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Eminent Domain Appraisals - by Marsha Campaniello

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Appraisal opportunities often not considered are those involving Eminent Domain as a result of “the right of a government or its agent to expropriate private property for public use, with payment of just compensation” through due process of law. Whether the appraisal client is the property owner or the government agency, whether the property is residential, commercial, industrial or vacant land, this is a segment of the appraisal profession that is in constant need of qualified appraisers.

I have recruited Laura Davies, chief right-of-way appraiser for the N.H. Department of Transportation, to assist in writing this article in an attempt to entice more appraisers to add this skill-set to their appraisal credentials. Once experience has been gained, the opportunities of repeat work are endless as Eminent Domain will be around as long as there is a need for projects to benefit the public.

So, what does an Eminent Domain appraisal look like? First though, what are the different effects Eminent Domain can have on real estate? In general, they typically include the acquisition of one or more of the following:

- Complete – Acquisition of the entire property.
- Partial – Acquisition of a portion of the land and/or improvements.
- Easements:
 - Permanent – Ex. drainage, utility, slope, etc.
 - Temporary – Ex. construction, driveway, detour, etc.

It should be noted that although all appraisal reports are to adhere to our Uniform Standards of Appraisal Practice (USPAP), when completing appraisal reports for Eminent Domain, one needs to take into account the applicable laws, regulations and procedures that are often governed by the funding source(s) for the project. If the project is, for example, using Federal funds, such as for widening an Interstate highway, then compliance with the Uniform Appraisal Standards of Federal Land Acquisitions and the “Uniform Act” (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs) is required. If state funding is involved, then compliance with, for instance, the N.H. Department of Transportation Right-of-Way Manual is required. Please note that this article focuses on Eminent Domain work within the state of N.H.

There are generally three types of reports to choose from - a “Land Only” Appraisal, a “Before and After” Appraisal, or a “Complete Acquisition” Appraisal:

- “Land Only” Appraisal: This is the most common report type for Eminent Domain appraisals as most Transportation improvement projects make every effort to minimize the impact on surrounding properties, to minimize the overall costs associated with the project, as well as to minimize

disruption to property owners and the community.

- Used when there are No Damages; i.e. the market value of the property does not decrease as a result of the acquisition.

- Most acquisitions consist of an acquisition of: a small portion of the land, or a permanent easement such as for drainage, or a temporary easement such as to facilitate the construction project.

- If the acquisition is so minor as to have no measurable impact to the market value of the real estate, then the “Land Only” is valued. Once the market value of the land is determined, then the value of the property rights acquired is calculated based on a pro rata value of the land.

- “Before and After” Appraisal:

- Appraisal of the entire property (Land AND Improvements)

- Used if there are “Damages”– i.e. the Market Value of the property “Before” the Eminent Domain acquisition is greater than the Market Value “After” the Eminent Domain acquisition.

- Used if the Highest and Best Use of the subject property, or the intensity of the use, changes as a result of the acquisition.

- Required if the offered compensation is challenged by the property owner, where the case then goes either before the NH Board of Tax and Land Appeals, or the County Superior Court.

- “Complete Acquisition” Appraisal: A market value appraisal of the entire real property.

Attention Appraisers, both residential and commercial! Eminent Domain appraisals are a great way to expand your business and your credentials, whether your client is the property owner who would like their own estimate of just compensation, or your client is the federal, state or municipal agency. Yes, you do need to “follow the rules” of the government agency (or agencies) holding the purse strings, but the work itself can be very interesting and rewarding.

If you are interested in becoming an appraiser or appraiser supervisor for the NH Department of Transportation, or in being added to the approved appraiser list, which is updated periodically, please contact Laura Davies at (603)271-3208, or Laura.J.Davies@dot.nh.gov.

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