
17 values?

18 A Right.

19 THE COURT: So I see an adjusted price breaker.
20 Those are in the range of ninety to a little over one
21 hundred, one hundred four thousand. How did you then
22 get to the range of 72 to \$76,000 as your adjusted
23 price range? What is that based upon?

24 A Well, first of all, with this type tract
25 comparable data is very limited, so you just got to use

1 what's there which is what I did; the best available is
2 here. Then it would be ideal if it was something right next
3 door to the subject; new adjustments. But these are
4 either -- the comparables are either a little bit better or
5 a little bit worse in certain cases, and I adjusted -- made
6 the proper adjustments up or down as they compared to the
7 subject.

8 THE COURT: I guess that's what I'm getting at.
9 Show me -- on the adjustments you have a 1.0 on each
10 location. Access and shape is .85, but then the size
11 and amenities seem to differ. Tell me what those mean.
12 I don't know what they mean. Location I think I
13 understand. Highway 41 is what we're talking about,
14 location-wise.

15 A Yes. These are all reasonably similar in
16 location, so there is no adjustment.

17 THE COURT: Access shape is 85% of value
18 meaning --

19 A Well, primary access. This -- see this -- if
20 you'll see on that map, this -- the big tract actually has
21 direct frontage on Canyon. That's the primary street
22 servicing this area. This is on the back of that.

23 THE COURT: I noted in your report there had been
24 a prior subdivision of this tract. There was
25 originally one tract.

1 A The actual parcel is that back one third of that
2 big tract. There is a picture of that in the appraisal.
3 You can see it's on page three.

4 THE COURT: Yes, I see that.

5 A And to access that you don't get to come through
6 it from Canyon Lane. You have to go down that side street,
7 which is just less desirable access than Canyon.

8 THE COURT: So that's an access issue, not
9 directly off of Canyon; you have to get there through
10 the back?

11 A Right.

12 THE COURT: What about size? How does that impact
13 you?

14 A Well, I found if you do enough of these, with all
15 else being equal, a smaller parcel will sell for a little
16 bit higher on a per unit basis. And, you know, the
17 smaller -- for example, that's a half acre -- say number one
18 was a half acre as opposed to a four-acre tract.

19 THE COURT: Which you gave a 1 to. Those are
20 fairly comparable.

21 A Pay little bit less per acre for a four-acre tract
22 than you would a half-acre tract, so you adjust downward.

23 THE COURT: Then amenities either a 1 or a .9. I
24 don't know why that would be. What are we talking
25 about there?

1 A I would have to read it. But there was something
2 that that parcel had that the subject didn't, and it was a
3 little worse.

4 THE COURT: Okay. I'm with you. So then the
5 calculations of the 8, 185 square feet, that was done
6 for you on the survey?

7 A Per survey.

8 THE COURT: So you know how much acreage to take.

9 A They tell me what the easement size is.

10 THE COURT: Then you just reduce the 74,000 -- you
11 came up with the figure 74,000 per acre, and then you
12 reduced that figure to get your unit value per square
13 foot; is that right?

14 A Right. Because the easement is on a
15 per-square-foot basis.

16 THE COURT: What's the footage on an acre that you
17 used?

18 A 43,560.

19 THE COURT: 43,560. All right. Foot to the acre;
20 right? Okay. Then the next calculation that you make
21 is the 15% of value for not a total taking but for an
22 easement taking?

23 A Yes, sir.

24 THE COURT: All right. I understand the
25 methodology. Thank you, sir. You may step down. Any

1 further questions?

2 MR. MULLER: No, Your Honor.

3 MR. MURPHY: Nothing, Your Honor.

4 THE COURT: Mr. Pruitt, you're excused.

5 Anything further from the Plaintiffs?

6 MR. BRUORTON: No, Your Honor, we don't have any
7 further witnesses, but I would like to mark this plat
8 as a court exhibit. It's referenced in the notice --

9 THE COURT: Yes.

10 MR. BRUORTON: -- possession and it's part of the
11 condemnation proceedings.

12 THE COURT: Just make it Plaintiffs 3.

13 MR. MURPHY: No objection.

14 (Whereupon Plaintiff's Exhibit 3 is received in evidence.)

15 THE COURT: Anything further from the Plaintiff?

16 MR. BRUORTON: No, Your Honor.

17 MR. MURPHY: We call Mr. Swinton.

18 (James Swinton, 157 Aylesbury Road, Goose Creek, S.C. 29445,
19 duly sworn, testifies as follows:)

20 DIRECT EXAMINATION BY MR. MURPHY:

21 Q Mr. Swinton, if you could just tell the Judge a
22 little bit about yourself; where you grew up, went to
23 school, that sort of thing?

24 A Okay. I grew up in the town of -- little town
25 called Ten Mile on the other side of Wando High School, and

1 graduated from Wando High School in 1974; first graduating
2 class from Wando and --

3 THE COURT: That makes you a Warrior.

4 A Yes, it does. Then I spent a couple of years -- I
5 went to school in Columbia for a year at the university;
6 came back and went to Baptist College which is Charleston
7 Southern. In 1977 I joined the U.S. Air Force. I retired
8 from the U.S. Air Force 1995. And after I came back here I
9 started working for Robert Bosch for about a year, and a
10 year later I got a job in the United States Postal Service
11 where I've been employed since 1996 up until now.

12 Q Are you married, sir?

13 A Yes, sir; married to Angela Swinton. I have two
14 daughters, 31 and 30. They graduated from the University of
15 South Carolina, and I hope I don't have any Clemson fans in
16 here but --

17 (Laughter)

18 A I have two grand daughters born in 19 -- I'm
19 sorry, in 2010.

20 Q Mr. Swinton, you're listed as a property owner on
21 this case?

22 A Yes, I am.

23 Q Can you tell the Judge a little bit about the
24 history of this property we're talking about today?

25 A This property is what I would call heirs property,

1 for the last few years. It was acquired by Sam Scott estate
2 in 1920, and when I moved back here this property was still
3 heirs property, and I was the one that actually did all the
4 paperwork. And it was a lot of work trying to convince
5 people to take from heirs property to, you know, property
6 that was in somebody's name as opposed to heirs property,
7 because you couldn't do anything with it. It's actually
8 twenty acres that we subdivided and decided -- ten-acre
9 tract off Highway 41 on Canyon Lane. And my mother pretty
10 much allowed us to subdivide it. She didn't get a chance to
11 see it, because she died, like, a year before we actually
12 got the deed to it.

13 Q You talked about this tract being a ten-acre
14 parent tract and being subdivided?

15 A Yes.

16 Q Can you explain to the Court what this plat or
17 survey is?

18 A Okay. This is the piece that we have from my
19 mother, which is 3.99 acres. This is my aunt's tract who
20 lives in New York, Lucille Singleton. And 1.88 is a first
21 cousin that lives in Canton, Ohio and pretty much everybody
22 got 3.99 acres.

23 Q If you could point out where the easement was that
24 is acquired?

25 A The easement is on the back side of the property.

1 And this property is actually contiguous to Dunes West in
2 Mt. Pleasant.

3 THE COURT: Let me ask this question, because
4 there are lots of other names, and I don't see any
5 other Affidavits of Service other than on Mr. Swinton.

6 Were deeds delivered to these individual lots that
7 you're making reference to or --

8 A Yes, yes they are. My aunt, Lucille Singleton,
9 has a deed to that property. And Peter Glover has a deed to
10 that property.

11 THE COURT: Who has the deed to this particular
12 four-acre tract we're talking about?

13 A That is my sister, who is here in the audience,
14 and my other five brothers. Actually what happened --

15 THE COURT: All these Swintons on here, you're all
16 from the same family?

17 A Right.

18 THE COURT: Your mother's name was --

19 A Lorena Swinton.

20 THE COURT: Did she ever get a deed or did the
21 deed go to you-all?

22 A What happened, when we were going through the
23 process of subdividing it, putting it in her name, she died.
24 So what the attorney did that was doing the paperwork, put
25 it under my brother's name and used terminology of E-T-A-L

1 under there.

2 THE COURT: Et al. Okay.

3 A So that's where we're at.

4 THE COURT: When was that done, that subdivision
5 done?

6 A I think it was done around 2006. I think it was
7 Christmas of 2006. And --

8 THE COURT: All right. I remember it. That was
9 my -- just making sure we've got all the right parties.
10 It's not a quiet title action but this is -- we'll
11 determine what the value of the property is and then
12 you-all will have to deal with --

13 MR. MURPHY: We'll deal with the apportionment
14 issues. We'll get there.

15 THE COURT: I just had that question.

16 BY MR. MURPHY:

17 Q Mr. Swinton, do you have an opinion on what this
18 four-acre tract is worth?

19 A I would ask at least \$120,000 per acre.

20 Q What do you base that opinion on?

21 A Well, like I said earlier, it's contiguous to
22 Dunes West, and there is a lot of development going on in
23 there right now, and actually there is a lot of people
24 trying to buy property there, so the property probably will
25 exceed in years to come but as of now I would say, I mean,

1 as far as what it would sell, I would say about a hundred
2 thousand dollars an acre.

3 Q And if it was sold for a hundred thousand dollars
4 an acre, would that lead you to believe what the fair market
5 value is of that property?

6 A That's my opinion. That's what it would be.

7 Q At a hundred thousand dollars per acre you're at
8 \$2.30 per square feet?

9 A I believe.

10 Q There were trees removed from this property?

11 A I believe so. And we were never even informed
12 when the action took place. Basically, we got a phone call
13 one day, said that someone was on the property. We didn't
14 get any kind of notification from the town or anything as to
15 what they were doing. We knew they were coming in, but as
16 to what would take place and that kind of stuff, we were
17 really never given a lot of information on what was going on
18 other than the paperwork that we got through the mail.

19 Q You don't have an opinion on value of the trees
20 that were removed; do you?

21 A I sure don't.

22 Q Would that be included in that \$2.30 per square
23 foot?

24 A I'm assuming it would be.

25 Q And in terms of -- this property was acquired in

1 easement rather than fee simple, and do you know what the
2 difference between those two is?

3 A Well, yes I do.

4 Q What is the difference in your mind?

5 A Well, to me it really doesn't make a whole lot of
6 difference, because from what I could see and what I've
7 heard so far that, I mean, the town pretty much has access
8 to all the property, what they want to do. I was told that
9 we could use it to do certain things like plant trees, and
10 this morning I discovered that pretty much they have total
11 access to the property, so it serves us no value. As far
12 as -- we were in the process of subdividing that property
13 amongst my siblings, but it's going to create a lot of
14 problems now with them taking away that easement from us.
15 So it's going to create lot of problems in the family.

16 Q In terms of just compensation in this case, if we
17 multiply the \$2.30 per square foot times the acquired 8,185
18 per square foot that would equal \$18,800?

19 A Somewhere in that neighborhood I would agree.

20 Q Do you believe that figure is just compensation in
21 this case?

22 A In my mind it's just compensation.

23 Q In your opinion, is that the market value of the
24 property that was acquired as of February 26, 2010?

25 A That's what I believe.

1 MR. MURPHY: That's all I have, sir. Please
2 answer any questions by Mr. Muller.

3 CROSS EXAMINATION BY MR. BRUORTON:

4 Q Mr. Swinton, my name is Chip Bruorton. I'll ask
5 you a few questions.

6 A Okay.

7 Q Your opinion as to the value of the property is
8 just based off your own assumption; correct?

9 A Not my assumption. Based on what I've seen in the
10 market as far as what's going on in the neighborhood. If
11 you ride over there now you'll see a lot of activity so --

12 Q Today?

13 A I would assume. Haven't been over there in a
14 while.

15 Q You see a lot of activity going on there today?

16 A Yes.

17 Q You didn't see that in 2010?

18 A Yes, it was.

19 Q What was going on in 2010?

20 A I think Phillip Manor, and those houses over there
21 they were built a few years ago. Those houses probably are
22 about \$200,000 on less than an acre tract, I'm sure. They
23 are very expensive.

24 Q That's further down closer to Rivertown and Dunes
25 West?

1 A Nope. Right in that little community, because
2 it's a prominently minority community where that house --
3 where those houses are. It's called Phillip Manor.

4 Q Did you take it upon yourself to access any
5 property records as far as what property was selling for,
6 how many properties were listed for sale and what the
7 selling prices of those properties were?

8 A During that time we were talking to some of the
9 guys in the neighborhood. I don't live there. And they
10 were saying at the time property was about a hundred
11 thousand dollars an acre at that time.

12 Q But that's based off what somebody else told you?

13 A No, these are people that have property in the
14 neighborhood that live there.

15 Q But that's based on what somebody else told you,
16 not your own investigation?

17 A Well, if that's what you want to say.

18 Q I mean, you didn't follow it up by checking
19 property records to determine whether things were selling
20 for a hundred thousand dollars an acre; did you?

21 A No, the owner determined the value of the
22 property. It's what value to the seller and the owner.

23 Q But you didn't do any investigation through
24 property records or anything like that to --

25 A No.

1 Q -- what was being --

2 A No, I didn't.

3 Q Okay. This tract that we're talking about that
4 was referenced -- I'll show you Exhibit 2 that was marked
5 earlier, Plaintiff's Exhibit 2. The tract that was
6 subdivide is tract 2000 -- per parcel 2009; is that correct?

7 A 365?

8 Q Right.

9 A 2009 for --

10 Q That's a parcel number Mt. Pleasant Waterworks
11 uses for reference. That 2009 would be the property?

12 A That's correct.

13 Q That was subdivided; right?

14 A Yes.

15 Q The portion of the subdivided property that we're
16 dealing with is the one third portion of that tract on the
17 back side of the property; is that right?

18 A Right.

19 Q That subdivided portion of the property has no
20 access to Canyon Lane?

21 A There is an easement there for that, that we've
22 put in there.

23 Q Is that the dirt road that was talked about
24 earlier?

25 A No, it's -- if you look at the plat, there it is,

1 access. We did -- we're not land locked, if that's what
2 you're getting at.

3 Q That wasn't my question. My question is, there is
4 no frontage to Canyon Road, but there is access through an
5 easement, I guess, is what you're telling me?

6 A Could you repeat that?

7 Q The subdivided property has no frontage to Canyon
8 Road, but you're telling me --

9 A No.

10 Q There is an easement from that property out to
11 Canyon Road; right?

12 A Yes.

13 Q Is the easement that we're talking about today,
14 from Mt. Pleasant Waterworks, restrictive in any way of that
15 easement out to Canyon Lane?

16 A No.

17 Q Is that easement that we're talking about today,
18 Mt. Pleasant Waterworks has on the property, restrictive in
19 any way to the dirt road that runs along the side of your
20 property?

21 A No.

22 Q When you got your value of a hundred -- you said
23 120, now you're saying a hundred. Which is it?

24 A I would say a hundred.

25 Q I believe your testimony was that's what you

1 believe the value would be today?

2 A Right.

3 Q Okay. And you come up with \$2.30 a square foot
4 based off that hundred thousand dollar value today, 2012,
5 but you didn't use any comparables, you just went on based
6 off what people were telling you; right?

7 A Like I said, look at the market, what's selling,
8 that kind of stuff. I'm not an expert appraiser or anything
9 like that, so I can't speak in terms of what is realistic or
10 unrealistic. I'm not a professional.

11 Q You believe the trees were removed but you don't
12 know --

13 A Well, we were never told. Like I stated earlier,
14 pretty much what they did, they went in there, did what they
15 had to do and we got phone calls; went there; tried to get
16 an injunction, but the town told us that they have a legal
17 right. So we really don't know what happened. We were
18 never told when the project would begin or end.

19 Q You don't know how many trees were disturbed, what
20 kind of trees were disturbed? You can't testify today what
21 was touched on the property?

22 A Only thing I can testify to is -- I'm sure the
23 trees back there, but never know -- never told what they
24 did.

25 Q But you understood that they had possession and

1 the right to access that property?

2 A Yes.

3 Q And do what they wanted to do?

4 A Well, to some extent. Like I said, we were never
5 told. I knew the eminent domain was taking place. We never
6 were against the eminent domain. Only thing we were saying,
7 if you're going to do this we want just compensation.
8 That's all we wanted.

9 Q They have served you with a Notice Of Possession
10 indicating that they had rights to that portion of the
11 property to do the work they needed to do; correct?

12 A I don't recall. I remember someone came by the
13 house one night and left some paperwork on the front door.
14 We never handed off anything to each other, anything like
15 that.

16 Q Who did you indicate the owner was of this
17 subdivided parcel that we're dealing with today?

18 A My sister that's here, and brothers.

19 Q What's the current use of the property? How are
20 you are currently using --

21 A We're waiting to see what's going to happen here
22 because, like I said, we're in the process -- what happened
23 was once we got the ten acres subdivided and we're in the
24 process of getting our 3.998 acres subdivided, then the
25 eminent domain took place, so that kind of through a monkey

1 wrench in what we had going on, so right now kind of, like,
2 at a stand still.

3 Q How far had you gotten on that subdivision
4 process?

5 A My brother was in the process of building a house.
6 He backed out. But, like I said, we never really started it
7 because of this.

8 Q Where was he in the process of building a house?

9 A He was going to put it right on the easement.

10 Q But you hadn't subdivided that property to
11 determine which portion of the property was going to be --

12 A He indicated to us that he wanted the back piece
13 closest to Dunes West, which cannot be done now.

14 Q He can build on the back piece, just not over this
15 30-foot section?

16 A Well, that's not the issue. The issue is that the
17 place that the town took was where he wanted. That's the
18 issue.

19 Q But at the time of the taking, that property had
20 not been subdivided?

21 A No.

22 Q In February of 2010 was there anything located on
23 this portion of the property where the easement was taken?

24 A No.

25 MR. BRUORTON: That's all the questions I have,

1 Your Honor.

2 REDIRECT EXAMINATION BY MR. MURPHY:

3 Q Just one brief question. Opposing counsel asked
4 you about the value of the property today, that hundred
5 thousand dollar value of the property today. Do you recall
6 that line of questioning?

7 A Yes.

8 Q Your opinion on the hundred thousand dollars per
9 acre would have been back on the -- or you would have that
10 same opinion as of February 26 of 2010?

11 A Yes.

12 MR. MURPHY: That's all I have.

13 THE COURT: All right. Very good. Mr. Swinton,
14 thank you, sir. I assume you're speaking for the
15 family on this thing?

16 A Yes.

17 THE COURT: It's heirs property, but you've taken
18 the role --

19 A I'm actually the executive. They signed it over
20 to me handling all the affairs of the property.

21 MR. MURPHY: We would rest, Your Honor.

22 THE COURT: Okay. Anything in rebuttal?

23 MR. BRUORTON: One moment, Your Honor.

24 (pause)

25 MR. BRUORTON: Just a couple of things, Your

1 Honor. No further witnesses from us.

2 The Amended Notice Of Possession is part of the
3 record with the RMC office.

4 THE COURT: We couldn't find it.

5 MR. BRUORTON: We've got the --

6 THE COURT: You have a stamped copy? It doesn't
7 mean it didn't get filed, but I couldn't --

8 MR. MURPHY: I couldn't find it filed, Your Honor.

9 THE COURT: What difference did it create?

10 MR. BRUORTON: It created the difference as to the
11 fee simple versus the --

12 THE COURT: Are they, in fact, taking fee simple?

13 MR. BRUORTON: No, that was what was taken out.

14 THE COURT: Okay. We all agree that it's for an
15 easement?

16 MR. MURPHY: I believe so, Your Honor. That could
17 just form some type of cloud on the property. I was
18 trying to explore whether there were some discussions
19 to fee simple opposed to easement.

20 THE COURT: You were on cross examination, so I
21 let you. But what we're taking is an easement, not a
22 fee --

23 MR. MURPHY: Yes.

24 THE COURT: Are we all in agreement on that?

25 MR. MURPHY: Yes, Your Honor.

1 THE COURT: There is a description there.

2 MR. BRUORTON: The only other issue would be
3 whatever determination you do make as to the value of
4 the property. Obviously the statute calls for the
5 condemnor to pay interest at 8%. There is a deposit
6 with the Court. Whatever interest is accrued gets set
7 off from that. We have a letter in the file from
8 June 27, 2011 when this case was originally set for
9 trial the following Wednesday. And a continuance was
10 requested by the condemnor -- I mean by the condemnee,
11 and we would just request the Court not run the
12 interest from June 27, 2011 to today, because that's
13 just prolonging the process, and now we're here another
14 year later before you ever got something set. We were
15 prepared to go on that day and deal with this issue.

16 MR. MURPHY: That's not the law, Your Honor. The
17 statute is very clear that 8% interest runs from the
18 date of deposit until date of judgment and the eminent
19 domain law trumps all procedure laws. They are stuck
20 with 8% from filing until now.

21 THE COURT: I was looking at the record trying to
22 see why it took so long. It got referred after sitting
23 over there. Was it set by me in June of '11 or set --

24 MR. BRUORTON: Right. We had a hearing scheduled
25 whatever the following Wednesday from June 27 is. That

1 was July 3rd or 2nd or something like that. We had
2 several hearings scheduled for that day. This was to
3 be one of them. Continuance was --

4 THE COURT: I'll deny that motion, because I think
5 they are entitled to interest on whatever the judgment
6 is. I'm ready to give you-all a judgment.

7 MR. MURPHY: I would also, for the record, Your
8 Honor, move for a directed verdict in the amount of
9 18,800 in favor of the landowner. The law requires the
10 condemnor to value the property as of the date of
11 filing which is February 26, 2010. The evidence
12 presented by Mr. Pruitt was as of May of 2008, and he
13 clearly stated on the record he could not give a value
14 as of February 26, 2010; therefore, the only relevant
15 evidence is that of Mr. Swinton, which was just
16 compensation is 18,800, Your Honor.

17 THE COURT: Respond?

18 MR. BRUORTON: I believe the Pleadings that were
19 filed also set forth the value based off the appraisal
20 that was performed, which is part of the record and
21 exhibits in the case.

22 THE COURT: All right. This is a condemnation
23 action, so it's brought pursuant to the Eminent Domain
24 Act which is, of course, constitutional. It's always
25 helpful to look at the statute when you read these

1 things, so I whipped the blue books out a while ago.

2 What I find is that -- I'm taking a little bit
3 from both sides, to be frank. I'll deny that motion
4 that the only evidence in the record is the \$18,000
5 figure. I understand where Mr. Swinton's coming from.
6 But these are my findings.

7 Gentlemen, I find that -- I'll take the value
8 somewhat -- having reviewed the expert's appraisal it
9 appeared to me a hundred thousand dollars seemed to be
10 a fair figure for property closer in time to when the
11 appraisal was done. However, what I do agree with
12 Mr. Pruitt on is the value of this parcel, being in the
13 back, in the rear, is not 100% of the value at a
14 hundred thousand but should, in fact, be appraised at
15 85% of that, so I'm taking an \$85,000 per-acre figure
16 to work from. I'm also going to find 15% is too low a
17 calculation. I'm going to use the figure of 40%. When
18 I did the math at 85 an acre I came up with \$1.95 a
19 square foot. When I calculate 40% of that I come up
20 with the figure of \$6384. I've rounded that to \$6400.
21 Okay?

22 I'll find the value of the easement that's been
23 acquired by the town for the purposes of public works
24 would be \$6400. Okay?

25 MR. MURPHY: Very well. Thank you, Your Honor.

1 THE COURT: Mr. Muller, Mr. Bruorton, can you get
2 me an order to that effect?

3 What I intend to do, unless -- I don't know where
4 you-all stand with how you're going to divide all that
5 stuff up. I had this issue come up before. What is
6 best for the Court is that that money gets paid in,
7 calculation of interest is done. I'm sure there is
8 accruing interest and the Clerk's got that figure.
9 Okay? We'll go from there and make sure you-all are in
10 agreement on what the dollars are. You can do with the
11 order whatever you want to do with the order. It's
12 easiest for the Court to close this case, and if you
13 need to distribute that or use those as funds to quiet
14 title or partition, I don't know what they are going to
15 do with this four-acre lot.

16 MR. MULLER: There's numerous landowners. I'll
17 submit affidavits to of the Court in support of
18 distribution.

19 THE COURT: All right. Very good. Thank you all
20 for coming in today.

21 MR. BRUORTON: Thank you.

22 MR. MURPHY: Thank you.

23 (Hearing concluded.)

24

25

**AN APPRAISAL – SUMMARY REPORT
OF A PERMANENT UTILITY EASEMENT
PARCEL 2009
ON HIGHWAY 41, MOUNT PLEASANT, SOUTH CAROLINA
TMS: 583-00-00-365**

AS OF

MAY 2, 2008

PREPARED FOR

**MOUNT PLEASANT WATER & SANITATION AUTHORITY
ATTN: MR. LEO RUSSO**

BY

GARY L. PRUITT, MAI

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May 16, 2008

Mr. Leo Russo
Mount Pleasant Water & Sanitation Authority
Rifle Range Road
Mount Pleasant, S.C. 29464

RE: An Appraisal – Summary Report of a utility easement – Parcel 2009

Dear Mr. Russo:

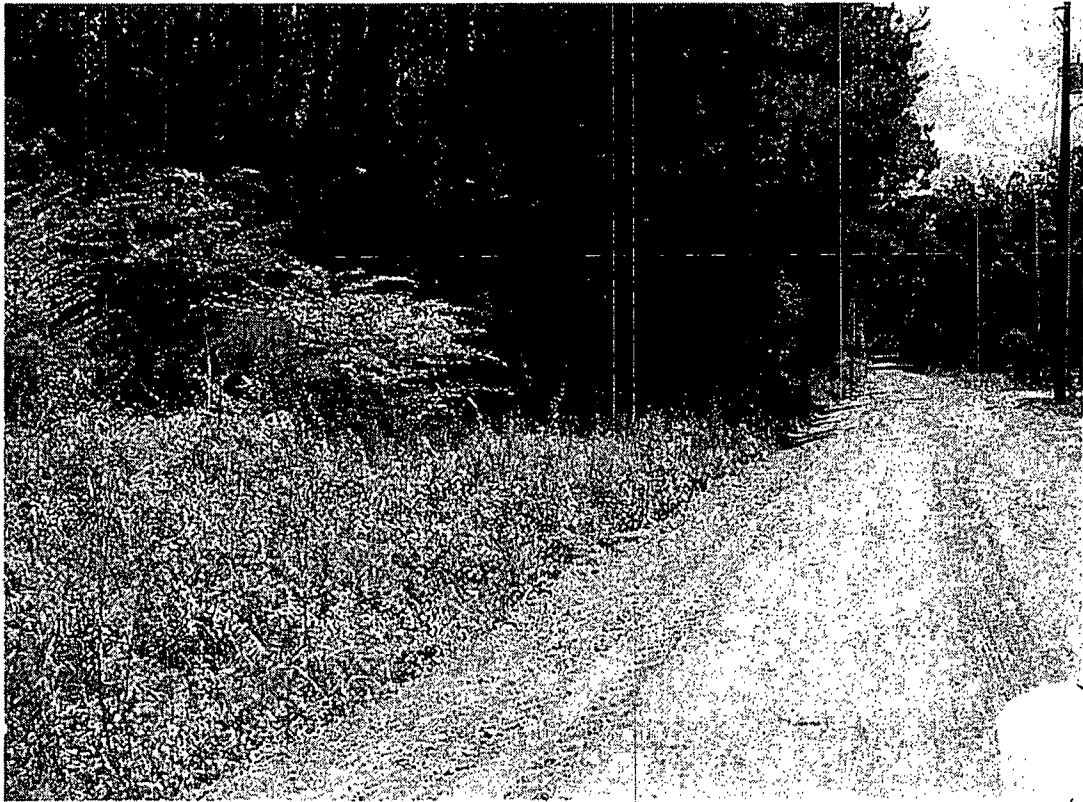
In accordance with your request, I have inspected the above referenced property, which is discussed in detail in the following analysis. The purpose of the inspection was to aid me in the preparation of the following appraisal presented in a summary report format. As described, the proposed easement acquisition will total 8,185 sf.

As a result of my investigation and analysis, it is my opinion that the market value of the acquisition as of May 2, 2008 was:

TWO THOUSAND ONE HUNDRED DOLLARS
\$2,100

This appraisal report is intended to conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Institute.

I have prepared appraisals on other properties of this type, and consider myself competent to prepare the following report on the subject property.



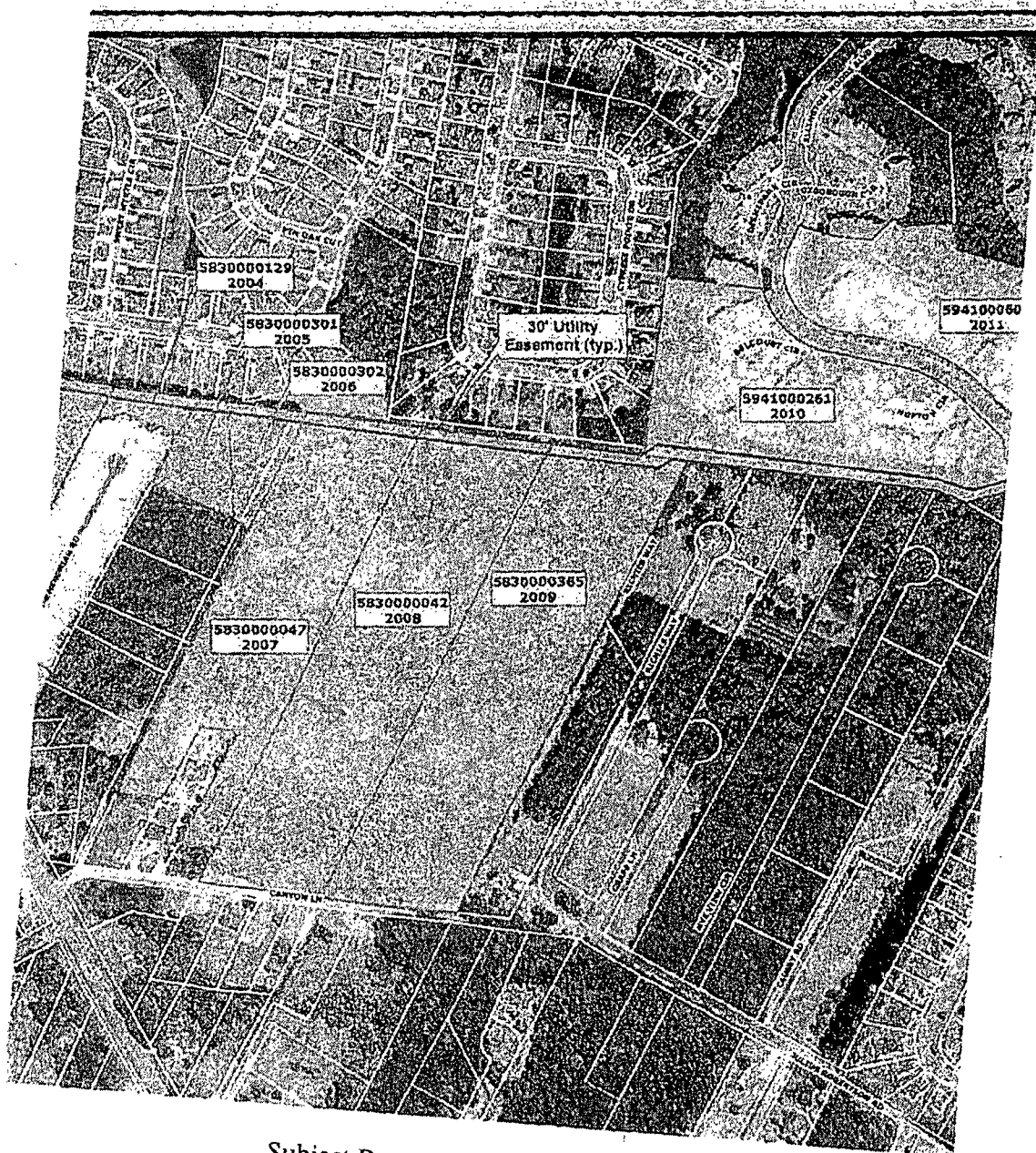
Parent tract is the rear portion of the wooded parcel on the left

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SUMMARY OF IMPORTANT CONCLUSIONS

Location:	Off Highway 41 Canyon Lane Mount Pleasant, S.C.
TMS:	583-00-00-365
Owner of Record:	Estate of Robert Gallon
Land Area (Proposed Acquisition) (Parent Tract)	8,185 SF 3.98 Acres
Zoning:	Residential
Highest & Best Use:	Residential
Estimate of Value: Parent Tract:	\$74,000/Acre or \$1.70/SF
Easement:	\$2,100
Date of Appraisal:	May 2, 2008
Appraiser:	Gary L. Pruitt, MAI
File No:	08-0183J



Subject Parent Tract and Easement – Parcel 2009
Note: Parent tract is the rear half of the parcel shown above (See view on next page)



Parent tract is located at the end of Murduck Drive

IDENTIFICATION OF THE SUBJECT PROPERTY

The subject of this appraisal is a proposed acquisition of an 8,185 sf utility easement that is presently part of a 3.98 acre parcel off S.C. Highway 41 on Canyon Lane, Charleston County, Mount Pleasant, South Carolina. It is identified by the Charleston County Assessor's Office as Tax Map Reference 583-00-00-365. The parent tract was originally 9.8 acres but was recently subdivided among the heirs into 3 parcels. The rear parcels are access via Murduck Drive, an unimproved access way.

A location map is included on the previous page.

DATE OF APPRAISAL

May 2, 2008

OWNER OF RECORD

The current owner of record is Henry Swinton, Jr. et al. The parcel has no sales history other than a family transfer. I am not aware that the property is presently listed for sale nor is there a pending contract of sale on the property.

PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to estimate market value of the proposed taking, which includes a utility easement.

I understand that this appraisal will be used by the Mount Pleasant Waterworks to compensate the property owner.

PROPERTY RIGHTS APPRAISED

The property rights appraised are those of full, complete, and unencumbered ownership subject only to the governmental rights of taxation, police power, eminent domain, and escheat. This is the greatest right and title, which an individual can hold in real property. It is known as "Fee Simple Interest".

DEFINITION OF MARKET VALUE

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and Seller are typically motivated.
2. Both parties are well informed or well advised, and acting in what they consider their own best interests.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Source Data:

- A. Department of the Treasury, Office of Thrift Supervision.
12 CFR Part 564.2, dated Thursday, August 23, 1990
- B. Department of the Treasury, Office of the Comptroller of the
Currency. 12 CFR Part 34.42, dated Friday, August 24, 1990
- C. Federal Deposit Insurance Corporation, 12 CFR Part 323.2,
dated Monday, August 20, 1990

SCOPE OF THE APPRAISAL

As part of this appraisal, a number of independent investigations and analyses were conducted. In addition to data compiled by Atlantic Appraisals on a regular basis, the investigation undertaken and major data sources used are listed below.

Area & Neighborhood Analysis - Information on the Trident area and Charleston County was obtained from the Chamber of Commerce and local municipalities. A personal inspection of the neighborhood was conducted and conversations were held with property owners, public officials, and various real estate professionals in the area.

Site Description & Analysis - The site was physically inspected on the appraisal date, at which time photographs were taken. The site inspection was conducted using a copy of the assessor's tax map or most recent plat available. Copies of this map or plat are provided herein.

Improvement Description & Analysis - There are no improvements located within the easement area, therefore, no improvements are discussed in this analysis.

Highest and Best Use - The highest and best use of the property was estimated based on an analysis of the subject property and surrounding land use patterns.

Cost & Income Approach - The cost and income approaches are generally not applicable to the appraisal of vacant land and are not used in this analysis.

Sales Comparison Approach - I have researched the market for sales of other properties that are reasonably similar to the subject that might indicate value for the subject. A number of sales were reviewed and those considered most comparable to the subject were used as a basis for comparison. These transactions were verified with the grantor, grantee, or real estate agent or closing attorney.

Report Preparation - The final phase of the appraisal process is the preparation of the appraisal report in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The report is also intended to conform to the code of ethics as adopted by the Appraisal Institute.

SITE DESCRIPTION

Identity- The parent tract is identified as Tax Map reference 583-00-00-365. The parcel # is 2009.

Size- The parent tract totals 3.98 acres. The easement taking will total 8,185 sf according to a plat provided by Thomas and Hutton Engineering.

Utilities- None.

Access- Access is via Murduck Drive from Canyon Lane. Murduck Drive is un-improved.

Soil Conditions- I was not provided a soil or engineering analysis, but have assumed for purposes of this appraisal, that no unusual soil or subsoil conditions exist that might inhibit or prohibit future use of the property.

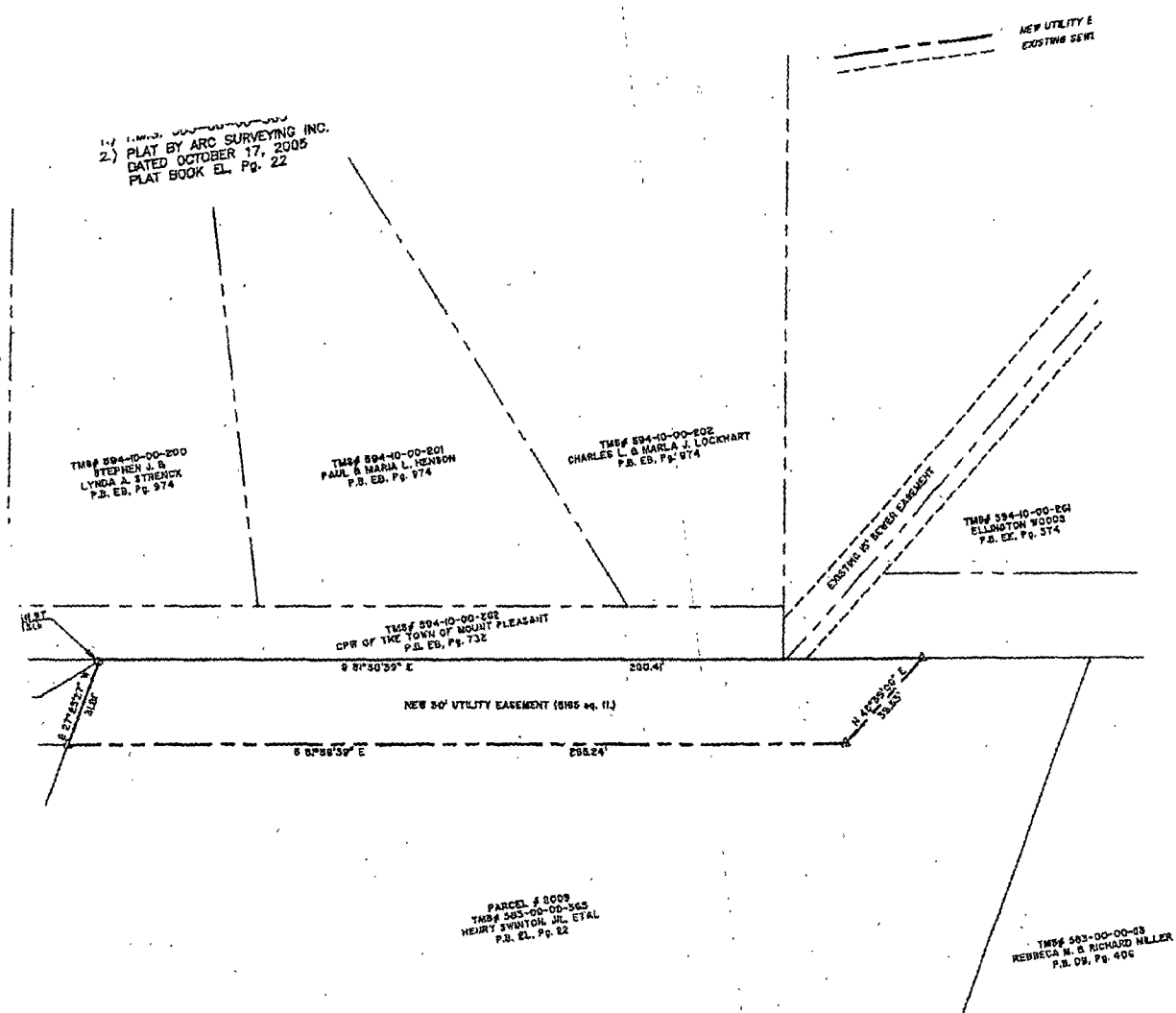
Hazardous Soil Conditions- In the preparation of this report, I have made the assumption that there is no environmental pollution or hazardous materials present in any part of the subject property or nearby properties. I have made no environmental survey or study and assume no responsibility in connection with such matters or for any studies, which might be required to discover such matters.

Easements & Encroachments- I am aware of no adverse easements or encroachments that would negatively impact value.

Proposed Acquisition- The acquisition will be 15' wide, total 8,185 sf, and will be taken from the rear of the tract along the rear property line.

Atlantic Appraisals, LLC

Gary L. Pruitt, MAI



ES:
THIS PLAT REPRESENTS A SURVEY BASED ON THE
LISTED REFERENCES ONLY AND IS NOT THE RESULT
OF A TITLE SEARCH.

PROPERTY TAXES

The subject property (entire parent tract) is currently appraised for \$00. This results in a minimal property tax liability.

ZONING

The subject property is located in the County of Charleston and is currently zoned for residential use. The current use is conforming.

HIGHEST AND BEST USE – SUMMARY

As described earlier, the subject property is located off Hwy 41 on Canyon Lane. This is a dirt road and the surrounding uses are residential. The estimated highest and best use is for residential use.

VALUATION METHODOLOGY

The appraisal involves the acquisition of a 8,185 sf 15' wide strip of land that will be acquired as a utility easement by Mt. Pleasant Waterworks. The strip will be taken from the rear of a 3.98-acre tract. In my opinion, the most reasonable method of valuing the proposed taking is to estimate value of the parent tract and apply the same unit value to the proposed taking.

PERMANENT EASEMENT VALUATION

The permanent easement (8,185 SF) to be taken by the Mt. Pleasant Waterworks will allow for ingress and egress across and within the boundaries of the easement. The surface of the land will be temporarily disturbed and placed back to near its original condition. The property owner will have the right to use the property; however, he will be unable to place a permanent structure within the boundaries of the easement.

If the owner is denied any further use of the easement strip, then it is reasonable that he should be compensated for 100% of the property value lost. However, since use of the property can continue except for the construction of permanent buildings, it is reasonable to assume a property value loss of something less than 100%.

When considering the total bundle of property rights, and the rights eventually lost, it is my opinion that a value of 15% of total market value is reasonable compensation.

The easement results in no diminution in value therefore there are no damages.

LAND VALUATION – PARENT TRACT

I have researched the subject neighborhood for recent sales of vacant commercial land sites that might indicate value for the subject. Many transactions were investigated, and the following were believed sufficiently comparable to warrant further analysis. These transactions are discussed in detail on the following pages.

Note: The subject section of Hwy 41 is somewhat unique and I believe it important to have comparables in the immediate vicinity. I was able to locate several sales of lots located off the Hwy 41 corridor in the immediate vicinity.

COMPARABLE LAND SALES SUMMARY TABLE

No.	Location	Sale Date	Price	Size in Acres	Price/ Acre
1.	Virginia Rouse Road	09/04	\$52,000	0.500	\$104,000
2.	Oliver Brown Road	02/08	\$200,000	2.000	\$100,000
3.	Nye View Circle	05/08	\$410,000	4.570	\$89,715
4.	Joe Glover Road	03/07	\$191,000	2.000	\$95,500

Land Sale No. 1**Property Identification**

Record ID	2739
Property Type	2200, 2209
Address	Virginia Rouse Road, Mt. Pleasant, Charleston County, South Carolina
Tax ID	583-00-00-244
Appraiser	04

Sale Data

Grantor	Harvey Johnson
Grantee	Tina Thomas
Sale Date	September 15, 2004
Deed Book/Page	V509-134
Conditions of Sale	Cash to Seller
Verification	Tina Thomas - Owner; in person, May 02, 2008;

Sale Price	\$52,000
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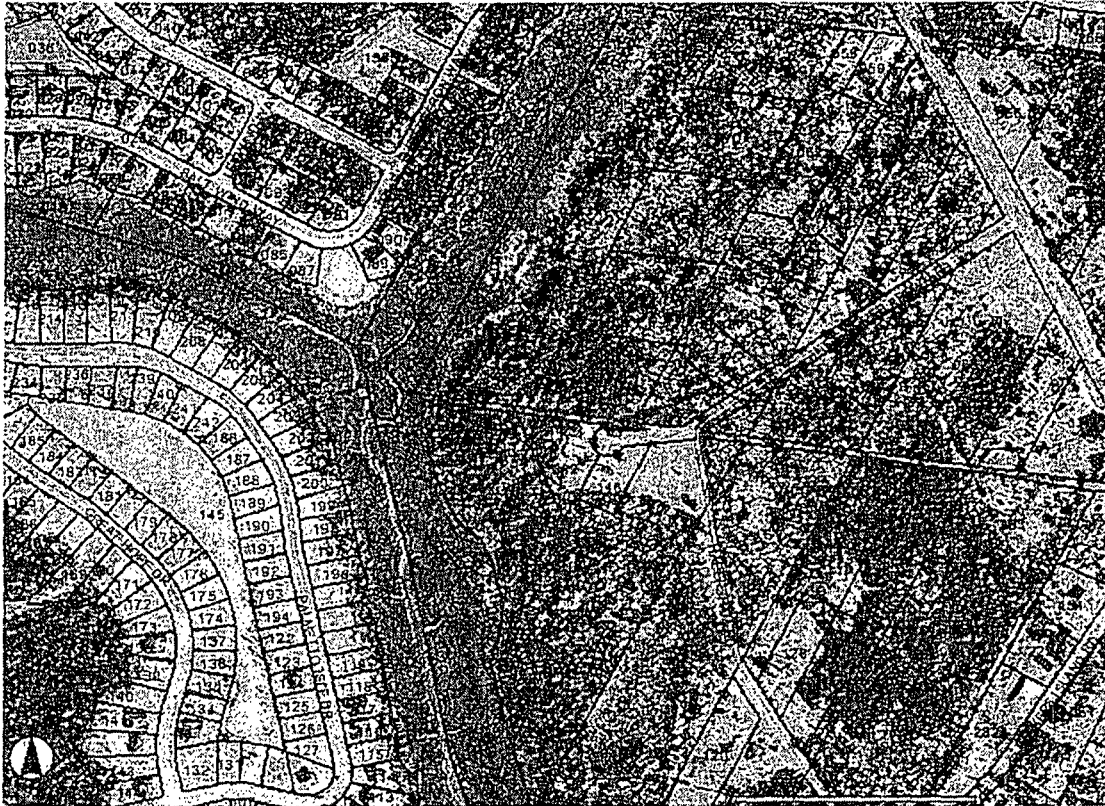
Land Data

Zoning	Residential
Utilities	None

Land Size Information

Gross Land Size	0.500 Acres or 21,780 SF
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Land Sale No. 2

**Property Identification**

Record ID	2740
Property Type	2200, 2209
Address	Oliver Brown Road, Mt. Pleasant, Charleston County, South Carolina
Tax ID	583-00-00-072
Appraiser	04

Sale Data

Grantor	Lillian Seabrook
Grantee	Phillips Community
Sale Date	February 29, 2008
Deed Book/Page	M652-850
Conditions of Sale	Cash to Seller
Verification	Christina Thomason - Agent; 884-1800, May 02, 2008;

Sale Price	\$200,000
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Land Data

Zoning	Residential
Utilities	None

Land Size Information

Gross Land Size	2.000 Acres or 87,120 SF
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Indicators

Sale Price/Gross Acre	\$100,000
Sale Price/Gross SF	\$2.30

Remarks

A residential parcel located off Hwy 41 at the end of Oliver Brown Road. The parcel was listed for \$325,000 and was purchased with greenbelt funds and must remain as a park or green area. The purchase was based on appraisal.

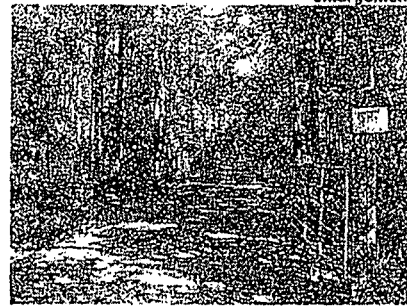
Agent Full Report

Page 1 of 2

3041 NYE VIEW CIR**MOUNT PLEASANT, SC 29466****LP: \$585,000**

MLS#: 2732808md - RES **Status:** Active
Area: (42) CHS-Mt.Pleasant South of Hwy.41
Municipality: (12) MT. PLEASANT
Kind: Sngl Fam Det
Bedrooms: 2 **Apx SqFt:** 1,044
Bths Ful/Hlf: 2/0 **Tax Map#:** 583-00-00-040
Stories: 1 Story **Apx YrBlt:** 1982
Address: 3041 NYE VIEW CIR
City: MOUNT PLEASANT **Zip:** 29466
Lot Size: **Acres:** 4.57
Subdlv: LAUREL HILL **Subsec:**
Grade Sch: CHARLES PINCKNEY **Middle Sch:** CARIO
High Sch: WANDO
Possessn: At Closing **New/Owned:** Pre-owned
Legal Desc: Lot 2 A of Lt 2

Click photo for additional media and enlargement



Style: Ranch	Fireplace: Living Rm, Wood Burning, One Crawl Space	Special: Flood Ins
Roof: Asphalt Shng	Foundation:	Floors: W/w Carpet, Ceramic Tile, Vinyl
Cooling: Central	Heat: Forced Air, Electric	Utilities:
Parking: Attached, Off-st Prkng	Auction Type:	SqFt Source: Previous Listing
Auction:		Reserve Amt:
Lot Desc: Wooded, 2-5 Acres		
Exterior: Wood Siding		
Master BR: Downstairs		
Other Rms: Laundry		
Misc. Int: All Wdw Trmt		
Misc. Extt: Abv Grd Pool, Strm Windows, Part'l Fence		
Wat/Sew: Well, Septic		
Amenities: Trash Pickup		
Appliances: Refrigerator, Washer Conn, Dryer Conn		

Directions: Hwy 17 North to Hwy. 41 go approx. 5 miles and turn right onto Bennett Charles. Go to stop sign and make a left onto Julius Robertson and a right onto Nye View Circle.
Showing: CSS 402-7400 Schedule Appointment using CSS
Remarks: Beautiful Secluded Property! A full rich history! This land offers a dynamic opportunity for builders, developers, or investors. The property backs up to the Park West neighborhood. It is ideal for building your DREAM home. The potential for this land is endless. Developers, builders or those with an eye for the future can create many possibilities. Lovely Muscadine grapevines, a pear tree and pecan tree stand proudly. Enjoy a double-sided tree lined entrance into the property. Beauty surrounds you! The owners have nurtured this land with love, and that is clearly visible as you take in the view. The value is in the land, not the house on the property, but the house is in very good condition! The seller will do absolutely no repairs, not even as a result of the CL 100. Refrigerator covers. (2 yrs. old) Stove is 5 yrs. old, A/C is 1 yr. old and dishwasher is 1 1/2 yrs. old. All convey. Online Auction at www.RealtyBid.com. If square footage is important - MEASURE!!
Agnt Notes: Appointed required to view home. Make appointment with Centralized Showing to see the home from 12-5pm weekdays. Value is in the property, and the house is an "AS IS" extra bonus. The house is in great shape. No repairs will be made. Do not disturb owners. Feel free to walk the property after making an appointment with Centralized Showing. Walking the property can be done week- days between 9-5:30. If square footage is important to you, measure, measure, measure. The gate is open, and a key to the gate is in the locked mailbox. Use the key found in the lockbox on the gate, to open the locked mailbox that holds the key that opens the gate (if gate is locked). A house key will also be inside the lockbox. Remember, the house is shown by appointment only! [Click here to report incomplete or inaccurate information](#)

Lease/Pur: N	Prospect Ex:	N Financing:	Any	Assumable:	No
Taxes:	HQA Fee:	N Assmt Ratio:	COMBINATION OF A and B	SpAssmt:	
Owner:	Regime Fee:	N List Date:	9/17/2007	Exp Date:	N/A
C/R:	N CntngncyRsn:				

List Agent: (16294) <u>ODESSA O. WILSON</u>	Type/Comp/SubAccept:	Exclusive Right to Sell/3 %/Y
List Office: (7547) CENTURY 21 PROPERTIES PLUS INC	Variable:	N
	Limited Svc:	N
Co-Off: ()	Co-Agt:	()
Contacts: Office Ph Agent Mobile Agent Office Direct		

http://www.ctarmls.com/ListitCharleston/ListitLib/report_builder.aspx?report=members_full_prop1&mls... 5/15/2008

Land Sale No. 4

Property Identification

Record ID	2745
Property Type	2200, 2209
Address	Joe Glover Road, Mt. Pleasant, Charleston County, South Carolina
Tax ID	583-00-00-112
Appraiser	04

Sale Data

Grantor	Lillian Singletary
Grantee	Habitat for Humanity
Sale Date	March 19, 2007
Deed Book/Page	K619-647
Conditions of Sale	Cash to Seller
Verification	Dan Janus - Habitat; May 02, 2008;

Sale Price	\$191,000
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Land Data

Zoning	Residential
Utilities	None

Land Size Information

Gross Land Size	2.000 Acres or 87,120 SF
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Indicators

Sale Price/Gross Acre	\$95,500
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Sale Price/Gross SF	\$2.19
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Remarks

A residential parcel located off Hwy 41 near Park West. Joe Glover Road is a short dead end street off Joe Rouse Road. The property will be subdivided and new homes built by Habitat.

The above sales have been compared to the subject in chart form at the end of this section. Adjustments have been made for differences in sales condition, time, location, access/frontage and size. I have valued the entire parent tract and the same unit value will be applied to the strip take.

Explanation of Adjustments

Sales Condition- All of the sales were verified and found to be cash equivalent transactions and no adjustments to the deed price were required. Transaction No. 3 is a listing with a small house. A deduction of \$175,000 is an allowance for the house and an allowance to reflect a reasonable offering and acceptance price.

Time- Residential land values in 2007 and 2008 have shown little increase in value over the 2005 and 2006 period; hence, no adjustment for time is warranted along Hwy 41.

Location- The subject property is located off Hwy 41 in Mt. Pleasant as are comparables 1 through 4. The comparables are on secondary roads as is the subject; hence, no adjustment is necessary.

Access- As a result of the subject tract being located to the rear of a recently subdivided parcel, access to the subject is inferior to the comparables.

Size- The subject parent tract is 3.98 acres. It has been my experience, with all else being equal, that smaller parcels tend to sell for higher unit prices. Adjustments are made accordingly.

As shown, adjusted unit prices range from \$71,700/acre to \$76,300/acre. With equal weight given to each it is my opinion that a unit value of **\$74,000/acre** is reasonably bracketed and supported. This equates to **\$1.70/sf.**

LAND VALUATION

3.98 ACRES

PARCEL 2009

TRANSACTION NO:	1	2	3	4
TYPE TRANSACTION	SALE	SALE	LISTING	SALE
LOCATION	Vir Rouse	Oliv Brown	Nye View	Joe Glover
IDENTIFICATION	Res Land	Res Land	Res Land	Res Land
DATE OF SALE	Sep-04	Feb-08	May-08	Mar-07
SALES PRICE	\$ 52,000	\$ 200,000	\$ 585,000	\$ 191,000
SIZE(Acre)	0.50	1.92	4.57	2.00
PRICE/Acre	\$ 104,000	\$ 104,167	\$ 128,009	\$ 95,500
WETLANDS	0%	0%	0%	0%
SALES CONDITION	\$ -	\$ -	\$ (175,000)	\$ -
ADJ/ S.P./\$Acre	\$ 104,000	\$ 104,167	\$ 89,716	\$ 95,500
TIME ADJUSTMENT	1.00	1.00	1.00	1.00
TIME ADJ S.P./\$Acre	\$ 104,000	\$ 104,167	\$ 89,716	\$ 95,500
ADJUSTMENTS:				
LOCATION	1.00	1.00	1.00	1.00
ACCESS/SHAPE	0.85	0.85	0.85	0.85
SIZE	0.85	0.90	1.00	0.90
AMENITIES	1.00	0.90	1.00	1.00
NET ADJ FACTOR	0.72	0.69	0.85	0.77
ADJUSTED S.P./\$Acre	\$ 75,140	\$ 71,719	\$ 76,258	\$ 73,058

RECONCILIATION:

INDICATED UNIT VALUE:\$/ACRE	\$	74,000
INDICATED UNIT VALUE:\$/SF	\$	1.70

ESTIMATE OF VALUE FOR THE UTILITY EASEMENT

The permanent utility easement will total 8,185 SF. This is a permanent easement and the ground will be repaired to near its original state. There will be no other loss in value. I have therefore estimated the value loss at only 15% of market value.

8,185 SF @ \$1.70/SF x 15%.....\$2,087

Rounded to.....\$2,100

The estimated market value of the easement as of May 2, 2008 is

TWO THOUSAND ONE HUNDRED DOLLARS

\$2,100

CERTIFICATION

The appraiser hereby certifies that Atlantic Appraisals was engaged to appraise the market value of the fee simple interest in the following real property, as of the last date of inspection, May 2, 2008.

**AN APPRAISAL – SUMMARY REPORT
OF A 8,185 sf UTILITY EASEMENT
HIGHWAY 41, MOUNT PLEASANT, SOUTH CAROLINA
TMS: 583-00-00-365**

The property was inspected by Gary L. Pruitt, MAI, on May 2, 2008.

Neither Atlantic Appraisals nor the signatories of this Certification, have any present or contemplated future interest in the real estate that is the subject of this report.

The appraiser(s) have no personal interest or bias with respect to the subject matter of this report or to the parties involved other than as an unbiased advisor to the client. The reported analyses, opinions and conclusions are limited only by the special and General Assumptions and General Limiting Conditions set forth in this report.

To the best of the appraiser(s) knowledge and belief, the statements of fact contained in this appraisal report, upon which the analyses, opinions, and conclusions expressed herein are based, are true and correct. No one other than the signatories of this Certification prepared the analyses, conclusions and opinions concerning the real estate set forth in this report.

To the best of the appraiser's knowledge and belief, the reported analyses, opinions and conclusions were developed and this report has been prepared in conformity with and is subject to the Uniform Standards of Professional Appraisal Practice of the Appraisal Institute. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, Gary L. Pruitt, MAI, has completed the requirements of the continuing education program of the Appraisal Institute.

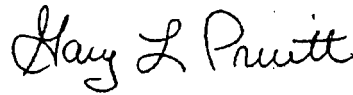
I certify that, to the best of my knowledge and belief, the reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of The Appraisal Institute.

I certify that the use of this report is subject to the requirements of The Appraisal Institute relating to review by its duly authorized representatives.

The compensation for this appraisal is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event. The appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

Based on the appraiser's investigation, analysis and conclusions, an opinion has been formed that the market value of the fee simple interest in the subject property as of May 2, 2008, subject to the special and General Assumptions and General Limiting Conditions incorporated by reference into this Certificate was:

See Letter of Transmittal

A handwritten signature in cursive script that reads "Gary L. Pruitt".

Gary L. Pruitt, MAI
State Certified General Real Estate Appraiser
Certification No. CG170

GENERAL UNDERLYING ASSUMPTIONS

This appraisal report has been made with, and is subject to, the following general assumptions:

- That title to the property is assumed to be good and marketable unless otherwise stated. No responsibility is assumed for the legal descriptions or for any legal matter.
- That the definition of value together with other definitions and assumptions on which our analyses are based are set forth in appropriate sections of this report and are a part of these General Assumptions as if included in their entirety.
- The property is considered to be free of all liens and encumbrances.
- That the facts, estimates and opinions furnished to the appraisers by others and contained in this report are considered to be from reliable sources and, where feasible, have been verified. However, no responsibility is assumed for the accuracy of the information. We reserve the right to modify the value estimates should more reliable or accurate information become available subsequent to delivery of this report.
- All engineering and/or surveys are assumed to be correct. The sketches, plot plans and drawings included in the report are included only to assist the reader in visualizing the property.
- It is assumed that there are no hidden or other unapparent conditions in the soil, subsoil, structures or property which would render them more or less valuable.
- Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on or in the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on, in, or near the property. The appraiser, however, is not qualified to detect such substances. The presence of potentially dangerous or hazardous materials, gases, or toxic substances may affect the value of the property and in this appraisal the value estimate is predicted on the assumption that there is no such element on, in, or near the property that would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them.
- It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is stated, defined, and considered in the appraisal report.
- It is assumed that all applicable zoning and use regulations and restrictions have been compiled with, unless a non-conformity has been stated, defined, and considered in the appraisal report.
- It is assumed that all required licenses, certificates of occupancy, legislative or administrative consents from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
- It is assumed that the utilization of the land and/or improvements is within the boundaries or property lines of the property described herein and that there is no encroachment or trespass unless noted within the report.

GENERAL LIMITING CONDITIONS

This appraisal report has been made with, and is subject to, the following General Limiting Conditions:

- The appraisers, by reason of this appraisal report, are not required to give further consultation, testimony, or to be in attendance in court or at any governmental or other hearing with reference to the property without prior arrangements.
- The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separated allocations for land and buildings, if any, must not be used in conjunction with any other appraisal and are invalid if so used.
- Use and disclosure of the content of this report are governed by the bylaws and regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraisers or the firm with which they are connected, or any reference to the Appraisal Institute to the MAI or SRA designations) shall be disseminated to the general public through advertising or sales media, public relations media, news media, or other public means of communication without the prior written consent and approval of the appraiser(s).
- Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without consent of the appraiser, and in any event only with proper written qualifications and only in its entirety.
- This appraisal report has been prepared for the exclusive benefit of the stated client. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the preparer's written consent, does so at his own risk.
- The party for whom this appraisal report was prepared may distribute copies of this appraisal report in its entirety, to such third parties as may be selected by the party for whom this appraisal report was prepared; however, portions of this appraisal report shall not be given to third parties without the prior written consent of the signatories of this appraisal report.
- Additional copies of this appraisal may be obtained for an appropriate fee only with the knowledge and consent of the client.

QUALIFICATIONS OF THE APPRAISER

Gary L. Pruitt, MAI
 Atlantic Appraisals
 1250 Fairmont Avenue
 Mt. Pleasant, South Carolina 29464
 (843) 884-1266

EDUCATION:

The Citadel, 1974 - B.A. Degree - Political Science
 Charleston, South Carolina

Awarded RM Designation through Appraisal Institute - 8/86
 (Converted the RM Designation to SRA in 1991)

Awarded MAI Designation through Appraisal Institute - 12/90

PROFESSIONAL STUDIES:

Courses by Appraisal Institute

Course I-A	Appraisal Principles Methods & Techniques	January 1975
Course I-B	Capitalization Theory and Techniques	February 1976
Course II	Case Studies in Real Estate Valuation	May 1979
Course VI	Real Estate Investment Analysis	September 1979
Course 8-2	Residential Valuation	September 1985
Course 8-3	Standards of Professional Practice	March 1986
Course I-B	Capitalization Theory & Techniques A & B	February 1987
Course I-A	Basic Valuation Proced.	September 1987
Course 540	Valuation Analysis & Report Writing	February 1988
Course II	Case Studies in Real Estate Valuation	July 1990
Course 410/420	Standards of Professional Practice A & B	May 2000
Course 510	Advanced Income Capitalization	August 1995
Course 540	Valuation Analysis & Report Writing	May 2000
Course 520	Highest and Best Use and Market Analysis	October 2000

QUALIFICATIONS OF THE APPRAISER (CONTINUED)

Gary L. Pruitt, MAI

SEMINARS:

Understanding Ltd. Appraisals & Reporting Options	July 1994
Appraisers Complete Review	August 1994
Property Const. & Inspection	January 1995
Environmental Risk and the Appraisal Process	April 1995
Discounted Cash Flow Analysis	April 1997
Real Estate Risk Analysis	July 1998
General Appraisal Review	March 2000
Appraising Conservation Easements	January 2001
Eminent Domain & Condemnation Appraising	January 2001
Uniform Standards For Federal Land Acquisitions	October 2002
Supporting Capitalization Rates	January 2003
Land Valuation	April 2003
Analyzing Distressed Real Estate	October 2003
The Road Less Traveled: Special Purpose Properties	January 2004
National USPAP Update	May 2005
Business Practices and Ethics	May 2005
Real Estate Finance and Investment Performance	June 2005
Small Hotel/Motel Valuation	March 2006
Highest and Best Use Applications	March 2007

CERTIFICATIONS:

State Certified Real Estate Appraiser
Certification No. CG170

EMPLOYMENT:

Charleston County Assessor's Office	1974 - 1984
Associate - Attaway, Thompson & Associates Real Estate Appraisers & Consultants	1984 - 1985
Atlantic Appraisals Real Estate Appraisers & Consultants	Present

APPRAISAL EXPERIENCE INCLUDES:

Commercial -- Retail, Industrial, Office Buildings, Multi-Family, Land Tracts,
and Special Purpose Properties

PROFESSIONAL AFFILIATIONS:

- North Charleston Breakfast Rotary
- Charleston Trident Board of Realtors
- Appraisal Institute - MAI & SRA

CERTIFICATE OF COUNSEL

The undersigned certified that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

November 3, 2012

/s/ Christopher L. Murphy

Christopher L. Murphy
123 Meeting Street
Charleston, SC 29401
(843) 577-9323
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Master in Equity

Mikell R. Scarborough

Case No. 2010-CP-10-1602

Commissioners of Public Works of the Town of Mt. Pleasant, South Carolina Respondent

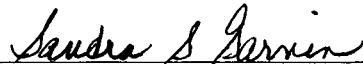
v.

Henry Swinton, Jr., Leroy Swinton, Earsilee Nesbit, Jack Swinton, Charles Swinton, Nathaniel Swinton and James Swinton Appellant

PROOF OF SERVICE

I CERTIFY that I have served the Record on Appeal on counsel of record for Respondent by delivering a copy via U.S. Mail First-Class postage prepaid on the 7th day of November, 2012, addressed as follows:

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