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HOUSE BILL NO. 652

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact § 25.1-230 of the Code of Virginia, relating to eminent domain; just compensation; restricted access.

Patrons—Armstrong, Dance, Howell, A.T., Iaquinto, Knight, Lohr, Merricks, Miller, P.J., Nutter, Oder, Scott, E.T. and Shuler

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 25.1-230 of the Code of Virginia is amended and reenacted as follows:**

§ 25.1-230. Measure of just compensation; oaths of members of body determining just compensation.

A. The body determining just compensation shall in each case ascertain the amount of just compensation to which a party is entitled as follows:

1. If the condemnation proceeding is brought utilizing the procedure set forth in Chapter 3 (§ 25.1-300 et seq.) of this title or §§ 33.1-119 through 33.1-132, the body determining just compensation shall ascertain the value of the property to be taken and the damages, if any, which may accrue to the residue beyond the enhancement in value, if any, to such residue by reason of such taking and use by the petitioner, however, (i) such enhancement in value shall not be offset against the value of the property taken, and (ii) if such enhancement in value shall exceed the damage, there shall be no recovery against the landowner for such excess; and

2. In any other condemnation proceeding, the body determining just compensation shall ascertain the value of the property to be taken and the damages, if any, to any other property beyond the peculiar benefits, if any, to such other property, by reason of such taking and use by the petitioner.

B. Before executing their duties, each member of the body determining just compensation shall take an oath before an officer authorized by the laws of this Commonwealth to administer an oath that he will faithfully and impartially ascertain the amount of just compensation to which a party is entitled.

C. *For purposes of determining just compensation pursuant to subsection A, any restriction, change, or loss of access to or from the property to be taken shall be considered as an element in assessing the damages to the property. As used in this subsection, "restriction, change, or loss of access" includes the prohibition of making right or left turns into or out of the property involved onto an adjacent highway, provided that such access was present before the proposed taking.*

INTRODUCED

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