High Voltage Power Lines and Eminent Domain
Hill Country Alliance Workshop

Luke Ellis
September 6, 2014
LCRA’s Blumenthal 138-kV Transmission Line Project
LCRA’s 138 kV Project – Issues to Consider

1. Structure type / spacing / height
2. Activities within easement?
3. Activities outside easement?
4. Negative aesthetics
5. EMF (electro-magnetic fields)
LCRA - 138kV Transmission Lines

1. 50’-140’ tower height

2. 80’-100’ easement width

3. negative visual impact
Electro-Magnetic Fields (EMF)

1. LCRA = “research has not established any direct link”
2. LCRA = “no lab studies … show cause and effect”
3. Funding source?
1. Other studies show cause and effect

2. Courts = evidence about negative market perception of EMF is allowed
The “Market Value” Measure

“The objective of the judicial process in the condemnation context is to make the landowner whole.”

Exxon Pipeline Co. v. Zwahr, 88 S.W.3d 623,628 (Tex. 2002).
Market Value - Powerline Easements

• Total compensation = Value “Before” minus Value “After”

• Remainder damage, if any, is compensable
Easement Valuation

• *Issue ➔ remainder damage across entire property or proximity damage?*
Powerline – LCRA Remainder Damages
Powerline – Remainder Damages

138 kV POWERLINE
Valuation – Paired Sales

TRACT A

$10,000/acre

TRACT B

$7,500/acre

25% DAMAGE

POWERLINE
Powerlines - Damages

<table>
<thead>
<tr>
<th>Paired Sales – Erath and Comanche County</th>
<th>Encumbered</th>
<th>Unencumbered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Price to Orig. List Price</td>
<td>Days on Market</td>
<td></td>
</tr>
<tr>
<td>Average</td>
<td>67%</td>
<td>84%</td>
</tr>
<tr>
<td>Days on Market</td>
<td>527</td>
<td>161</td>
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</table>
# Powerlines - Damages

<table>
<thead>
<tr>
<th>Encumbered</th>
<th>Sales Price to Orig. List Price</th>
<th>Days on Market</th>
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</thead>
<tbody>
<tr>
<td>Average</td>
<td>75%</td>
<td>458</td>
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<table>
<thead>
<tr>
<th>Unencumbered</th>
<th>Sales Price to Orig. List Price</th>
<th>Days on Market</th>
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<tbody>
<tr>
<td>Average</td>
<td>86%</td>
<td>133</td>
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</table>
Condemnation Process – Administrative Phase

LCRA offers to buy easement → If no agreement, LCRA sues landowner

Judge appoints 3 Special Commissioners → Special Commissioners Hearing
Condemnation Process – Trial Phase

- Objections to Special Commissioners Hearing
- Discovery
- Jury Trial
The Condemnation Process

Chapter 21 of the Texas Property Code

Testimony may be from:

- Property Owner
- Appraisers
- Realtors
- Developers
- Land Planners
- Engineers
- or any other person who is qualified to offer testimony concerning the damages to the property.

Eminent Domain
Hiring an Attorney

1. Hourly fee arrangement

2. Contingent Fee Arrangement

3. Hire Counsel with Eminent Domain Experience
Questions/Comments: Contact

Luke Ellis  
Johns Marrs Ellis & Hodge LLP  
lellis@jmehlaw.com  
(512) 215-4078

805 West 10th Street, Suite 400  
Austin, Texas 78701