

October 25, 2018

To: SCDOT Fee, Fee Review, and Staff Appraisers  
Re: South Carolina Department of Transportation v. Powell  
Appellate Case No. 2016-000594

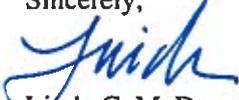
Dear Appraisers:

On September 19, 2018, SCDOT's Petition for Rehearing by the Supreme Court in the above case was denied. The case has been remanded to the trial court for further consideration. We will not know the true impact of the case until it is tried and any appeals therefrom are concluded. However, it is our understanding from the Supreme Court ruling that the following principles apply:

- 1) Hardin's holding that restriction of direct access by a median is not necessarily a "taking," and therefore not compensable, is applicable only to inverse condemnation actions, not to direct condemnation actions. Please continue to follow SCDOT's Appraisal Manual in these instances.
- 2) In direct condemnation actions, an appraisal should only include damages as a component of just compensation for loss of immediacy to and from a non-abutting road (e.g., due to closure of an intersection with a nearby highway) if there is an engineering or otherwise qualified determination made by the project engineer that the remote modification resulting in loss of immediacy to the non-abutting road is "integrally connected" with and cannot be separated from the project component necessitating the acquisition from the subject property. If the project engineer makes this determination, the appraiser must support the diminution in value caused by this loss with market sales data.

If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Linda C. McDonald  
Chief Counsel

cc: Michael W. Barbee, Director of Rights of Way  
Paul de Holczer, Assistant Chief Counsel