

By: King of Parker

H.B. No. 1558

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the assessment of damages and award of costs and fees in
3 condemnations of property in particular areas by certain common
4 carriers.

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

6 SECTION 1. Subchapter C, Chapter 21, Property Code, is
7 amended by adding Section 21.0415 to read as follows:

8 Sec. 21.0415. PROPERTY IN CERTAIN AREAS: EVIDENCE;
9 ASSESSMENT OF DAMAGES. (a) The legislature determines that,
10 because the negotiation, acquisition, exploration, exploitation,
11 or disposition of petroleum, natural gas, or mineral interests in
12 real property in counties in or near an urban area of this state and
13 the intense concentration of drilling or mining in the urban area
14 are at a level that affects property values in dramatic ways,
15 special evidentiary and damages provisions are necessary in
16 proceedings to condemn property in those areas for those purposes
17 to adequately protect property owners and minimize the negative
18 impacts on the urban area and are a matter of statewide importance.
19 The legislature also determines that each county having any area in
20 the Barnett Shale field of the Fort Worth Basin is an area in which
21 these conditions exist.

22 (b) This section applies only to the condemnation of
23 property located in a county having any area in the Barnett Shale
24 field of the Fort Worth Basin by a common carrier subject to Chapter

1 111, Natural Resources Code, and Section B(3)(b), Article 2.01,
2 Texas Business Corporation Act.

3 (c) Section 21.041 does not apply to a condemnation
4 proceeding to which this section applies.

5 (d) As the basis for assessing damages to a property owner
6 from a condemnation of property to which this section applies, the
7 special commissioners shall admit evidence on:

8 (1) the value of the property being condemned;

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

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

17 (4) if the special commissioners can reasonably infer
18 that revenues will be generated that are directly attributable to
19 the project for which the property is being condemned, the value of
20 the property when used for the purpose for which the property is
21 being condemned.

22 (e) Notwithstanding the other provisions of this
23 subchapter, damages assessed for condemnation of property to which
24 this section applies:

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

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

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

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

6 SECTION 2. Section 21.047, Property Code, is amended by
7 adding Subsection (d) to read as follows:

8 (d) If a condemnor of property to which Section 21.0415
9 applies is liable for costs under Subsection (a), the condemnor is
10 also liable for any other costs incurred by the property owner in
11 the condemnation proceedings, including attorney's fees and
12 expert's fees.

13 SECTION 3. The change in law made by this Act applies only
14 to a condemnation proceeding in which the condemnation petition is
15 filed on or after the effective date of this Act. A condemnation
16 proceeding pending on the effective date of this Act is governed by
17 the law in effect immediately before the effective date of this Act,
18 and that law is continued in effect for that purpose.

19 SECTION 4. This Act takes effect September 1, 2007.