

By: King of Parker

H.B. No. 1062

A BILL TO BE ENTITLED

AN ACT

relating to assessment of damages and award of costs and attorney's fees in condemnation proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.041, Property Code, is amended to read as follows:

Sec. 21.041. EVIDENCE. As the basis for assessing ~~[actual]~~ damages to a property owner from a condemnation, the special commissioners shall admit evidence on:

(1) the value of the property being condemned;

(2) each [the] injury or loss to the property owner that a reasonably prudent person would consider in a privately negotiated transaction for the sale of the property;

(3) if the property owner claims that the owner's remaining property will be damaged by the condemnation, each [the] benefit, if any, to the property owner's remaining property that a reasonably prudent person would consider in a privately negotiated transaction for the sale of the property; and

(4) if the special commissioners can reasonably infer that revenues will be generated that are directly attributable to the project for which the property is being condemned, the value of the property when used for the purpose for which the property is being condemned ~~[the use of the property for the purpose of the condemnation]~~.

SECTION 2. Subchapter C, Chapter 21, Property Code, is amended by adding Section 21.0415 to read as follows:

Sec. 21.0415. MINIMUM DAMAGES. Notwithstanding the other provisions of this subchapter, damages assessed under this chapter:

(1) must be in an amount that constitutes adequate compensation for the property owner for the condemnation; and

(2) may not be less than the sum of:

(A) the market value of the property being condemned; and

(B) the diminution in the market value of any of the property owner's property that is not condemned but is damaged by the condemnation.

SECTION 3. Section 21.047(a), Property Code, is amended to read as follows:

(a) Special commissioners may adjudge the costs of an eminent domain proceeding against any party. If the commissioners award greater damages than the condemnor offered to pay before the proceedings began or if the decision of the commissioners is appealed and a court awards greater damages than the commissioners awarded, the condemnor shall pay all costs incurred by the property owner in the condemnation proceedings, including attorney's fees and expert's fees. If the commissioners' award or the court's determination of the damages is less than or equal to the amount the condemnor offered before proceedings began, the property owner shall pay the costs.

SECTION 4. The change in law made by this Act applies only to a condemnation proceeding in which the condemnation petition is

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1 filed on or after the effective date of this Act. A condemnation  
2 proceeding pending on the effective date of this Act is governed by  
3 the law in effect immediately before the effective date of this Act,  
4 and that law is continued in effect for that purpose.

5 SECTION 5. This Act takes effect September 1, 2007.