



CHARLOTTE

**City Council
Follow-Up Report**

May 31, 2013

May 28, 2013 – City Council Business Meeting

Condemnation Process for Blue Line Extension (BLE)

Staff Resource: Jeb Blackwell, E&PM, 704-336-3603, jblackwell@charlottenc.gov

At the May 28 Council Meeting a condemnation for the BLE was deferred. Staff understands Council concerns with the compressed real estate acquisition schedules on this project and the potential impact on property owners. A very large number of acquisitions are required for this highly visible and tightly-scheduled project, and extensive federal acquisition requirements apply. Parcels that staff marks as "do not defer" are especially critical, as staff has determined the acquisition to be essential to meeting project deadlines.

Staff has designed the project to minimize acquisition impacts. The issue for property owners generally comes down to compensation which is the focus of negotiation both before and after condemnation action.

The intent of the federal requirements is to ensure property owners are treated fairly. This process contains phases for initial contact (a complete informational package is mailed by certified letter), appraisal, negotiation, Council action, and closing/condemnation filing. Prior to Council action, the process is typically six to seven months. After condemnation action the filing process is typically six to eight weeks during which time negotiation continues. The total process generally takes eight to nine months. Upon filing, title passes to the City and the appraised amount is deposited in an interest bearing escrow account at a statutory rate of 8%.

The court system provides many safeguards and opportunities to reach agreement; in fact, only a very small percentage of cases ever reach trial. Staff settles about 29% of cases before the condemnation is filed with the court. Of those filed, 93% are settled before trial. It can take eighteen to twenty four months before the case is scheduled on the court docket.

Attached is a report that outlines how a property owner is protected by the legal restrictions of the condemnation process and why it takes six weeks to complete the filing process. The negotiation process does not end with Council's vote.

Staff is working diligently on the deferred item to mitigate impact to the project and to address Council concerns about the property owner's requests. In the future, staff will have a more detailed log of its contacts with property owners to provide Council a better understanding of its efforts to negotiate.





Real Estate Process Following Condemnation Approval

Following City Council approval for condemnation, City Real Estate continues to negotiate in an effort to reach a settlement prior to actual condemnation filing. As an example, since July of 2012, City Council has approved 202 condemnations. 59 of these have been successfully negotiated and settled during the six week filing process described. In those instances the condemnation is never filed. With filing, the City places the appraised value of the property in an escrow account and takes title which allows the project to go forward. The six-week filing process is described below.

Two week duration:

1. Condemnation resolutions are obtained from the City Clerk's office.
2. Checks are requested from finance. The checks for the amount of the appraised value are to be deposited with Clerk of Superior Court at the time the condemnation is filed.

Four week duration:

The parcel files and the checks are sent to the City Attorney's office to process and file the condemnation. The general practice of the City Attorney's office is to file all cases within 30 days of delivery from the City Real Estate Division. The process undertaken for condemnation filings by the City Attorney's offices is described below.

1. File review
 - a. Review condemnation project and parcel information
 - b. Review of condemnation summary
 - c. Review of appraisal report
 - d. Review of appraisal review report
 - e. Review additional file documentation
 - f. Set timeline for negotiations and filing with staff
2. Final negotiations (if possible)
 - a. Contact property owner or attorney to conduct final negotiations prior to filing
 - b. Additional contact, if required, with City project managers regarding settlement terms and conditions
3. Determination of necessary parties
 - a. Review title work
 - b. Update title work
 - c. Determine all necessary parties required to be included in the condemnation action and what interest each holds

4. Document preparation
 - a. Civil Cover Sheet
 - b. Summons for all Defendants
 - c. Memorandum of Action
 - d. Complaint
 - e. Exhibits
5. Filing
 - a. All documents must be filed with Clerk of Superior Court
 - b. Certain documents must also be filed with Register of Deeds
 - c. Deposit of funds made to Court Bookkeeper

Of the condemnations that are filed, 93% are settled prior to going to trial.

During times of high volume, such as now, the process can take more than 6 weeks. Properties with complicated title issues (foreclosures, bankruptcies, estate issues, unknown tenants, etc.), require additional time for processing.

After filing, the process typically takes 18 to 24 months if it goes to trial. During this time informal negotiations continue. Many of the settlements occur during this period. The formal court process includes a court ordered mediation with an independent mediator. If the case is not settled, the property owner is given the choice of a judge or jury trial to establish just compensation.