

By: Hegar

S.B. No. 1442

A BILL TO BE ENTITLED

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AN ACT

relating to a property owner's right to a binding third-party appraisal in connection with the use of eminent domain authority.

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

SECTION 1. Subsection (a), Section 21.0111, Property Code, is amended to read as follows:

(a) A governmental entity with eminent domain authority that wants to acquire real property for a public use shall disclose to the property owner at the time an offer to purchase is made any and all existing appraisal reports produced or acquired by the governmental entity relating specifically to the owner's property and used in determining the final valuation offer. The governmental entity shall provide to the property owner at the time an offer to purchase is made a statement of the property owner's rights under this chapter, including instructions for requesting a binding third-party appraisal.

SECTION 2. Subsection (a), Section 21.014, Property Code, is amended to read as follows:

(a) The judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned shall appoint three disinterested freeholders who reside in the county as special commissioners to assess the damages of the owner of the property being condemned, unless the property owner requests a binding third-party appraisal under Section 21.0141. The judge appointing

1 the special commissioners shall give preference to persons agreed
2 on by the parties. If a person fails to serve as a commissioner, the
3 judge may appoint a replacement.

4 SECTION 3. Subchapter B, Chapter 21, Property Code, is
5 amended by adding Sections 21.0141, 21.0142, and 21.0143 to read as
6 follows:

7 Sec. 21.0141. BINDING THIRD-PARTY APPRAISAL. (a) As an
8 alternative to a special commissioners court under Section 21.014,
9 a property owner may request a binding third-party appraisal to
10 assess the fair market value of the property being condemned. The
11 property owner must file the request in the form prescribed by
12 Section 21.0142 not later than the 120th day after the date the
13 property owner receives notice of the condemnation. The request
14 must be filed with the court in which the condemnation petition was
15 filed or to which the eminent domain case was assigned.

16 (b) A property owner who requests a special commissioners
17 hearing under Section 21.014 waives the owner's right to request a
18 binding third-party appraisal. The court shall dismiss any pending
19 binding third-party appraisal if the property owner's rights are
20 waived under this subsection.

21 Sec. 21.0142. REQUEST FOR BINDING THIRD-PARTY APPRAISAL. A
22 property owner may request a binding third-party appraisal by
23 completing a request form as prescribed by the comptroller. The
24 form must require the property owner to provide only:

- 25 (1) a description of the property to be condemned;
26 (2) the name of the owner of the property;
27 (3) the name of the condemnor seeking to condemn the

1 property; and

2 (4) a request for a binding third-party appraisal.

3 Sec. 21.0143. BINDING THIRD-PARTY APPRAISAL PROCEDURE.

4 (a) A property owner requesting a binding third-party appraisal
5 may select an appraiser from a list provided by the comptroller.

6 (b) The comptroller shall keep a list with contact numbers
7 on its website of approved appraisers that may perform a binding
8 third-party appraisal. An appraiser may not have appraised
9 property for the condemnor during the latest 12-month period.

10 (c) The binding third-party appraisal is the final
11 assessment of the fair market value of the property and may not be
12 appealed. The condemnor shall pay the property owner an amount of
13 damages equal to the fair market value determined by the
14 third-party appraiser. If the appraised value is greater than the
15 damages the condemnor initially offered, the condemnor shall pay
16 for the appraisal. If the appraised value is less than the damages
17 the condemnor initially offered, the property owner shall pay for
18 the appraisal.

19 SECTION 4. The change in law made by this Act to Subchapter
20 B, Chapter 21, Property Code, applies to a condemnation proceeding
21 for which notice was received on or after the effective date of this
22 Act. A condemnation proceeding for which notice was received
23 before the effective date of this Act is governed by the law in
24 effect immediately before that date.

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