

IC 14-33-8

Chapter 8. Board of Appraisers

IC 14-33-8-1

Appointment; duties

Sec. 1. At the time of making the order approving the district plan but not later than thirty (30) days following the completion of construction of the works of improvement provided for in the district plan, and upon petition of the board or of a freeholder whose land is subject to the special benefits tax, the court shall appoint three (3) competent, disinterested persons to constitute the board of appraisers of the district. The board of appraisers has one (1) or both of the following functions as the court in the order appointing the appraisers directs:

(1) To determine the damages or limitation on special benefits to real property in the district resulting from the carrying out of the district plan, including the compensation to be paid the owners and others having an interest in land that is needed by the district, either in fee simple or by subjection to an easement. The land or easement is considered appropriated to the use of the district by the order of the court approving the district plan, which is implemented by construction drawings, specifications, and refined cost estimates on that part of the works of improvement that damage the land. If a district plan is implemented later, the land is considered appropriated to the use of the district by the resolution of the board of directors confirming the adoption of the construction drawings, specifications, and refined cost estimates as provided by IC 14-33-6-10. The board of appraisers shall base the appraisal of damages on the date the land is considered appropriated. Land or easements are considered appropriated by the order of the court or the resolution of the board of directors only if the owner of the land is notified in the manner provided by IC 14-33-2-12 stating that the district plan or construction drawings and specifications contemplate the appropriation of the owner's land or easement.

(2) To determine the existence and amount of exceptional benefits that accrue to real property in the district due to the execution of the district plan.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-2

Oath; quorum; vacancies; compensation

Sec. 2. (a) Before beginning the duties, each appraiser must take and subscribe to an oath that the appraiser will faithfully and impartially discharge the duties.

(b) A majority of the board of appraisers constitutes a quorum, and a quorum is sufficient for decisions.

(c) Each appraiser holds office until excused by the court, and the court shall fill all vacancies in the board of appraisers resulting from

being excused, resignation, or inability to serve.

(d) The court shall determine and approve the compensation of each of the appraisers and shall base the compensation on the work performed and the professional qualifications of each appraiser. The compensation shall be paid out of district money.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-3

Necessary assistance furnished to appraisers

Sec. 3. The board of directors shall furnish necessary assistance to the appraisers, including the services of the attorney, engineer, secretary, and other agents and employees of the board of directors.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-4

Damages; eminent domain

Sec. 4. If the board of appraisers has the function of determining damages, the board of directors may continue to make settlement directly with the persons who own or have an interest in all or any real property needed by the district. The board of directors also may acquire any needed real property or easement by eminent domain proceedings according to statute.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-5

Appraisal of damages to property

Sec. 5. (a) In determining damages, the board of directors shall give the appraisers the description of land needed in fee simple and of land over which an easement is needed. If an easement is designated by the board of directors, the purpose and extent of the easement must be definitely stated.

(b) The appraisers shall do the following:

- (1) Appraise the real property and the amount of damages.
- (2) Make a report to the court of the findings.

(c) If the board of appraisers does not return an appraisal of damages to real property, that constitutes a finding that damages will not be sustained by that real property.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-6

Determination of exceptional benefits

Sec. 6. If the board of appraisers has the function of determining the existence and amount of exceptional benefits, the appraisers shall become familiar with the details of the district plan and the real property affected by the district plan. In making the determinations, the appraisers must give due consideration and credit to the following:

- (1) Any other works of improvement already constructed or under construction.
- (2) Contributions that form a useful part of the work of the

district according to the district plan.
As added by P.L.1-1995, SEC.26.

IC 14-33-8-7

Exceptional benefits from flood prevention and control or improved drainage

Sec. 7. (a) In determining the existence and amount of exceptional benefits resulting from the accomplishment of the purpose of:

- (1) flood prevention and control;
- (2) improving drainage; or
- (3) both;

for a district having a district plan incorporating a watershed work plan prepared in cooperation with the United States Secretary of Agriculture under the federal Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001 et seq.), the appraisers shall be guided in their determination of what real property receives exceptional benefits by the studies of the United States Natural Resources Conservation Service regarding land to be benefited that have been incorporated onto a map of the watershed and made a part of the district plan.

(b) The only other real property that the appraisers may consider as exceptionally benefited is real property that has a higher and better use as an incidental result of the works of improvement.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-8

Exceptional benefits from sewage collection, treatment, and disposal

Sec. 8. (a) In determining the existence and amount of exceptional benefits resulting from the purpose of sewage collection, treatment, and disposal, the appraisers shall consider as exceptionally benefited the following:

- (1) Real property that would not pay special benefits taxes for the support of the system.
- (2) Real property that requires greater capacity of collecting or treating equipment because of intensive use.

(b) The determination of exceptional benefits from the accomplishment of this purpose is always subject to amendment or supplement as a result of changed land use.

(c) Exceptional benefits may be assessed on an annual basis as long as the exceptional conditions exist.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-9

Report of findings

Sec. 9. The board of appraisers shall make a report of the findings to the court as the court orders. All the findings concerning both damages and exceptional benefits may be made in one (1) report or in separate reports at different times. In addition, the report may be made for damages or exceptional benefits, or both, periodically as the

district plan is implemented.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-10

Contents of report

Sec. 10. (a) The report of the board of appraisers must state the following:

- (1) The name of the record owner of the real property appraised.
- (2) If damages are assessed, the following:
 - (A) The names of other persons entitled to share in the award.
 - (B) The best known mailing address of the persons.
 - (C) A description of the property appraised.
 - (D) The amount of damages or exceptional benefits, or both.

(b) An error in:

- (1) the names or addresses of the owners or other persons; or
- (2) the descriptions;

does not invalidate the appraisal or the levy of assessments if a sufficient description is given to identify the land.

(c) A majority of the board of appraisers shall sign the report.

(d) One (1) copy of the report shall be filed in the office of the district.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-11

Sewer main installation as exceptional benefit

Sec. 11. The board of appraisers may report, subject to the finding and approval of the court, that an increase in fair market value of real property caused by the installation of a sewer main through or adjacent to the property is an exceptional benefit to the property regardless of the use of the sewer main by the owners or occupiers of the property.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-12

Hearing; notice

Sec. 12. (a) Upon the filing of each report of the board of appraisers with the court, the court shall set a date for hearing on the report.

(b) The court shall order notice of the hearing on the report of the board of appraisers as follows:

- (1) By at least one (1) publication in one (1) newspaper of general circulation in each county having land in the district at least thirty (30) days before the date of the hearing on the report.
- (2) To each freeholder owning land named in the report and to each person who is named in the report by mail at least twenty (20) days before the date of the hearing, first class postage prepaid, according to the records of the county auditor.
- (3) By mail to the office of the district at least twenty (20) days before the date of the hearing, first class postage prepaid.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-13

Acceptance of appraisal; acquiescence in failure to appraise damages; exceptions

Sec. 13. (a) A freeholder who owns land in the district or any person may accept the appraisal of the board of appraisers of exceptional benefits or damages to real property:

- (1) to be taken or used; and
- (2) in which the person is an interested person.

(b) The same owner or person may acquiesce in the failure of the board of appraisers to appraise damages in favor of the interested person. The owner or person is considered to have acquiesced in the failure to appraise damages unless, within the time limit prescribed by the notice of hearing on the report of the board of appraisers, the interested person files an exception to the appraisers' report specifying in the exceptions:

- (1) the appraisal of exceptional benefits or damages; or
- (2) the land or easement to be taken in which the owner or person is an interested person.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-14

Exceptions to board of appraisers' report

Sec. 14. The board of directors may, within the time limit prescribed by the notice of hearing on the report of the board of appraisers, file exceptions to the report of the board of appraisers specifying in the exceptions:

- (1) the appraisal of exceptional benefits or damages; or
- (2) the land or easement to be taken that the board of directors complains as being excessive.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-15

Board's determinations as prima facie correct

Sec. 15. The determinations of the board of appraisers is considered prima facie correct. A person excepting is entitled to open and close.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-16

Amendment of board's report; court order

Sec. 16. (a) At the hearing the court may order the report of the board of appraisers amended to conform with the evidence. The court then shall enter an order:

- (1) dismissing the report; or
- (2) approving the report.

(b) An appeal of the order may be made to the supreme court within thirty (30) days.

As added by P.L.1-1995, SEC.26.

IC 14-33-8-17

Approval of report; payment of appraisal; possession of appropriated property

Sec. 17. When the report of the board of appraisers regarding damages is approved by the court, the board of directors may do the following:

- (1) Pay to the clerk of the court the amount of the appraisal.
- (2) Take possession of and hold the interest in the real property appropriated.

As added by P.L.1-1995, SEC.26.