

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 9, 2000

Cornelia G. Clark
Acting Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

No. 99-2806-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

ROY G. HOENECKE,

PLAINTIFF-APPELLANT,

V.

VILLAGE OF MCFARLAND,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Dane County:
MICHAEL N. NOWAKOWSKI, Judge. *Affirmed.*

Before Vergeront, Roggensack and Deininger, JJ.

¶1 PER CURIAM. Roy Hoenecke appeals an order dismissing his complaint against the Village of McFarland. The issue is whether the Village presented Hoenecke with a valid jurisdictional offer to purchase, thus permitting the Village to condemn his property for a road. We conclude that the jurisdictional offer was valid, and we therefore affirm.

¶2 In May 1996, the Village presented Hoenecke with a jurisdictional offer to purchase his land in order to condemn it for a proposed road extension. The offer identified the proposed date of occupancy as June 1, 1996, and the Village did, in fact, occupy the land on that date.

¶3 Hoenecke subsequently brought suit challenging the Village's right to condemn his land and the procedures the Village used in doing so. The trial court held that the Village did not follow mandatory condemnation procedures because it failed to adequately negotiate with Hoenecke, and it did not properly consult with him when appraising the land. The court held, however, that the Village was entitled to condemn the property if it corrected the procedural errors.

¶4 The Village took the necessary steps to comply with the trial court's order. When Hoenecke still refused to accept a negotiated resolution, the Village presented him with an amended jurisdictional offer in March 1999 that identified the "proposed date of occupancy" as the actual date of occupancy, June 1, 1996.

¶5 Hoenecke responded by commencing this action, again challenging the Village's compliance with statutory condemnation procedures. Principally, Hoenecke contends that the second jurisdictional offer is defective because it identifies a "proposed date of occupancy" that precedes the date of the offer. The trial court dismissed Hoenecke's complaint, holding that the Village's inclusion of its actual date of occupancy complied with statutory requirements.

¶6 WISCONSIN STAT. § 32.05 (1997-98)¹ sets forth the procedure for condemning property for public road purposes. If negotiations fail, the condemnor

¹ All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

must present the land owner with a jurisdictional offer to purchase the property. *See* § 32.05(3). The offer must contain certain information, including “the proposed date of occupancy regardless of the date of taking.” Section 32.05(3)(c). The date of taking is the date the land owners’ award is recorded in the office of the register of deeds. *See* § 32.05(7)(c).

¶7 Hoenecke contends that, under WIS. STAT. § 32.05(3)(c), “proposed date of occupancy” has to mean “future date of occupancy.” We disagree. The only reasonable interpretation of § 32.05(3)(c) is that the condemnor must provide the historical date of actual occupancy, if occupancy in fact has already occurred. Otherwise, the provision would require a condemnor to ignore reality and select an arbitrary (and false) future occupancy date, or to abandon the existing occupancy, remove any improvements, and start over. Neither is a reasonable requirement, and we will not adopt a statutory construction which leads to absurd or unreasonable results. *See Peters v. Menard, Inc.*, 224 Wis.2d 174, 189, 589 N.W.2d 395 (1999).

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

