

U.S. Court of Federal Claims Awards More than \$3 Million in Rails-to-Trails Case

The U.S. Court of Federal Claims has recently awarded more than \$3 million as compensation for the federal government taking a recreational easement under the federal rails-to-trails program. Relying on appraisal testimony, including matched-pairs and cost-to-cure analyses, the CFC awarded “the amount of \$3,177,365, representing \$1,267,200 for the encumbrance plus severance damages of \$755,165 representing the cost to cure the harm to the property adjacent to the trail, and \$1,155,000 for lost access.”

In a rails-to-trails case, the Government takes title to a railroad easement when the railroad abandons the easement. The easement is then put to recreational use. In *McCann Holdings*, the plaintiff owned an undeveloped 306-acre mixed-residential property in Sarasota, Florida. On April 2, 2002, the Government authorized a rail-to-trail conversion of a railroad right-of-way in Sarasota County. The result was a recreational easement on the western edge of McCann Holdings’s property, about 50 feet wide and one mile long. The CFC found the Government liable for a taking.

In its damages decision, the court adopted a matched-pair analysis to determine the value of the property underlying the easement. The court explained that “[t]his sales comparison approach is based on the premise that a knowledgeable buyer would not pay more for a given property than other buyers paid for similar properties.” Adopting the figures put forward by McCann Holdings, the CFC found that the value of the property before the taking was \$200,000 per acre. Because the parties agreed that the conversion took 99% of the property’s value, the CFC awarded that amount as just compensation.

The CFC also awarded cost-to-cure damages, because to make the property suitable for development, a landscape buffer or berm would have to be built to separate the developed property from the recreational trail. The CFC also awarded McCann Holdings just compensation for the loss of access to the property when the trail was imposed. Although McCann Holdings would have had to build a buffer between the property and a railroad easement, the CFC noted that the trail required a much more expensive buffer than a railroad would have: “[T]he Legacy Trail imposes an intrusive burden on adjacent property owners. Other area developments without the adjacency of the trail would not require the same level of remediation.” So the CFC awarded the added cost of the buffer.

The decision can be read [here](#).

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