

# The Daily Telegram

Saturday, January 26, 2013

Adrian, Michigan

## County to settle with Lake Madison homeowner

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ADRIAN -- An agreement for an estimated \$400,000 purchase of one of five homes involved in eminent domain litigation with the Lenawee County Airport was approved Thursday by the county commission.

Commissioners voted 7-1 to accept a contract with the Federal Aviation Administration to share costs for the purchase. The contract calls for a federal share of \$380,000. The state and county governments are each to contribute up to \$10,000.

"This is a step in the right direction," said commissioner Cletus Smith, R-Madison Twp., and chairman of the Lenawee County Airport Commission. The settlement resolves years of costly litigation, he said.

Trials over two other houses at Lake Madison ended with jury decisions that the entire property must be purchased, rather than just easements for air space above the houses. Acquisition of easements above the houses was part of a 2005 airport runway expansion project.

The runway was lengthened to 5,000 feet. Although the runway was moved 500 feet further away from the Lake Madison homes, FAA regulations required a larger object-free safety zone.

The county invoked eminent domain to acquire easements. The homeowners claimed

the easements destroyed the value of their property and demanded the airport purchase the houses rather than just the air space.

Houses involved in the two trials conducted last year have not yet been purchased by the county. Those two cases are now pending before the Michigan Court of Appeals.

A settlement offer from one of the remaining three homeowners was accepted by the commission in December when it voted to authorize its attorney to negotiate final terms.

Smith said financing arrangements with federal and state agencies also had to be worked out to complete the deal and avoid a trial. He declined to identify which property owner the settlement is with because closing documents have not yet been signed.

It is not clear what will be done with the house after ownership is transferred to the airport.

"It will probably be that that residence will no longer be there," Smith said.

FAA policy has been to remove homes purchased for airport runway safety zones, he said.

"We'll follow the directions we're given by the federal government," he said.

Two eminent domain cases are still awaiting trial in Lenawee County Circuit Court. A visiting judge from Ingham County was appointed to preside over the cases.



Stephon B. Bagne

The first trial in June last year resulted in an order for the airport to pay the value of the house plus 25 percent for a total of \$587,500. A trial in October resulted in a \$737,500 award, not including attorney fees and other costs.

A recent state law requires governments to pay 25 percent more than the value of property taken by eminent domain.

**Stephon B. Bagne** represents multiple homeowners subjected to the acquisition of aviation easements in Lenawee County, including the lawsuits referenced in this article. His expertise in representing property owners in condemnation cases is widely recognized. Stephon has represented all types of property owners in a variety of situations including vacant and improved property, partial and total takings, easement and fee acquisitions, involving commercial and residential properties. Stephon has successfully challenged the necessity of takings and negotiated less onerous acquisitions in partial taking matters. He regularly speaks and writes about eminent domain and other real estate law issues for a variety of professional organizations. **Contact him at: sbagne@clarkhill.com or 313-965-8897**

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