

Dominion Energy condemnation case among boom in SC property value disputes

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The port access road connecting the new Hugh Leatherman Terminal and Interstate 26 in North Charleston is among the eminent domain projects where landowners have gone to court to get more money for their property. File/Lauren Petracca/Staff

Charleston-area landowners are increasingly fighting back in property condemnation cases, often getting much more money than originally offered by the utilities and government agencies looking to take their land for public projects.

Online court records show 75 property condemnation cases were filed in Charleston, Berkeley and Dorchester counties in 2019. That number more than doubled to 155 cases in 2020. And this year, such cases have totaled 111 through Sept. 16.

In many of the cases, larger payments than initial appraisals suggested are negotiated in mediation or through jury trials.

For example, when Dominion Energy wanted an easement across land owned by Xiphias Holdings LLC for power lines serving the new Leatherman Terminal in North Charleston, the utility offered the property owner a little less than \$1.8 million. The case went to court and, through mediation, the two sides ultimately agreed that \$3.25 million would be a fair price — about 80 percent more than Dominion’s original appraisal said the land was worth.



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“Right-of-way agents sometimes present things as if the landowner has no choice, but the landowner can always question whether the value being offered is fair and just compensation,” said Jeff Tibbals, a Mount Pleasant lawyer who represented Xiphias Holdings.

The Dominion case is far from unique:

- A jury ordered Palmetto Railways to pay \$3.75 million to the owner of a roughly half-acre parcel on Meeting Street where a new rail line is planned. The railroad, which is appealing the jury’s award, originally offered less than half that amount.
- When the S.C. Department of Transportation wanted a little less than an acre of land along Clements Ferry Road for a ramp leading to Interstate 526, the agency offered \$98,000 to the property owner. The case wound up in court and the two sides settled for \$3.25 million.
- The DOT originally offered a combined \$9.86 million for 13 parcels it needed to build the Port Access Road linking the Leatherman Terminal with Interstate 26. Following mediation, the highway department upped its offer to almost \$17 million.

Government agencies have the right to take private property through eminent domain if the land is needed for public use, but the government must offer a fair price in return. The compensation figure is often determined by appraisal paid for by the agency that wants the land, although property owners can get their own appraisal and try to negotiate a better deal.



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Area property owners are also using inverse condemnation cases to get compensation for land that's been devalued by public projects. For example, Mike Turner filed a lawsuit against Palmetto Railways over damage to his historic home on the former Navy Base in North Charleston caused by construction of an adjacent rail yard. The railroad initially said Turner's property had not been impacted. The State Ports Authority, which has taken over the rail project, recently agreed to buy the house for \$730,000 to settle the lawsuit.

In the Dominion Energy case, the utility's initial appraisal did not take into account how the easement would affect a pair of buildings on the property that Xiphias Holdings leases to Anchor Signs. The power lines would prohibit roof and other repairs to the buildings, which Anchor uses for manufacturing and shipping, ultimately making the structures obsolete due to age or storm damage.

"Through the mediator, we were able to come to a compromise and avoid a trial," said lawyer Rick Bybee, who also represented Xiphias Holdings.

Paul Fischer, a spokesman for Dominion, called easement acquisition "a collaborative process," adding "communication among all parties is important."

He said the utility "is committed to reaching an agreeable outcome with all property owners, including fair compensation" when easement issues arise.



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