

Office of School Board Attorney
Phyllis O. Douglas, Board Attorney

**SUBJECT: AMENDMENT TO EMPLOYMENT AGREEMENT WITH COUNTY
ATTORNEY'S OFFICE FOR EMINENT DOMAIN MATTERS**

The County Attorney's Office has an excellent eminent domain department which is highly qualified to litigate eminent domain cases on behalf of the School Board. Accordingly, in 1996, the School Board Attorney and the Senior Executive Director of the Division of Site Planning and Government Liaison requested a meeting with representatives of the County Attorney's Office to inquire as to whether they would be willing to represent the School Board in future eminent domain proceedings.

We developed a schedule for fees which we believed were extremely reasonable and at the Board meeting of April 17, 1996, the Board approved a contract with the Office of the County Attorney to represent the School Board in eminent domain proceedings. A copy of the agenda item regarding this subject will be submitted under separate cover.

The County Attorney's Office has requested an adjustment in that schedule which we still believe is extremely reasonable. The schedule is set forth below.

For cases wherein the appraised value of the property is \$750,000 or over, the County Attorney's Office would receive:

1.5 percent of the appraised value for cases settled prior to the entry of an order of taking, or voluntarily dismissed by the School Board or order of taking is denied and no appeal is taken from the denial;

2 percent of appraised value for cases which are slow takes or proceed after the order of taking up to and through trial and judgment; and

2.5 percent of appraised value in cases in which an appeal is filed at any time during the proceedings.

For proceedings wherein the appraised value of the property is between \$250,000 and \$750,000, the County Attorney's Office would receive:

2 percent of the appraised value for cases settled prior to the entry of an order of taking, or voluntarily dismissed by the School Board or order of taking is denied and no appeal is taken from the denial;

2.5 percent of appraised value for cases which are slow takes or proceed after the order of taking up to and through trial and judgment; and

3 percent of appraised value in cases in which an appeal is filed at any time during the proceedings.

For cases wherein the appraised value of the property is \$250,000 or less, the County Attorney's Office would receive:

2.5 percent of the appraised value for cases settled prior to the entry of an order of taking, or voluntarily dismissed by the School Board or order of taking is denied and no appeal is taken from the denial;

3.5 percent of appraised value for cases which are slow takes or proceed after the order of taking up to and through trial and judgment; and

4.5 percent of appraised value in cases in which an appeal is filed at any time during the proceedings.

Provided, however, the County Attorney's Office will receive no less than \$3,000 in attorney's fees for its representation of the School Board in any eminent domain case, and in cases where there is an extraordinary amount of hours expended for the amount of compensation otherwise provided for under the above fee schedule, a final reasonable fee under the circumstances will be subject to further negotiation.

Inasmuch as it is possible that the County Attorney's Office, at times, may not be able to accept additional cases, and conceivably there may arise cases where a conflict of interest could develop between the County and the School Board, the School Board will obtain other eminent domain counsel for those occasions.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the execution of a contract with the Office of the County Attorney to represent the School Board in eminent domain cases for the fees as set forth hereinabove.

Office of Superintendent of Schools
Board Meeting of February 10, 1999

January 28, 1999

Office of School Board Attorney
Phyllis O. Douglas, Board Attorney

**SUBJECT: SONJA R. MILLER v. THE SCHOOL BOARD OF DADE COUNTY,
FLORIDA and WILLIAM E. CLARKE, III, Case No. 98-0148-CIV-DAVIS**

This lawsuit was filed January 23, 1998, and is set for trial for the two-week period commencing March 1, 1999. The Board has been made aware of this case on previous occasions and the Office of the School Board Attorney now recommends settlement as set forth below.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize settlement in the case of Sonja R. Miller v. The School Board of Dade County, Florida and William E. Clarke, III, Case No. 98-0148-Civ-Davis, including all costs and attorneys' fees of the Plaintiff for a total amount of \$400,000.