



How can Size and Shape Impact Market Value After the Taking? Do these Changes Damage or Benefit the Remainder? Or Both?

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Together, they are the authors behind *Ask an Appraisal Reviewer*.



David's Answer:

Many years ago, well before the turn of the last century, I taught Course 401 (now Course 421), the Appraisal of Partial Acquisitions, for the first time. This course addresses both damages and benefits to the remainder after a partial taking. Damages are defined as a decrease in the value of the remainder because of the taking, while benefits are an increase in the value of the remainder after the taking. These conclusions result from comparing the contribution to value of the remainder before the taking to its market value after the taking.

When I taught that course, I distinctly remember that the course material pointed out that a size reduction, even one that resulted in an increase in unit rate for the remainder, was NOT considered a special benefit. I was confused. If the taking resulted in a unit rate applicable to the remainder that was greater than before the taking and was specific to the subject parcel, I couldn't understand how that did not meet the definition of a special benefit. But then I figured it out.

As appraisers, particularly as right of way appraisers, we often think in terms of "Bands of Value." In partial takings, we often need to determine different unit values for different parts of a subject property (the larger parcel). If one is appraising a farm (for anything other than a partial taking) that is 80% tillable and 20% woods, if that 80/20 ratio is typical for our market and our comparable sales, then one can use a blended rate per acre of the farm, and there is no need to put a separate unit rate on tillable acreage and on woods. However, in a partial taking, where the take could be all woods or be all tillable, it is necessary to establish different unit rates for these "Bands of Value" to properly value the part taken (which may not be divided typically or like the balance of the parcel).

The same idea applies to size. I will use a real-world example from Michigan. The Village of Metamora is an equestrian community that requires (through zoning) lots of 10 acres in size to build a home. Once you have 10 acres, you don't have land for a second home site until you have 20 acres. So, let's presume we have a 12-acre parcel before the taking valued at \$50,000 per acre or \$600,000 total. Let's also presume that, after a 2-acre taking, the 10-acre remainder appraises at \$55,000 per acre or \$550,000 because the comparable sales support a higher unit rate for the smaller, optimal (minimum) parcel size of ten acres. Analyzed simply and conventionally, this example seems to indicate a benefit to the remainder because of its smaller size. That is, the value of the Part Taken (as part of the whole) appears to be \$100,000 (based on \$50,000 per acre for two acres), but compensation (Federal Rule) is only \$50,000 (based on \$600,000 less \$550,000). Likewise, it appears that the contribution of the remainder goes up from \$500,000 to \$550,000. This looks like benefits to me!

Brian's Answer:

This is a similar concept to the "taking from the rear" rationale. You are not always impacting what the plan sheets indicate you are impacting. Thorough larger parcel analyses are essential and always make for better appraisal reports, and here, they will avoid misunderstanding of this perhaps counterintuitive concept.





But it's not. Applying "Bands of Value" is the answer.

The truth is that the optimal 10 acres is and always was worth \$550,000 (at least before and after the taking). In this example, the 2 acres must be considered either excess or surplus land and only contributes \$50,000 or \$25,000 per acre. Excess and surplus land are discussed below.

In our example, the additional 2 acres are considered "surplus" land because it is not needed for optimal use but cannot be effectively sold off separately (because it is smaller than the required 10 acres), as opposed to "excess" land that can be sold and developed as a separate parcel. Those 2 acres, as surplus land, never contributed \$50,000 per acre to begin with.

So, the "before" parcel is worth \$600,000, but it is divided (in our example) as follows: The optimal 10 acres are worth \$55,000 per acre, or \$550,000, and the surplus land is worth \$50,000, based on \$25,000 per acre. \$550,000 plus \$50,000 is \$600,000. Therefore, when the 2 acres are taken, the Value of the Part Taken is \$25,000 per acre, or \$50,000, and the contribution of the remainder is unchanged at \$550,000. Just compensation is \$50,000, and there are neither damages nor benefits to the remainder. Remember though, it is essential that these conclusions are based upon, and supported by, confirmed and verified comparative market data.

Briefly, but perhaps more direct and easier to understand, the same phenomenon holds true for certain situations regarding shape. Irregular parcels are often adjusted and/or appraised at lower unit

rates because the market indicates lower unit rates for irregular parcels. An irregular parcel before the taking may seem to have a lower unit rate than a remainder that has been rendered more regular by the taking. But the phenomenon is the same as above. The regular portion of the parcel always contributed at the same rate, but the portion that is narrow or irregularly shaped is equivalent to the surplus land in the previous example and should have contributed at a lower rate before the taking. For example, the tiny point of a triangular parcel might have very little value before the taking. Once again, it is essential that these conclusions are based upon and supported by confirmed and verified comparative market data.

Neither of these examples supports a conclusion of benefits as a result. Of course, a partial taking that renders a property smaller or more irregular can certainly cause damage if that is supported within the market. Irregular parcels may be inferior for certain uses (such as commercial) but not for others (perhaps residential subdivision development). Size can be an issue if a taking renders a parcel too small to comply with applicable zoning or other land use regulations or if it simply makes a parcel too small for a particular valuable highest and best use. There are often minimum practical sizes (for gas station or corner drugstores, for example). Once again, the market holds your answers.



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