The State Properties Review Board held a Regular Meeting on October 7, 2019 in Suite 2035, 450 Columbus Boulevard, Hartford, Connecticut.

**Members Present:**
Edwin S. Greenberg, Chairman  
Bruce Josephy, Vice Chairman  
John P. Valengavich, Secretary  
Jack Halpert  
Jeffrey Berger  
William Cianci

**Members Absent:**

**Staff Present:**
Dimple Desai  
Thomas Jerram

**Guests Present:**

Chairman Greenberg called the meeting to order.

Mr. Valengavich moved and Mr. Halpert seconded a motion to enter into Open Session. The motion passed unanimously.

**OPEN SESSION**

1. **ACCEPTANCE OF MINUTES**
   
   Mr. Valengavich moved and Mr. Halpert seconded a motion to approve the minutes of the October 4, 2019 Special Meeting. The motion passed unanimously.

2. **COMMUNICATIONS**

3. **REAL ESTATE - UNFINISHED BUSINESS**

4. **REAL ESTATE - NEW BUSINESS**

<table>
<thead>
<tr>
<th>PRB #</th>
<th>19-209</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Transaction/Contract Type:</strong></td>
<td>RE/ Administrative Settlement</td>
</tr>
<tr>
<td><strong>Origin/Client:</strong></td>
<td>DOT/DOT</td>
</tr>
<tr>
<td><strong>Project Number:</strong></td>
<td>034-347-009</td>
</tr>
<tr>
<td><strong>Grantor:</strong></td>
<td>Pluntrees Plaza, LLC</td>
</tr>
<tr>
<td><strong>Property:</strong></td>
<td>Danbury, Newtown Rd (63)</td>
</tr>
<tr>
<td><strong>Project Purpose:</strong></td>
<td>Intersection and Safety Improvements on Newtown Rd (RT 806)</td>
</tr>
<tr>
<td><strong>Item Purpose:</strong></td>
<td>Administrative Settlement</td>
</tr>
</tbody>
</table>
PROJECT: The purpose of this Danbury project is to provide intersection improvements on Newtown Road at Old Newtown Road and to provide safety improvements on Newtown Road between Old Newtown Road and Plumtrees Road and between Eagle Road and Industrial Plaza Drive. Proposed work consists of widening Newtown Road from the Public Works Complex driveway to Plumtrees Road. This widening would provide two through lanes in each direction and exclusive left-turn lanes at the two intersections. The widening would also incorporate a raised median between Old Newtown Road and Plumtrees Road, wider shoulders, and upgraded pedestrian facilities. The intersection at Old Newtown Road would be normalized and a new driveway providing access to the Public Works Complex and future commercial development is proposed on its south side. The estimated construction cost for this project is approximately $9.8 million. This project is anticipated to be undertaken with 80% Federal funds and 20% State funds.

SITE & TAKING DESCRIPTION: The subject property consists of a 4.77 acre site with 437 feet of frontage on the southerly side of Newtown Road and 310 feet of frontage on the westerly side of Plumtrees. The site is improved with a 52,604 sq.ft. single-story masonry construction retail plaza and an asphalt-paved parking lot striped for approximately 260 vehicles. The site is level at the grade of Newtown Road and has good exposure to the commercial traffic.

The site is located in the CG-20 Commercial zone and conforms to zoning. Average daily traffic counts (ADT) were 24,500 cars/day in 2013. There is a full traffic control signal at the intersection of Newtown Road and Plumtrees Road.

The building improvements are not impacted by the easements.

The Appraiser opined the highest and best use of the property, as vacant, is “there would be very high demand for commercial development of this site.”

The Appraiser opined the highest and best use of the property, as improved, is for “continued retail plaza use of the existing very good quality improvements at this location.

Before Valuation: An appraisal was done by independent fee appraiser Howard Russ, as of 1/30/2019. Based on the sales data comparison approach, the appraiser considered three comparable sales, one in Wilton and two in Norwalk, and concluded that the fair market value of the entire property (land only) is $30.00/sf of land area. The value of the land, before the taking, is then 207,911 sf x $30/sf = $6,250,000 (rounded).

Appraiser Russ then utilized Marshall Valuation Service to value the affected site improvements located within the area of the fee taking, as follows:

- 6 trees = $12,000
- Lawn area = $5,000
- 2 LF fencing = $150 = $17,150

Appraiser Russ then valued the property in its entirety via the income capitalization approach. Appraiser Russ provided limited market data to support the estimate of rental value and utilized owner-provided rent roll & operating expenses and then developed an overall capitalization rate (7.5%), arriving at a $9,515,000 opinion of market value – before the taking – as calculated below.
DOT requires acquiring the following:

- A partial take in fee-simple along Newtown Rd – 11,100± sf
- An easement to slope for the safety of the highway and remove, use or retain excavated material acquired – 1,642± sf
- A Right to grade, remove bituminous pavement, construct driveway, install bituminous concrete lip curbing and concrete curbing and reset catch basin acquired – 5,448± sf
- Right to install sanitary sewer pipe acquired – 7± If
- Right to remove chain link fence acquired – 2± If
After Valuation:

Appraiser Russ calculated the value of the land, utilizing the same three comparable land sales in the ‘before’ valuation and concluded the same $30 per square foot value. Russ then estimated the impact on the loss of land (5.5% of total land area) on the overall utility of the property, with the contributory value of the improvements diminished by 5.5% ($179,500), calculated, as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit Value</th>
<th>% remaining</th>
<th>Value</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land area Free Simple</td>
<td>155,166 SF</td>
<td>30.00</td>
<td>100%</td>
<td>$5,855,070</td>
</tr>
<tr>
<td>Land area钊t Exempt</td>
<td>1,942 SF</td>
<td>30.00</td>
<td>50%</td>
<td>$24,820</td>
</tr>
<tr>
<td>Total Land Value</td>
<td></td>
<td></td>
<td></td>
<td>$5,879,700</td>
</tr>
<tr>
<td>Lot Area After</td>
<td>160,811</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Improvements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Improvements AFTER</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciated Contributory Value of</td>
<td></td>
<td></td>
<td></td>
<td>$0</td>
</tr>
<tr>
<td>Site Improvements in Take</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buildings</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>DEPRECIATED BLDG</td>
<td></td>
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<tr>
<td>Total Contributory Value of Buildings ($3,081,076 - 5.5%)</td>
<td></td>
<td></td>
<td>$3,081,076</td>
<td></td>
</tr>
<tr>
<td>Market Value of Property After Take</td>
<td></td>
<td></td>
<td></td>
<td>$8,061,271</td>
</tr>
</tbody>
</table>

Total Direct Damages are calculated as follows:

<table>
<thead>
<tr>
<th>Direct Damages</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Value Before:</td>
<td>$9,515,000</td>
</tr>
<tr>
<td>Less Value After:</td>
<td>$8,960,000</td>
</tr>
<tr>
<td>Total Direct Damages</td>
<td>$555,000</td>
</tr>
</tbody>
</table>
From the DOT Administrative Settlement Narrative:

The Department’s formal offer of $555,000.00 was mailed to Mr. Hawley on June 7, 2019. In a conversation with Mr. Hawley on June 18, 2019, he explained that he felt the offer was low and that he would be securing his own appraisal before making a decision. At that time, Mr. Hawley also requested that the Department construct a right-out driveway along the property’s Newtown Road frontage. Mr. Hawley believes that the addition of a right-out driveway will improve traffic flow within the property and provide better access to Newtown Road.

In the interest of negotiations and based on Mr. Hawley’s request for a right-out driveway, this office obtained a cost estimate from the Department’s engineering staff. It was estimated that this work would cost the Department approximately $33,000.00.

On August 19, 2019, Mr. Hawley submitted his appraisal, which was completed by Vincent O’Brien and David Herbst, MAI, of Kerin & Fazio, LLC, with an effective date of July 8, 2019. He proposed a counter offer of $660,000.00 based on the full amount of the appraisal plus the construction of a right-out driveway equating to a total value of $693,000.00. ($660,000.00 + $33,000.00).

The Department rejected Mr. Hawley’s counter offer and argued that a significant portion of the damages represented in his appraisal were not accurate. Specifically, the appraisal assigns $73,000.00 for temporary severance based on the assumption that the Newtown Road driveway would be closed during construction. In reality, the existing driveway will remain open, and will not be closed, until the new driveway is constructed. As such, the appraised damages should be reduced accordingly to $587,000 ($660,000 - $73,000).

With this in mind, the Department proposed settling this matter for the original offer of compensation plus the construction of a right-out driveway equating to a total value of $588,000.00 ($555,000.00 + $33,000.00). Mr. Hawley acknowledged our logic regarding his appraisal; however, he declined to accept the proposal arguing that the acquisition will subject him to other expenses not considered in either appraisal. These expenses include the cost associated with obtaining a variance for reduced parking and a new site plan approval due to relocation of the existing driveway. Mr. Hawley provided a breakdown of these costs as follows:

- Engineering design work for site plan: $9,500.00
- Survey work for site plan and variance: $1,500.00
- Legal Fees for variance: $5,000.00
- Total: $16,000.00

In consideration of Mr. Hawley’s argument, the Department contacted the City of Danbury and it was confirmed that a new site plan approval and variance would be required. The purported costs were discussed with appropriate Department staff and all are considered reasonable.

Taking the above into consideration, the Department continued discussions with Mr. Hawley and an agreement was reached, consisting of payment in the amount of $570,000.00 plus construction of the right-out driveway. This equates to a total value of $603,000.00.

Given the exposure created by Mr. Hawley’s appraisal and the Department’s second appraisal in the amount of $649,000.00, it is submitted that this settlement is reasonable and in the best interest of the State.
Minutes of October 7, 2019

Staff inquired with DOT regarding the following:

- Please provide an electronic copy of the Pape appraisal report.
  ➢ DOT Response: DOT Provided
    ❖ Staff Response: Pape concluded a land value of $25.85/sf vs Russ’ $30/sf. The impact on the fee simple taking is $47,300. However, Pape’s final damages were $649,000, with severance damages valued at $285,000 vs Russ $179,500.

    Pape estimated the value of the property in its entirety at $12,176,000 & $11,529,000 (Before/After) vs Russ $9,515,000 & $8,960,000, respectively.

    While Russ had a higher underlying land value, DOT use of this appraisal for purposes of the Take appears reasonable. OK

- Did DOT review the Russ appraisal. If yes, please provide an electronic copy.
  ➢ DOT Response: DOT Provided
    ❖ Staff Response: Incorporated in comments above. OK

- Please clarify if there is an increase in market value of the property/land due to the new ‘right out’ driveway enhancing traffic flow through the property. Clearly, had DOT diminished access to the site the appraiser would have considered severance to the property.
  ➢ DOT Response: In order to assess the impact to market value, DOT would have had to pay for another appraisal report; which we did not do. If DOT’s project required the installation of a right-cut driveway, the initial valuation would have considered any impact to the market value. Obviously, DOT does not need this driveway to construct our project so it was not part of the original design and is being considered by way of agreement only. While the right-out may or may not increase the market value, the purpose of the settlement is to reduce the Department’s exposure based on the property rights we would be condemning if there was no agreement. DOT believes this Settlement accomplishes that goal with sufficient justification.
    ❖ Staff Response: In light of avoiding the cost of updating Russ’ appraisal, couldn’t DOT have inquired with their senior commercial appraisers to assist in determining whether or not the additional ‘right-out’ would increase the market value of the property? And, based or the lack of an appraisal, is DOT acknowledging that it is foregoing any potential compensation for the ‘right-out’ benefit as requested by the owner?

  ➢ DOT Response: As discussed, DOT’s negotiations focused on the exposure created by the required taking. With no agreement to construct the right-right out driveway DOT would have had to condemn the property rights and would have been exposed to damages up to $660,000.00 in court. As such, the additional cost to construct the right-out was considered very reasonable. The potential change in market value was not considered as DOT would not condemn the right to construct the right-out driveway.
    ❖ Staff Response: The valuation of the ‘right-out’ would not have occurred as condemnation proceedings only permit compensation for a taking, not a ‘giving.’ Had DOT proceeded with condemnation, their exposure was $649,000, $79,000 more than the $570,000 damages to the owner.

- Please clarify what was included in the construction estimate of the ‘right out’ driveway in the amount of $33,000. Does it include reconfiguration of the plaza’s parking lot as identified in construction plan ‘PLN-02’? If this increased cost was necessitated by a request from the plaza’s owner, and the property benefits from the superior traffic flow, should the plaza’s owner bear the expense of reconfiguring his parking lot?
  ➢ DOT Response: The cost estimate for the right-out driveway includes all of the work depicted in construction PLN-02. Who bears what expense is worked out in negotiations. If the plaza
owner was agreeable, of course DOT would have let them bear the full expense. Although it did not work out that way, DOT believes the expense is justified to eliminate the potential exposure as discussed in the settlement report.

- **Staff Response:** In all prior Administrative Settlements, DOT has requested SPRB approval of the actual payments to the Grantor. In this scenario, why is DOT seeking Board approval of DOT’s increased design/construction costs ($33,000) for the ‘right-out’ driveway? And, is the $33,000 the incremental increase in cost from the original ‘right-in’ design/construction, or for the ‘right-in/right-out’ design/construction in its entirety?

- **DOT Response:** As discussed, DOT is not seeking approval to spend $33,000.00 on design and construction items. These costs are referenced in the settlement as they contribute to the total value and to provide the board with a global view of DOT’s logic. Yes, the $33,000.00 is in addition to what the existing right-in would cost.

- **Staff Response:** OK. In addition, approval of the $33,000 is beyond the Board’s statutory authority.

- Please confirm the only payment to the owner is $570,000.

- **DOT Response:** Confirmed.

**RECOMMENDATION:** It is recommended that Board approve $570,000 in damages for the following reasons:

1. The acquisition complies with Section 13a-73(c) of the CGS which governs the acquisition of property by the commissioner of transportation required for highway purposes.
2. The acquisition value of $570,000, is $15,000 greater than the value established by the independent appraisal report completed by Howard Russ and significantly less than DOT’s second appraisal ($649,000), as well the owner’s appraisal ($660,000 – less $73,000 incorrect severance).

**Note:** The Board’s approval is only related to the compensation in the amount of $570,000 to the Grantor, Plumtrees Plaza, LLC.

**PRB #**

**Transaction/Contract Type:** RE/ Voucher

**Origin/Client:** DOT/DOT

**Project Number:** 034-347-011

**Grantor:** City of Danbury

**Property:** Danbury, Newtown Rd (53A)

**Project Purpose:** Intersection and Safety Improvements on Newtown Rd (RT 806)

**Item Purpose:** Voucher

**PROJECT:** The purpose of this Danbury project is to provide intersection improvements on Newtown Road at Old Newtown Road and to provide safety improvements on Newtown Road between Old Newtown Road and Plumtrees Road and between Eagle Road and Industrial Plaza Drive. Proposed work consists of widening Newtown Road from the Public Works Complex driveway to Plumtrees Road. This widening would provide two through lanes in each direction and exclusive left-turn lanes at the two intersections. The widening would also incorporate a raised median between Old Newtown Road and Plumtrees Road, wider shoulders, and upgraded pedestrian facilities. The intersection at Old Newtown Road would be normalized and a new driveway providing access to the Public Works Complex and future commercial development is
proposed on its south side. The estimated construction cost for this project is approximately $9.8 million. This project is anticipated to be undertaken with 80% Federal funds and 20% State funds.

SITE DESCRIPTION: The subject property consists of an irregularly-shaped 50.61 acre site with approximately 895’ of frontage on the southeasterly side of Newtown Road and an additional 1,980’ of frontage along Plumtrees Road. The site slopes upward above the grade of Newtown Road and includes rolling topography. The site is improved with the City of Danbury’s Public Works complex, improved with 13 buildings of varying sizes.

The site is located in the IG-80 Industrial zone and conforms to zoning. Average daily traffic counts (ADT) were 24,500 cars/day in 2013.

One of the 13 buildings on the site, a steel construction building containing approximately 2,226 square feet is impacted by the location of proposed Construction Easement Area #1. This building is utilized for attaching/removing snow plows from trucks. The building improvements are not impacted by the easements.

View of the subject 1-story Steel Erection Structure located within the Construction Easements Area No. 1. Note: This storage structure is to be removed as part of the proposed project.

The Appraiser opined the highest and best use of the property is for “present use.”

Before Valuation: An appraisal was done by DOT Appraiser Matthew Malia, as of 5/02/2019. Based on the sales data comparison approach, the appraiser considered three comparable sales, one in Danbury, one in West Haven and one in Oxford, and concluded that the fair market value of the entire property (land only) is $2.75/sf of land area. The value of the land, before the taking, is then 2,204,572 sf x $2.75/sf = $6,062,573.

Twelve of the 13 buildings on the site not affected by the takings are assigned an 'X' value. The one building within Construction Easement Area #1 was assigned a Lump Sum value (depreciated) of $181,000, with supporting information from both DOT Engineering and the City of Danbury retained in the appraisal file.

The market value in its entirety is then $6,062,573 (land) + $181,000 (improvements) = $6,243,573, rounded to $6,243,500.

DOT requires acquiring the following:

- A partial take in fee-simple (two areas) along Newtown Rd – 6,537± sf
- An easement to slope for the safety of the highway and remove, use or retain excavated material acquired – 4,545± sf
- Construction Easement #1 for the purpose of staging, access, grading, installation of temporary sedimentation control system, removal of storage structure and removal of gravel parking over an easement area of 5,087± sf
• Construction Easement #2 for the purpose of access over an easement area of 795± sf
• A Right to install bituminous concrete lip curbing and concrete curbing and catch basin tops and to construct drive acquired – 8,474± sf
• Right to install sedimentation control system acquired – 155± lf

After Valuation:

Appraiser Malia utilized the same three comparable sales and concluded that the fair market value of the property (land only) is $2.75/sf of land area. The value of the land, after the taking, is then calculated as follows:

<table>
<thead>
<tr>
<th>After Valuation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Land in Fee: 2,193,490 sf x $2.75/sf =</td>
<td>$6,032,098</td>
</tr>
<tr>
<td>Slope Easement: 4,545 sf x $2.75/sf x 50% =</td>
<td>$6,249</td>
</tr>
<tr>
<td>Market Value - After</td>
<td>$6,038,347</td>
</tr>
<tr>
<td>Rounded</td>
<td>$6,038,500</td>
</tr>
</tbody>
</table>

Total Direct Damages are calculated as follows:

<table>
<thead>
<tr>
<th>Direct Damages</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Value Before:</td>
<td>$6,243,500</td>
</tr>
<tr>
<td>Less Value After:</td>
<td>$6,038,500</td>
</tr>
<tr>
<td>Total Direct Damages =</td>
<td>$205,000</td>
</tr>
</tbody>
</table>

Calculation of Temporary Damages

Appraiser Malia calculated Temporary Damages due to the Temporary Construction Easements as follows:
Temporary Damages

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easement #1: Temporary Damages 5,087±sf $2.75/sf x 12% x 2 yrs</td>
<td>$3,357</td>
</tr>
<tr>
<td>Easement #2: Temporary Damages 795±sf x $2.75/sf x 12% x 2 yrs =</td>
<td>$525</td>
</tr>
<tr>
<td>Total Temporary Damages =</td>
<td>$3,882</td>
</tr>
<tr>
<td>Rounded</td>
<td>$3,900</td>
</tr>
</tbody>
</table>

Total Permanent and Temporary Damages are then $205,000 + $3,900 = $208,900.

RECOMMENDATION: Board approval of damages in the amount of $208,900 is recommended for the following reasons:

1. The acquisition complies with Section 13a-73(c) of the CGS which governs the acquisition of property by the commissioner of transportation required for highway purposes.
2. The acquisition value is supported by the DOT appraisal report completed by M. Malia.

5. ARCHITECT-ENGINEER - UNFINISHED BUSINESS

6. ARCHITECT-ENGINEER - NEW BUSINESS

7. OTHER BUSINESS

8. VOTES ON PRB FILE:

PRB FILE #19-209 – Mr. Berger moved and Mr. Valengavich seconded a motion to approve PRB FILE #19-209. The motion passed unanimously.

PRB FILE #19-210 – Mr. Valengavich moved and Mr. Halpert seconded a motion to approve PRB FILE #19-210. The motion passed unanimously.

9. NEXT MEETING – Thursday, October 14, 2019

The meeting adjourned.

APPROVED: John Valengavich, Secretary

Date: 10/21/19