

CITY OF ATLANTA  
DEPARTMENT OF LAW  
2614 FIRST NATIONAL BANK BUILDING  
ATLANTA, GEORGIA 30303

January 27, 1969

Mr. Paul B. Ivey  
Land Agent  
City Hall  
Atlanta, Georgia 30303

Dear Paul:

Re: City of Atlanta v. Mrs. Maude Barrett Clark, et al  
Case No. B-42825, Fulton Superior Court  
(Parcel 3, ... etc.)

The Special Master, Hugh C. Carney, heard the above-styled case on January 23, 1969, and rendered an award on January 27, 1969, of \$35,500.00 to Mrs. Clark, and the sum of \$3,000.00 to Raymond C. Ballard, the tenant of the property, making a total amount of \$38,500.00.

W. T. Image Kirkland, City's appraiser, testified that in his opinion the market value of the leased fee was \$36,800.00 and the value of the leasehold was \$1,200.00, in the total amount of \$38,000.00.

The tenant, Mr. Ballard, represented himself, and in his opinion the value of the leasehold was \$14,000.00.

Mr. Clark represented Mrs. Clark, and in his opinion the value of the land and building was \$60,000.00 net to Mrs. Clark after the payment of income taxes.

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At the hearing, Mr. Clark attempted to introduce a lease entered into on September 18, 1968, between Mrs. Clark and Mr. Ballard which leased the entire building to Mr. Ballard for a rental of \$4,800.00 a year. This lease covered the term of November 1, 1969, to October 31, 1972. On objection, the lease was excluded from consideration because made after both parties had notice of the condemnation suit.

The amount awarded by the Special Master to Mrs. Clark for her leased fee interest of \$35,500.00 is less than the appraisal of Mr. Dabney of \$37,750.00 and that of Mr. Kirkland in the amount of \$36,800.00. Accordingly, I would not recommend an appeal from the award to the owner.

The amount of \$3,000.00 awarded to the lessee is over 10% above Mr. Dabney's appraisal of \$1,850.00 and Mr. Kirkland's appraisal of \$1,200.00. I would point out that Mr. Ballard has apparently undergone some type of operation, and testified that he only netted \$2,000.00 from his business last year because of the fact that he was in the hospital so much. In addition, he has to walk with assistance. I feel sure that his physical condition would influence a jury in the event his award is appealed to a jury.

Considering both the leased fee and the leasehold interest, that is, the total amounts involved, Mr. Dabney's appraisal was \$39,600.00 and Mr. Kirkland's appraisal was \$38,000.00. The total sum awarded by the Master of \$38,500.00 is well within the range of the City's appraisal.

Neither Mr. Ballard nor Mrs. Clark were represented by counsel at the hearing. It may well be that Mrs. Clark will appeal to a jury inasmuch as the amount awarded to them by the Special Master

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was some \$2,000.00 less than that offered to them by the City.

As to the award to Mr. Ballard, I would recommend no appeal unless an appeal was filed by Mrs. Clark. In the event of Mrs. Clark filing an appeal, then I would recommend that an appeal be filed as to the award of Mr. Ballard.

Please let me know your wishes in this matter.

Yours very truly,

Ferrin Y. Mathews  
Assistant City Attorney

FYM/ljl

cc: Mr. Stan Martin