

I feel the Town of Cooks Valley should adopt a property value guaranty similar to the one written by the Town of Howard and because my time here is limited, I will read only the changes I have noted in my written copy.

## **PROPERTY VALUE GUARANTY**

...will provide property value Guaranty ("Guaranty") to: affected property owners.

As Attorney Glenn Stoddard said during Cooks Valley Plan Commission Meeting of May 1, 2012, "...to keep the standard for each company equal, the town could go instead with affected property owners; using a rational for affected owners that is consistent with a definition of affected owners in regards to health, safety and general welfare of the owners."

### **A. Determination of Fair Market Value.**

- 1) An owner desiring to sell property shall notify the mining company of that fact not later than "X".
- 2) The owner and the mining company shall then agree on an appraiser who is licensed as a real estate appraiser in Wisconsin.

As Attorney Glenn Stoddard said during Cooks Valley Plan Commission Meeting of May 1, 2012, "p. 16 subsection 2 contains the discussion of determining an appraiser for determining property value" we can use this here. However, since I did not find where p. 16 subsection 2 is published, I would like a member of the town board or plan commission show me so I may read it before agreeing to it .

- 3) In the event the mining company and the owner cannot agree on an appraiser, the owner shall select a bank or credit union in Chippewa County, with whom the owner does not do business, to provide the name of an appraiser it regularly employs to do appraisals.
- 4) The appraiser selected pursuant to 2) or 3) above shall provide the mining company and the owner with an appraisal of the fair market value of the property, assuming a sand mine did not exist ("Fair Market Value").
- 5) The mining company shall pay for the appraisal.

As was stated during previous Plan Commission Meetings, I think these issues should be included in the consideration of fair market value of the property:

"In an extended discussion of property value, putting an economic value for the stress placed by the mining company on the land owners should be considered. "

The aesthetic value of the view from the property

### **B. Sale of Property.**

- 1) The owner shall then enter into a listing contract with a Wisconsin licensed real estate broker. The listing contract shall exclude the mining company as a potential buyer so that if the mining company purchases the property, no commission shall be due.
- 2) Before accepting any offer of less than the Fair Market Value, the owner shall give two (2) business days' notice by fax, email or personal delivery with a copy of the offer to the mining company's agent as designated in Section 3.13. If notice is by fax or email, it shall also require confirmed receipt by the mining company that the notice has been received within two (2) business days. If the mining company objects in writing within two (2) business days, the owner shall not accept such offer.
- 3) If the owner sells the property for less than the Fair Market Value, the mining company shall pay the owner the difference between the selling price and the Fair Market Value less the realtor's commission that would have been payable on that difference. The mining company shall make the payment within 30 days of the recording of the conveyance of the property.

I have a concern about tax implications. Will the IRS regard this payment as sale of property or taxable income?

4) If the property is not sold within 180 days of the date of the listing contract, the mining company shall immediately purchase the property for the Fair Market Value less the realtor's commission that would have been paid if sold under the listing contract.

### C. Applicability.

1) The Guaranty shall apply only once for any property identified in "X" and shall only be available to the property owners as of the X".

2) Property which is for sale on the Effective Date shall not be eligible for the Guaranty.

As Attorney Jon Behling stated during Cooks Valley Plan Commission Meeting of May 2, 2012, "It is basically the same as the Town of Howard's but with some changes. Property values were changed to include people who had their house placed already on the market."

3) Properties do not qualify for the Guaranty in the event the property owner wishes to sell or otherwise convey the property to a third party by a transaction which is not considered an arm's length transaction (such as a sale or gift to a relative).

At this time I have talked only about one of the many issues our township must consider in the writing of its NONMETALLIC MINING ORDINANCE, Property Value Guaranty. It takes many hours to read through all the published minutes and mine applications. So, to help other townspeople in understanding what is currently taking place in writing this ordinance, I suggest the Town publish a draft copy of the ordinance on a website. This website should give the townspeople an opportunity to send in written comments. Of course, a notice of this website's existence should be sent to all townspeople, in a similar way the Town sent out its Town of Cooks Valley Community Opinion Survey a few years ago. At that time the townspeople expressed what they wanted in their community, as is summarized in Town's Comprehensive Plan website. See below:

--Eighty seven percent of the respondents indicated that maintaining the rural character of the township is important to them.

--Seventy five percent of the respondents believe that local government (township and county) should protect environmental features such as groundwater, wetlands, steep-sloped and wildlife habitats from the impact of development. The results of the survey showed that over 80% of the residents wanted to maintain the rural character of the township and that when developing a plan, the impact on the farming community should be considered.

One of the reasons my husband and I built our home here sixteen years ago is the same as Scott and Donna Johnson's. They said, "We chose to live in Cooks Valley for the tranquility, fresh air, and the wildlife it offered." I know my husband and I would never have considered living here if sand mines were in sight.

In closing, I feel the Town should not accept any new mining applications from current and new mining companies until the Nonmetallic Mining Ordinance has been written and the Town has observed the operations of the current mining companies for a minimum of three years.

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