

March 2, 2020

**Re: Legacy Trail**

In my email last Friday, I promised to tell you of any additional developments concerning Sarasota County's northern extension of the Legacy Trail. I also mentioned that I have requested Sarasota County provide documents related to the County's acquisition of this right-of-way including any development plans for the right-of-way, documents related to Sarasota County's acquisition of the tight-of-way and related information. Sarasota County has provided some of these documents but not all of the documents.

Among the documents Sarasota County provided are two appraisals. One was prepared by the Hettema Saba Appraisal firm for the Trust for Public Land and the other was prepared the Valbridge appraisal firm for Sarasota County. The appraisal the Public Trust for Land commissioned valued the 7.7-mile-long corridor based upon what property was worth in August 2016. The appraisal Sarasota County commissioned was based upon property values in September 2017. Sarasota property values have increased since. The date the federal government took your property was May 2019 and the compensation the federal government will pay you is based upon the value of your property in May 2019.

Both appraisals come to very similar conclusions. The property taken for this corridor is worth \$8.36 per square foot or \$555.88 per lineal foot on the corridor, according to the Hettema Saba appraisal the Trust for Public Land commissioned. The property is worth \$8.31 per square foot and \$532.70 per lineal foot on the corridor according to the Valbridge appraisal Sarasota County commissioned. According to the Trust for Public Land survey, the corridor is worth \$45,200,000. According to the appraisal Sarasota commissioned, the corridor is worth \$43,315,000.

These are important benchmarks for establishing the value of that property the federal government took from you and provide a reference for the measure of compensation you are entitled to be paid. The \$8.00 per square foot value for the land physically encumbered with the rail-trail easement is also consistent with the recent appraisals we have performed for the properties between the Culverhouse Park and Ashton Road.

I also want to note several caveats. *First*, these appraisals are an appraisal of the corridor value which is what the federal Surface Transportation Board and Sarasota County acquired, not the value of the property you lost. The value of the

corridor does not consider the landowner's loss of value due to, among other things, the diminution in the value of their remaining property, any cost and loss of value related to having to remove existing improvements from the corridor and any loss of access. (I addressed these points in my last two emails.) These two corridor appraisals provide only an opinion as to the market value of the corridor and do not establish the value of that property taken from you. But they do provide a starting point.

*Second*, these appraisals valued the property based upon the market in Sarasota for comparable property in in 2016 and 2017. Property values in Sarasota have increased since then and the government's obligation to pay you is based upon the value of your property in May 2019 when the federal government issued its order taking your property.

*Third*, the method by which your property will be valued is not the corridor value used in these appraisals. The compensation to which you are entitled is the difference between the value of your entire property before the federal government imposed this new easement across your land and the value of your property after the federal government imposed this easement across your land. This is the "before and after" method of valuing a partial taking of private property. What these two appraisals sought to value was the corridor, not the compensation due each owner whose property was taken to assemble this corridor. This affects the ability to extrapolate from these corridor appraisals the compensation you are due as an owner whose property was taken to assemble the corridor. But, again, these appraisal reports provide a helpful baseline.

*Fourth*, as noted above, these two corridor appraisals do not consider any severance damages or other costs the owners whose land has been taken will suffer. The severance damages will be determined on a property specific basis and are in addition to the compensation due for the value of the land physically encumbered by the easement.

You may be curious, why is the Trust for Public Land involved? I will explain what I know so far. I still await additional documents from Sarasota County and the railroad that may clarify or amend my understanding. The County acquired its easement in the southern segment of the Legacy Trail (between Culverhouse Park and Venice) in a transaction with the Trust for Public Land acting as an intermediary. The Trust for Public Land is a 501(c)(3) public charity established to create public rail-trail corridors.

In past cases, including the southern segment of the Legacy Trail, the Trust for Public Land paid the railroad for the right-of-way. After the Public Trust for Land closed on the purchase of the right-of-way from the railroad, the Trust for Public Land

then sold the right-of-way to the trailuser (here Sarasota County). In my last two emails I explained that the railroad had nothing to sell. The railroad's interest in the right-of-way easement terminated when the railroad no longer operated a railway across the land and petitioned the Surface Transportation Board to abandon the right-of-way. Any right to use your land and the other owners' land for a public recreational trail and "railbanking" is *not* because of any interest the railroad owned but is solely because the federal Surface Transportation Board invoked the federal Trails Act.

I return to the essential points. (1) you own the land under the abandoned railroad right-of-way (2) the railroad had nothing to sell (3) Sarasota claims to own the land under the abandoned right-of-way because it has a deed from the railroad for which Sarasota says it paid the railroad \$30 million. (4) the federal Surface Transportation Board invoked the federal Trails Act in May 2019 creating a new federal rail-trail corridor easement over the property.

One of the aspects of past Trails Act cases that is troubling is the railroad being paid while the landowners have still not been paid. Again, the railroad had nothing to sell. Yet Sarasota paid the railroad (according to Sarasota's account) \$30 million. This is for a corridor the appraisers valued as worth \$45 million. What has happened in past cases is that the railroad takes the difference (\$15 million) as a tax deduction for making a charitable contribution to Trust for Public Land which is a 501(c)(3). This is a scam the government and railroads are running on taxpayers and landowners.

As I learn more, I will keep you informed. I expect to receive some more of the documents from the railroad, the Trust for Public Land and Sarasota County in the next few weeks.

All the best,



Thor Hearne