

CITY OF SPRINGDALE
Committee Agendas
Monday, October 4th, 2021
Tiered Training Room (2nd Floor)
201 Spring Street- New Criminal Justice Building
Meetings begin at 5:30 P.M.

Finance Committee by Chairman Jeff Watson

1. **A Resolution** authorizing the City Attorney to settle a Condemnation Lawsuit wherein Lindsey Correa is Defendant (Project No. 18BPS12, Tract 23). Presented by Ernest Cate, City Attorney. Pgs. 1-7
2. **A Resolution** authorizing an update to the Downtown Master Plan. Presented by Patsy Christie, Director of Planning and Community Development. **Once received by Patsy, the Resolution and related materials will be added to the Downtown Master Plan folder in Dropbox.**

Committee of the Whole

3. **A Presentation** from Springdale Water Utilities. Presented by Heath Ward, Executive Director of SWU.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY
TO SETTLE A CONDEMNATION LAWSUIT WHEREIN
LINDSEY CORREA IS DEFENDANT (PROJECT NO.
18BPS12, TRACT 23).**

WHEREAS, the City of Springdale has filed a lawsuit against Lindsey Correa to condemn property for the Har-Ber Avenue Extension Project (48th St. to Gutensohn St.)(Project No. 18BPS12, Tract 23);

WHEREAS, the City of Springdale deposited the sum of \$445,000.00 into the Registry of the Court as estimated just compensation for the full taking of the property;

WHEREAS, the property owner has extended a counter-offer that the City pay the total sum of \$550,000.00 to acquire the lands needed for the project, said amount being based on an appraisal conducted on behalf of the property owner;

WHEREAS, it is the recommendation of the City Attorney and the Mayor's Office that the City Council approve the additional sum of \$105,000.00 to acquire the property needed from the property owner, as this amount is reasonable, is justified, and will avoid the cost, expense, and risk of a trial;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the City Attorney is hereby authorized to settle the Lindsey Correa condemnation lawsuit for the total sum of \$550,000.00, with the additional \$105,000.00 to be paid from the 2018 Street Bond Fund.

PASSED AND APPROVED this _____ day of _____, 2021.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, CITY CLERK

APPROVED AS TO FORM:

Ernest B. Cate, CITY ATTORNEY

Appraisal Report

City of Springdale v Lindsey Correa
Washington County Circuit Court: Case #72CV-20-2265
111 S 48th St., Springdale, AR 72762
December 18, 2020

Presented To:

Steve Lisle
Lisle Rutledge, P.A.
1458 Plaza Place
Springdale, AR 72764

Presented By:

The Real Estate Consultants
118 N. East Avenue
Fayetteville, AR 72701

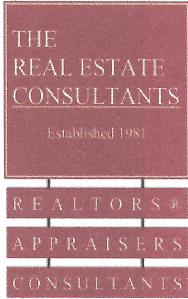
Prepared By:

Mark E. Risk, GAA
AR State Certified General Appraiser #CG0202

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File # 20-0108

Transmittal Letter



Date: February 26, 2021

To: Mr. Steve Lisle
1458 Plaza Place
Springdale, AR 72764

Re: *City of Springdale, Arkansas vs. Lindsey Correa*
Washington County Circuit No. 72CV-20-2265

Dear Mr. Lisle:

Per your request, I hereby certify I conducted a survey of matters pertinent to developing an opinion of the **Market Value and Just Compensation** resulting from the proposed acquisition of the subject property takings by the City of Springdale. You are the client and intended user. This report is prepared for your exclusive benefit and may not be relied upon by any other party. Any other party relying on information contained in this document, without express permission, does so at their own risk.

I also certify this appraisal report conforms to Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. The following pages contain data gathered during my investigation, showing the appraisal process in detail with conclusions rendered. Please note this report is subject to stated Assumptions & Limiting Conditions, including any applied Extraordinary Assumptions &/or Hypothetical Conditions.

My primary emphasis was to determine the following:

- Estimate the market value of the subject property as of the effective date of the appraisal.

In the following sections, I analyze relevant facts and apply appropriate appraisal processes to the subject property. After a thorough analysis an opinion of value can be made. Therefore, it is my considered opinion that the Just Compensation due to the property owner as a result of the property taking by the City of Springdale, – **as of the Effective Date of December 18, 2020** and subject to referenced assumptions and conditions – is as follows:

Five Hundred Seventy Thousand Dollars
\$570,000

Respectfully submitted,

The signature of Mark E. Risk is written in blue ink over a circular seal. The seal is for the State of Arkansas, Certified General Appraiser, No. CG0202, and the name Mark E. Risk is printed at the bottom.

Mark E. Risk, GAA
AR State Certified General Appraiser #CG0202
The Real Estate Consultants, Inc.

Springdale v. Lindsey Correa (Washington Co. 72CV-20-2265)

Property Address: 111 S. 48th St. Springdale

Project: #18BPS12

SETTLEMENT OFFER

The following information is provided for settlement purposes only.

Background:

This case is virtually identical to the Kilpatrick case that involved a complete homesite taking of a nearby property for the same project. The City took a 1,580-sf home and 4.8 acres owned by Lindsey Correa. Ms. Correa was raised in this house by a single mother with her two siblings. The Correa family owned the home for 17 years and Lindsey had hoped to raise her own family there someday. Her house was taken at a time of unprecedented rapid appreciation in the local real estate market.

At the time of the taking, there were very few residences listed for sale. This remains the state of the local market at the present time. The homes that were for sale would sell within days or hours of listing and often sold at above the seller's asking price and more than appraised value. The Correas were not able to find a similar-sized replacement house with property that they could afford for the \$445,000.00 tendered as just compensation by the City. They purchased a two-bedroom house on a small acreage on a gravel road outside of the city limits.

Unlike most eminent domain projects that result in the taking of a primary residence, this project does not qualify for any relocation assistance. Due to the hardship imposed on homeowners like Ms. Correa in cases like this, all federal, and many state, projects require the condemning authority to provide the homeowner with relocation assistance. This requirement recognizes that

a homeowner suffers financial damages from moving costs and the forced purchase of a replacement home within a short period of time. Displaced homeowners have no choice but to purchase a home that happens to be currently on the market, and they have little time to negotiate. Ms. Correa did not have the opportunity to take advantage of the rising market by offering her home for sale. If not for the forced taking of her home, she would have been able to sell her property at above appraised value. Instead, she was paid a lower than market price and forced to enter the market as a buyer when replacement homes were selling at rapidly increasing prices above appraised values.

Appraisals:

The Reed & Associates appraisers determined that the property was well-suited for future commercial development. They appraised the property at \$445,000.00. It is important to note that their appraisal was completed on May 21, 2020, before the taking and before the unprecedented appreciation in local real estate values had reached its highest levels. The exposure times of the comparable sales used, which occurred years prior to taking, were much longer than those seen in the current market. If they update their appraisal for trial, it is almost certain that their opinion of just compensation will significantly increase.

Mark Risk was retained to prepare an appraisal report. Mr. Risk is a Certified General Appraiser and Licensed Principal Real Estate Broker. He is a principal at The Real Estate Consultants, Inc. Mr. Risk has worked as an appraiser in Northwest Arkansas since 1979 and continues to instruct classes in appraisal courses at the University of Arkansas where he has taught since 1981. He has also served on the Arkansas Appraisers' Licensing and Certification Board. He has performed appraisal services for dozens of banks, mortgage companies, developers, and relocation services. He has also provided appraisal services for many municipalities and governmental agencies, including the City of Springdale.

Mr. Risk used both a cost approach and a market value approach to determine the value of the property. His reconciled valuation determined the just compensation to be **\$570,000.00**.

Homeowners' Testimony:

The Correa family looked at many similar properties in their efforts to relocate. Their experience in the real estate market provides them with ample support to value their property. They could not find a home with acreage that was similar in size to theirs at any price close to the \$445,000.00 in compensation paid by the City. They will testify, based on genuine market conditions and their personal experiences, that their property was worth more than \$600,000.00 at the time of taking.

Potential Trial Outcome:

This is an unusual case in which a jury is likely to give substantial weight to the testimony of the landowners. Both appraisals were backward-looking, meaning they were based on historical data of prior sales. Those sales did not reflect the actual market conditions that faced the Correas. It is foreseeable that the jury will award the Correas more than \$600,000.00. In recent cases we have seen that juries are willing to consider an award higher than that offered by the landowners' appraiser, and this case will give the jury strong support for doing so. A judgment in that amount would result in an additional payment of \$125,000.00 plus pre-judgment interest and "the costs occasioned by the assessment" (under Ark. Code Ann. §18-15-303(c)) which would be at least \$3,000.00 but could be more as determined by the Court. The total judgment would be more than **\$170,000.00**.

If the jury is not persuaded by the Correas' testimony, it is more likely to award damages at the valuation provided by Mr. Risk than that offered to date by the City. A judgment of the full assessed damages provided by Mr. Risk of \$570,000.00 would result in an additional payment of

\$125,000.00 plus pre-judgment interest and the cost of the appraisal. The total additional compensation owed would be around **\$140,000.00.**

For settlement purposes only, my clients have authorized me to accept settlement of their damages, including severance damages, pre-judgment interest, and the costs of assessment at \$550,000.00. The City has previously tendered \$445,000.00 of the \$550,000.00. The total additional compensation for settlement would be **\$105,000.00.**