

In the United States Court of Federal Claims

No. 18-1070

(Filed: 7 June 2023)

NOT FOR PUBLICATION

JOHN HIPPELY, *et al.*, *
*
Plaintiffs, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *

ORDER

HOLTE, Judge.

On 16 December 2022, the Court stayed “this case until further action from the Court,” Order Staying Case, ECF No. 82, after the parties informed the Court they “have tentatively agreed to a settlement of land values and interest for a temporary taking,” 16 Dec. 2022 Joint Status Report (“JSR”), ECF No. 81. On 17 May 2023, the parties filed a JSR informing the Court “[t]he United States has received approval from the Attorney General’s authorized representative for the parties’ agreement to resolve the just compensation component of [p]laintiffs’ claims (including interest).” 17 May 2023 JSR at 1, ECF No. 87. On 22 May 2023, the Court lifted the stay “to allow the parties to complete the necessary documents and for the Court to enter judgment.” 22 May 2023 Order at 1, ECF No. 88.

On 5 June 2023, the parties filed a joint stipulation for the entry of partial judgment, ECF No. 89. The Joint Stipulation requests the entry of “partial judgment, under Rule 54(b) of the Rules of the United States Court of Federal Claims [(“RCFC”)], against the United States and in favor of Plaintiffs, in the amount of \$1,869.09, for just compensation, including interest through 31 December 2022. The Court should also include in the judgment additional interest of \$0.16 per day from 1 January 2023 through the date of payment.” Joint Stip. for Partial J. ¶ 4. The parties request the compensation be allocated as follows:

Claim #	Plaintiff	Parcel Number	Principal	Total Principal and Interest 7/6/2018- 12/31/2022	Per Diem from January 1, 2023

1	Caicco	39-003270	\$155.30	\$178.88	\$0.01
2	Cobb, Sr.	54-089500	\$169.90	\$195.70	\$0.02
3	Fincham	54-082075	\$224.24	\$258.29	\$0.02
4	Gwin	54-152927	\$90.35	\$104.07	\$0.01
5	Hippely	54-114550	\$113.61	\$130.86	\$0.01
6	Lanning, Harold & Rosalie	54-153033	\$16.56	\$19.07	\$0.01
7	Lanning, Marilyn	54-083850	\$107.64	\$123.98	\$0.01
8	Mowen	54-016920	\$105.02	\$120.97	\$0.01
9	Ohio Edison Co.	28-901531	\$311.33	\$358.60	\$0.03
10	Warren R C Inc	38-003007	\$328.75	\$378.67	\$0.03
TOTAL				\$1869.09	\$0.16

The Joint Stipulation also includes the following representation: “Payment in accordance with paragraph 4 shall constitute a full, complete, and final resolution of all Plaintiffs’ claims and defenses, legal or equitable, arising out of this lawsuit, except for claims for the reimbursement of costs and expenses, including reasonable attorney fees, pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act.” *Id.* ¶ 6.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act provides, “The court rendering a judgment for the plaintiff in a proceeding . . . awarding compensation for the taking of property by a Federal agency . . . shall determine and award . . . such sum . . . including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceedings.” 42 U.S.C. § 4654(c). A complete judgment accordingly requires consideration of attorneys’ fees. *Id.* RCFC 54(b) states:

When an action presents more than one claim for relief—whether as a claim, counterclaim, or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no reason for delay.

The Joint Stipulation does not settle the issue of attorneys' fees, so the Court must enter partial judgment. Joint Stip. for Partial J. ¶ 6. The Court determines "there is no reason for delay of judgment" for the compensation to the landowners because the remaining issue—attorneys' fees—does not affect the agreed upon compensation to plaintiffs. *See* RCFC 54(b).

Pursuant to RCFC 54(b) and in accordance with the Joint Stipulation, ECF No. 89, the Clerk is **DIRECTED** to enter partial judgment in favor of plaintiffs in the amount of \$1,869.09 and additional interest of \$0.16 per day from 1 January 2023 through the date of payment, to each plaintiff as listed in Exhibit A of the Joint Stipulation. The parties **SHALL FILE** a joint status report **on or before 7 July 2023** proposing a briefing schedule on plaintiffs' request for attorneys' fees or requesting another stay of proceedings on the remaining issues.

IT IS SO ORDERED.

s/ Ryan T. Holte
RYAN T. HOLTE
Judge