

§ 40A-48. Appointment of commissioners.

(a) A request to the clerk for the appointment of commissioners to determine compensation for the taking may be made in the answer of the owner, or may be made by motion of either the owner or the condemnor within 60 days after the filing of the answer. After the determination of other issues as provided by G.S. 40A-47, the clerk shall appoint three competent, disinterested persons residing in the county to serve as commissioners. The commissioners shall be sworn and shall go upon the land to appraise the compensation for the property taken and report their findings to the court within a time certain. Each commissioner shall be a person who has no right, title, or interest in or to the property being condemned, is not related within the third degree to the owner or to the spouse of the owner, is not an officer, employee, or agent of the condemnor, and is disinterested in the rights of the parties in every way.

(b) The commissioners shall have the power to inspect the property, hold hearings, swear witnesses, and take evidence as they may, in their discretion, deem necessary, and shall file with the court a report of their determination of the damages sustained.

(c) The report of commissioners shall be in writing and in a form substantially as follows:

TO THE SUPERIOR COURT OF _____ COUNTY

We, _____ and _____ Commissioners appointed by the Court to assess the compensation to be awarded to _____, the owner of property interest in certain land lying in _____ County, North Carolina, which has been taken by the _____ (condemnor), for public purposes, do hereby certify that we convened, and, having first been duly sworn, visited the premises, and took such evidence as was presented to us, and after taking into full consideration the quality and quantity of the land and all other facts which reasonably affect its fair market value at the time of the taking, we have determined the fair market value of the property taken to be the sum of \$_____ and the compensation for the damage to the remainder of the land of the owner by reason of the taking to be the sum of \$_____ (if applicable). GIVEN under our hands, this the ____ day of _____, _____

_____ (SEAL)

(d) A copy of the report shall at the time of filing be mailed certified or registered mail by the clerk to each of the parties or to their counsel of record. Within 30 days after the mailing of the report, either the condemnor or the owner, may except thereto and demand a trial de novo by a jury as to the issue of compensation. Upon the receipt of such demand the action shall be placed on the civil issue docket of the superior court for trial de novo by a jury as to the issue of compensation, provided, that upon agreement of both parties trial by jury may be waived and the issue determined by the judge. The report of commissioners shall not be competent as evidence upon the trial of the issue of compensation in the superior court, nor shall evidence of the deposit by the condemnor into the court be competent upon the trial of the issue of compensation. If no exception to the report of commissioners is filed within the time prescribed, final judgment shall be entered by the judge upon a determination and finding by him that the report of commissioners plus interest computed in accordance with G.S. 40A-53 of this Chapter, awards to the property owners just compensation. In the event that the judge is of the opinion and, in his discretion, determines that the award does not provide just compensation, he shall set aside the award and order the case placed on the civil issue docket for determination of the issue of compensation by a jury. (1981, c. 919, s. 1; 1999-456, s. 59.)