

SUMMARY OF RESOLUTION

Authorization for Settlement of Eminent Domain and Damages Claims

Michael and Roberta Colombari own a lot located on Saw Mill Run Boulevard, City of Pittsburgh, Allegheny County, which abuts Saw Mill Run stream. During 2000-2002, Port Authority made improvements to portions of the opposite bank of Saw Mill Run and improvements in the body of the stream, in connection with construction of the Stage II LRT project. Within approximately a year of Port Authority's work, a portion of the Colombaris' bank/property collapsed. The Colombaris filed an eminent domain action in 2006 alleging, among other things, that Port Authority's construction had caused the bank collapse and as a result, alleged Port Authority had taken and/or damaged their property.

The court initially determined that though Port Authority did not commit a "taking," Port Authority was liable for consequential damages in an amount to be determined and referred the matter to the Board of Viewers. In July 2010, a Board of Viewers awarded consequential damages to the Colombaris in the amount of \$75,000.00. The Colombaris believed the award to be insufficient and filed an appeal to the Court of Common Pleas requesting a trial. The case is currently awaiting trial.

In March 2011, an extensive additional collapse occurred along most of the Colombaris' bank, which additional collapse is in the area of the initial collapse. Michael and Roberta Colombari contend that this new collapse is also the responsibility of Port Authority. This resolution authorizes payment of a settlement, with no admission of fault or guilt by the Authority, not to exceed \$175,000 to fully settle all the Colombaris' claims.

RESOLUTION

WHEREAS, in accordance with the Limits of Authority, the Board reserves the right to approve the settlement of claims of any nature against Port Authority of Allegheny County (Authority) in excess of \$100,000; and

WHEREAS, a claim has been made against the Authority by Michael J. and Roberta L. Colombari for an alleged taking and consequential damages under the Pennsylvania Eminent Domain Code arising from a stream bank collapse on a portion of their property which abuts Saw Mill Run in the City of Pittsburgh, Allegheny County, and which occurred sometime between 2002-2004; and

WHEREAS, a further and more extensive stream bank collapse occurred in March 2011; and

WHEREAS, the stream bank collapses are alleged to have been caused by the Authority's construction and improvements made in connection with the Stage II LRT project; and

WHEREAS, the Authority has negotiated a tentative settlement, with no admission of fault by the Authority, to resolve the Colombaris' claims; and

WHEREAS, in accordance with the Limits of Authority established by the Board, approval is requested for the payment of the settlement in the amount of \$175,000 of the aforesaid claims.

NOW, THEREFORE, BE IT RESOLVED, that the proposed settlement of the claims of Michael J. and Roberta L. Colombari in an amount not to exceed \$175,000 is hereby approved and that the chief executive officer and/or assistant general manager Legal and Corporate Services be, and hereby are, authorized and directed to do all things necessary and proper to carry out said settlement and the purpose and intent of this resolution.