

Condemnation Report

Local Public Agency

GASTON
Case EMD94-3381

County Court Docket _____ Page _____

Project: 136-6(109) **County:** Jefferson **Negotiator:** T. Lund

Hearing Date: 3/6/03 **Award Date:** 3/8/03 **Notice by Judge:** 3/9/03

County Court Appointed Appraisers	Occupations
Melvin Brueggemann	Retired Farmer & Ins. Adjuster
Donn Endorf	Farmer
Steve Kettlehut	Certified Real Estate Appraiser

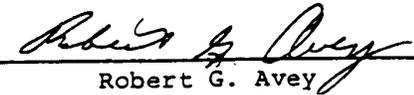
Stipulations: None

Appraised By: Wayne Foster

Representing the Local Public Agency : R. Avey, Atty.; G. Olberding, Project Manager;

Representing the Owner: Mr. & Mrs. Gaston; Donald Sass, Atty.;

Tract	Condemnee	Appraisal	Offer	Award
52	Vernon L. & Mary J. Gaston	\$1,180	\$1,230	\$2,780

Suggested Action: None (X) Appeal ()  Attorney
Robert G. Avey

Return to Legal Counsel by: 3/28/03

Appeal? __ YES X No LPA Manager Edwin Stapleton Date 4/4/03

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136-6(109), Tr. 52
Vernon L. Gaston - Jefferson Co.

This was a taking from the front and side of an acreage site of .14 acre. The County's offer was presented to the Board of Appraisers as follows:

Purchase .14 acre @ \$2,500 per acre	\$ 350
Move & replace 20 rods of fence @ \$11.50 per rod	230
Windbreak & tree damage	500
Move propane tank	100
Abstracting allowance	<u>50</u>
TOTAL	\$1,230

This property is protected by a pine tree windbreak consisting of two rows of pine trees. Some of these trees will be in the taking and possibly some of them will have roots destroyed or damaged when the property is graded for the new highway. At the view, it appeared that there were approximately 12 pines in the taking that were either going to be acquired or would have roots damaged because of the construction. This windbreak is located to the north and west of the property and does function as a windbreak. The County's offer was \$500 based upon the judgment of the appraiser. The landowner and his attorney stated that the cost to replace these trees was well over the County's offer. They stated that just to have a man come with a tree spade would be \$30 per tree to relocate them plus \$50 mileage from Lincoln. They also stated that the cost to replace the tree using a six foot tree would be \$250 per tree plus an additional amount for care and also the possibility that the tree may not live.

This writer pointed out to the Board that the proper measure of damages was not the cost to replace or cost to cure unless this was less than the reduction in fair market value because of the taking of the trees. Another item the appraisers were told by the owner and his attorney was that the propane tank removal and replacement was \$150 less than their estimate which they submitted to the Board in the amount of \$250.

Another item not in the County's appraisal was the fact that a railroad tie type fence of approximately four railroad ties stacked was in a circle around the circular driveway. Some of these ties may have to be moved in order to grade the two driveways off the county road.

Although the increase is an additional \$1,550, it is this attorney's opinion that it is justified since the staking for condemnation purposes shows that more trees are going to be taken than we originally estimated. No appeal is recommended.