

00-1081-CD  
In Re: Greendot Inc.

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00-1081-CD

IN RE: CONDEMNATION OF REAL ESTATE OF GREENDOT, INC.

Date: 09/18/2003

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 08:50 AM

ROA Report

Page 1 of 2

Case: 2000-01081-CD

Current Judge: John K. Reilly Jr.

IN RE: Greendot, Inc.

Civil In RE

Date		Judge
12/15/2000	Motion to Postpone Briefing and Oral Argument. filed by s/William R. Strong, Esq. cc atty Strong	No Judge ✓
	Order, By the Court, s/JKR, JR., PJ	No Judge ✓
	Transferred from the docket	No Judge
01/16/2001	Praeipe to Enter Appearance, on behalf of Green Dot, Inc. s/Carl A. Belin, Jr., Esq. 1 cert to Atty	No Judge ✓
01/17/2001	Order, re: continued for 30 days to permit discovery. By the Court, s/JKR, JR., PJ	No Judge ✓
	Hearing result for Preliminary Objections held on 01/17/2001 09:30 AM: Hearing held. Order submitted.	John K. Reilly Jr.
02/13/2001	Motion for Continuance, Filed by s/Kathryn J. Stevenson, Esq. Order of Court. AND NOW, this 13th day of Feb. 2001, Argument on P.O.'s is rescheduled for Mar. 21, 2001. By the Court, s/JFR, JR, PJ 2 cert to atty	John K. Reilly Jr. ✓
03/05/2001	Certificate of Service, Feb. 13, 2001, Order of Court, upon William R. Strong, Esq. Filed by s/Kathryn J. Stevenson, Esq. no cc	John K. Reilly Jr. ✓
05/21/2001	Petition Seeking Appointment of Board of View. filed by s/Kathryn J. Stevenson, Esq. Cert of Svc no cc	John K. Reilly Jr. ✓
	Order of Court Appointing a Board of View, AND NOW, this 21st day of May, 2001. by the Court, s/JKR, JR., P.J. 3 cc atty Stevenson	John K. Reilly Jr. ✓
	Motion To Withdraw Condemnee's Preliminary Objections. filed by s/Kathryn J. Stevenson, Esq. Verification. s/John Ogorchock Cert of Svc. no cc	John K. Reilly Jr. ✓
	ORDER OF COURT, AND NOW, this 21st day of May, 2001, re: Condemnee's Preliminary Objections are WITHDRAWN. by the Court, s/JKR, JR., P.J. 3 cc atty Stevenson	John K. Reilly Jr. ✓
10/28/2002	Praeipe To Withdraw Appearance on behalf of the Plaintiff, GREEN DOT, INC. s/Kathryn J. Stevenson, Esq. no cc	John K. Reilly Jr. ✓
06/03/2003	Petition Seeking Permission To File Additional Preliminary Objections. filed by s/Carl A. Belin, Jr., Esquire 3 cc Atty Belin	John K. Reilly Jr. ✓
	RULE, AND NOW, this 3rd day of June, 2003, issued upon the DuBois Area School District. Rule returnable for Written Response June 18, 2003. Hearing, if necessary, to be held on the 10th day of July, 2003, at 1:30 p.m. by the Court, s/JKR, JR., P.J. 3 cc Atty Belin	John K. Reilly Jr. ✓
06/18/2003	Answer To Petition Seeking Permission To File Additional Preliminary Objections. filed by s/William R. Strong, Esq. Verification s/Sharon Kirk Certificate of Service no cc	John K. Reilly Jr.
07/30/2003	Opinion and Order: Petition Seeking Permission to File Additional Preliminary Objections is denied. s/JKR 1 CC Atty. Belin, 1 CC Atty. Strong, 1 CC D. Mikesell.	John K. Reilly Jr. ✓
07/31/2003	Additional Preliminary Objections filed by Atty. for Green Dot, Inc. 3 CC to Atty.	John K. Reilly Jr. ✓
08/11/2003	Answer To Additional Preliminary Objections. filed by s/William R. Strong, Esq. Certificate of Service no cc	John K. Reilly Jr.
	Praeipe for Argument. filed by s/William R. Strong, Esq. no cc Copy to C/A	John K. Reilly Jr. ✓
08/18/2003	Motion To Strike Praeipe For Argument. filed by s/ Carl A. Belin, Jr., Esq. 3 cc Atty Belin	John K. Reilly Jr. ✓

Civil Court	Civil Court, Traverse Jurors for September 11, 1997	Dec. 9, 1996	11	457
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Civil Court	Civil Court, Traverse Jurors for September 1, 1998	Nov. 21, 1997	11	457
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Civil Court	Civil Court, Petit Jurors for January 6, 1998	Oct. 29, 1997	11	457
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Civil Court	Civil Court, Traverse Jurors for January 22, 1998	Oct. 29, 1997	11	457
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Civil Court	Civil Court, Traverse Jurors for May 7, 1998	Nov. 21, 1997	11	457
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Civil Court	Civil Court, Traverse Jurors for January 29, 1998	Oct. 29, 1997	11	457
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Civil Court	Civil Court, Traverse Jurors for September 10, 1998	Nov. 21, 1997	11	457
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Civil Court	Civil Court, Traverse Jurors for January 18, 2001	Oct. 27, 2000	11	458-A
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Civil Court	Civil Court, Traverse Jurors for January 25, 2001	Oct. 27, 2000	11	458-A
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Date: 09/18/2003

Clearfield County Court of Common Pleas

User: BANDERSON

Time: 08:50 AM

ROA Report

Page 2 of 2

Case: 2000-01081-CD

Current Judge: John K. Reilly Jr.

IN RE: Greendot, Inc.

Civil In RE

Date		Judge
08/19/2003	Certificate of Service, Motion to Strike Praecept for Argument upon: WILLIAM R. STRONG, ESQ. filed by s/Carl A. Belin, Esq. no cc	John K. Reilly Jr. ✓
08/22/2003	ORDER, AND NOW, this 20th day of August, 2003, re; Argument scheduled on Motion to Strike the Praecept for Argument and Order to submit to discovery. Argument to be held the 22nd day of September, 2003, at 1:30 p.m. by the Court, s/JKR,JR.,P.J. 5 cc to Atty Belin	John K. Reilly Jr. ✓
08/25/2003	Certificate of Service, Order upon William R. Strong, Esquire. filed by s/Carl A. Belin, Esq. no cc	John K. Reilly Jr. ✓
	Answer To Motion To Strike Praecept For Argument. filed by s/William R. Strong, Esq. Certificate Of Service no cc	John K. Reilly Jr. ✓
09/05/2003	Motion To Strike Additional Preliminary Objections. filed by s/William R. Strong, Esq. Certificate of Service no cc	John K. Reilly Jr. ✓
09/10/2003	ORDER, AND NOW, this 9th day of September, 2003, re: Argument on Motion To Strike Additional Preliminary Objections to be held on the 22nd day of September, 2003, at 1:30 p.m. by the Court, s/JKR,JR, P.J. 2 cc Atty Strong	John K. Reilly Jr. ✓

Civil Court	Civil Court, Traverse Jurors for April 27, 1998	Nov. 21, 1997	11	457
Civil Court	Civil Court, Traverse Jurors for August 27, 2001	Oct. 27, 2000	11	458-A
Civil Court	Civil Court, Traverse Jurors for January 23, 1997	Oct. 15, 1996	11	457
Civil Court	Order, disregard previous Order to summon 225 Traverse Jurors for Civil Court on September 10, 1998; summon for September 17, 1998	Feb. 5, 1998	11	457
Civil Court	Civil Court, Traverse Jurors for January 30, 1997	Oct. 15, 1996	11	457
Civil Court	Civil Court, Traverse Jurors for April 27, 2001	Oct. 27, 2000	11	458-A
Civil Court	Civil Court, Traverse Jurors for April 28, 1997	Dec. 9, 1996	11	457
Civil Court	Civil Court, Traverse Jurors for August 31, 2001	Oct. 27, 2000	11	458-A
Civil Court	Civil Court, Traverse Jurors for September 2, 1997	Dec. 9, 1996	11	457

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREENDOT, INC.

: 00-1081-CD  
: NO. \_\_\_\_\_ OF 2000

DECLARATION OF TAKING BY THE  
DUBOIS AREA SCHOOL DISTRICT

The DuBois Area School District, pursuant to the Pennsylvania Eminent Domain Code, as amended, 26 PS 1-101 et seq. (Code) hereby declares:

1. The condemnor is the DuBois Area School District whose address is 500 Liberty Boulevard, DuBois, Pennsylvania 15801.
2. The condemnation is authorized by the Public Code, 24 PS 7-703.
3. Pursuant to Resolution No. 1, approved May 10, 2000, the DuBois Area School District hereby appropriates and condemns the real estate designated in the said Resolution, a copy of which is attached as Exhibit A. The name of the condemnees is Green Dot, Inc.
4. The properties have been condemned by the DuBois Area School District for public purposes for a regulation size and practice soccer fields.

**FILED**

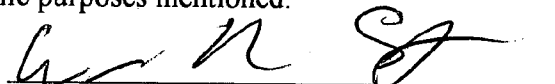
SEP 01 2000

William A. Shaw  
Prothonotary

5. A description of the property condemned is all that certain piece or parcel of and owned by Greendot, Inc. in the City of DuBois containing 3.4 acres, more or less and being further described in the Resolution, attached as Exhibit A.
6. The title acquired by the DuBois Area School District shall be fee simple absolute.
7. A plan of the properties condemned is being lodged for record in the Administrative Offices of the DuBois Area School District as of the same date as filing the Declaration of Taking, in accordance with Section 404 of the Code, 26 PS 1-104.
8. Both the Resolution and the plan may be inspected at the address of the condemnor.
9. Under Section 403(b) of the Code, 26 PS 1-403(b), the power of taxation granted to the DuBois Area School District by the state legislature is sufficient to secure just compensation for the appropriation of the properties described herein.
10. Pursuant to Section 405(d) of the Code, 26 PS 1-405(d), a conformed copy of this Declaration of Taking together with the information and notice required by Section 405© thereof, 26 PS 1-405©, will be served upon each condemnee in this proceedings. Proof of Service will be filed.



WHEREFORE, the DuBois Area School District declares the within premises  
condemned and appropriated for the public purposes mentioned.

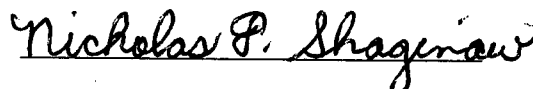


William R. Strong, Esquire, Attorney for  
DuBois Area School District  
PO Box 7, 616 Main Street  
Clarion, PA 16214  
(814)-226-4171

**VERIFICATION**

I, Nicholas F. Shaginaw, verify that the statements and averments made in this  
Declaration of Taking are true and correct to the best of my knowledge, information and belief. I  
understand that false statements herein are made subject to the penalties of 18 Pa. C.S., Section  
4904, relating to unsworn falsification to authorities.

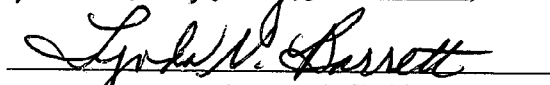
Date: 8-18-2000



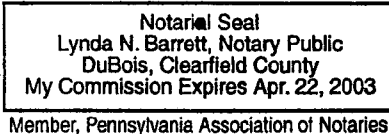
Nicholas F. Shaginaw

Sworn to and subscribed before me this

18<sup>th</sup> day of August, 2000



Notary Public



Regular Board Meeting Of May 10, 2000RESOLUTION NO. 1

AUTHORIZING THE SELECTION AND APPROPRIATION OF AN AREA OF LAND CONTAINING 3.4 ACRES OWNED BY GREEN DOT, INC. IN THE CITY OF DUBOIS, AND AUTHORIZING THE FILING OF A DECLARATION OF TAKING AND ALL NECESSARY ACTIONS FOR THE ACQUISITION THEREOF:

WHEREAS, the DuBois Area School District pursuant to a Resolution adopted the 28th day of September, 1994 is about to proceed with acquisition of an area containing 3.4 acres, more or less; and

WHEREAS, in order to carry out the proposed development of land for recreational purposes for the District, it is necessary that the DuBois Area School District acquire title in fee simple to the said land, improvements and properties included in the area proposed to be used by the District;

WHEREAS, the DuBois Area School District has been unable to agree with the owner or owners of the said properties to be acquired on the price or damages to be paid; and,

WHEREAS, the DuBois Area School District is authorized to acquire title to property through Eminent Domain proceedings under the Public School Code, 24 PS 7-703;

NOW, THEREFORE, BE IT RESOLVED, that the DuBois Area School District, in accordance with authority conferred by law, selects and appropriates for the purposes of physical education, athletics, and enlargement of existing real estate the property containing 3.4 acres owned by Green Dot, Inc. and more fully described as follows:

BEGINNING at an iron pin on the western right-of-way line of Jeffers Street, said point of beginning further described as being South 25° 20' 05" West a distance of 100 feet, more or less, from the intersection of the southern right-of-way line of Beaver Drive and the western right-of-way line of Jeffers Street; thence South 25° 20' 05" West along said western right-of-way line of Jeffers Street a distance of 251.84 feet to an iron pin; thence continuing along said western right-of-way line of Jeffers Street by a curve to the left having a radius of 1940.08 feet, the chord of said curve being South 21° 37' 09" West a distance of 251.45 feet and the arc length being 251.62 feet, to an iron pin still in said western right-of-way line of Jeffers Street; thence North 64° 47' 26" West a distance of 241.34 feet to an iron pin; thence North 25° 37' 22" East a distance of 256.88 feet to an iron pin; thence North 64° 55' 49" West a distance of 201.91 feet to an iron pin on the eastern property line of the DuBois Area School District land; thence along said eastern property line of the DuBois Area School District land North 25° 20' 05" East a distance of 170.23 feet to an iron pin, said iron pin being South 25° 20' 05" West a distance of 100 feet, more or less, from the southern right-of-way line of Beaver Drive; thence south 74° 56' 00" East and at all times parallel to the southern right-of-way line of Beaver Drive, a distance of 432.58 feet to an iron pin and the place of beginning, containing 3.40 acres as portrayed on the attached map entitled:

Regular Board Meeting Of May 10, 2000

"PROPOSED INDUSTRIAL SITE  
DEVELOPMENT PLAN  
GREEN DOT INC.  
CITY OF DUBOIS CLFD. CO.  
Scale 1" = 50' Dec. 1989"

Being the residue of the premises conveyed to DuBois Area Industrial Fund by deed of Air Reduction Company, Incorporated, dated May 21, 1971, recorded June 1, 1971 in Clearfield County Deed Book 575, page 460. The DuBois Area Industrial Development Fund subsequently became known as DuBois Area Economic Development Corporation through Articles of Amendment and a Plan of Division.

Being the same parcel of land conveyed to Green Dot, Inc. by the DuBois Area Economical Development Corporation by deed dated May 16, 1990 and recorded in Clearfield County in Deed Book Vol. 1341, page 465.

RESOLVED, that all title and private rights or easements of whatever nature within the said area are hereby selected and appropriated for the purposes above described, in accordance with law.

RESOLVED, that the title to be acquired shall be absolute or fee simple title, including all easements, right-of-ways, and real estate interests of whatever nature or kind.

RESOLVED, that the counsel for the DuBois Area School District and its appropriate officers are hereby authorized to file a declaration of taking and such other proceedings, including the entry of such bond as may be deemed necessary or desirable, to carry out the purpose of this resolution.

RESOLVED, that the institution of such proceedings and damages which may be agreed upon or awarded to any party in interest, including the owner or owners of said properties located in the area, shall be paid out of the funds of the DuBois Area School District.

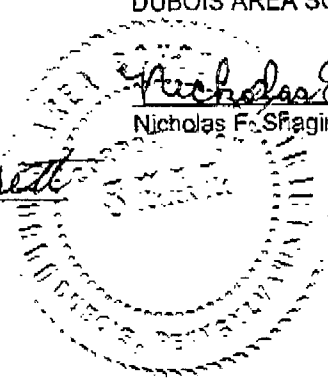
RESOLVED by Motion at a regular session of the Board of Directors of the DuBois Area School District this 10<sup>th</sup> day of May, 2000.

DUBOIS AREA SCHOOL DISTRICT

Attest:

Lynda N. Barrett, Secretary

Nicholas F. Spaginaw, President



BEAVER DRIVE

BEAVER RUN

3/4" REBAR (TO BE SET)

S74°-56'-00"E

Easement Area 0.385 ac.

432.58'

3/4" REBAR (TO BE SET)

PERMANENT FLOOD PONDING EASEMENT LINE

**GREEN DOT, INC.**

Containing 3.40 acres

N25°-20'-05"E 170.23'

3/4" REBAR (TO BE SET)

N64°-55'-49"W 201.91'

3/4" REBAR

256.88'

N25°-37'-22"E

241.34'

3/4" REBAR (TO BE SET)

N64°-47'-26"W

3/4" REBAR

CURVE DATA

R=1940.08'

D=2°-57'-12"

Δ=7°-25'-52"

ARC

S21°-37'-09"W

251.62'

251.45'

JEFFERS ST.

251.84'

60.00'

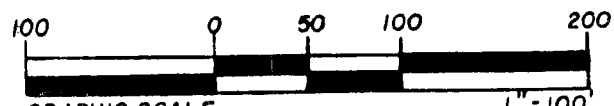
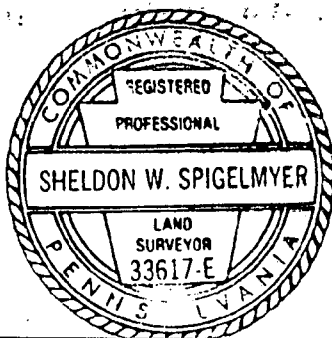
S25°-20'-05"W

DUBOIS COURIER EXPRESS

DUBOIS AREA SCHOOLS

DAVE STERN  
(PARIS CLEANERS)

N



FILED

SEP 01 2000  
01/12:05/445  
William A. Shaw  
Prothonotary

3 CEM TO ATT

PD  
80.-  
BY  
ATTY.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREENDOT, INC.

: 00 - CO  
: NO. 1081- OF 2000

MEMORANDUM

TO THE PROTHONOTARY:

Please be advised that a Notice of Condemnation was recorded in the Office of the Recorder of Deeds on the 1<sup>st</sup> day of September, 2000 in Book 200012857.



William R. Strong, Esquire, Attorney for  
DuBois Area School District  
PO Box 7, 616 Main Street  
Clarion, PA 16214  
814-226-4171

**FILED**

SEP 01 2000  
12:20 PM  
William A. Shaw  
Prothonotary

**FILED**

SEP 01 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREENDOT, INC.

NO. 00-1081-CD 2000

CERTIFICATE OF SERVICE

I, William R. Strong, Esquire, do hereby certify that a true and correct copy of the within

Is your RETURN ADDRESS completed on the reverse side?

<b>SENDER:</b> <ul style="list-style-type: none"><li>Complete items 1 and/or 2 for additional services.</li><li>Complete items 3, 4a, and 4b.</li><li>Print your name and address on the reverse of this form so that we can return this card to you.</li><li>Attach this form to the front of the mailpiece, or on the back if space does not permit.</li><li>Write "Return Receipt Requested" on the mailpiece below the article number.</li><li>The Return Receipt will show to whom the article was delivered and the date delivered.</li></ul>		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: JOHN OGORCHOCK GREENDOT, INC PO Box 388 DUBOIS, Pa. 15801		4a. Article Number 70993220009 94807872	
5. Received By: (Print Name) Laurie Maicki		4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD	
6. Signature: (Addressee or Agent) X Laurie Maicki		7. Date of Delivery 9-7-00	
		8. Addressee's Address (Only if requested and fee is paid)	

PS Form 3811, December 1994

John B. Ogorchock at PO

certified mailing.

Strong, Esquire

Thank you for using Return Receipt Service.

Domestic Return Receipt

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:  
JOHN OGORCHOCK

Postage	\$ 77
Certified Fee	1.40
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 3.42

Name (Please Print Clearly) (To be completed by mailer)  
WILLIAM R. STRONG  
Street, Apt. No.; or PO Box No. PO BOX 7, 616 MAIN ST  
City, State, ZIP+4 CLARION, PA 16214

PS Form 3800, July 1999

FILED

OCT 05 2000

William A. Shaw  
Prothonotary



FILED

OCT 05 2000

10:36/110 CC

William A. Shaw

Prothonotary &

1/6

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**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA**

**IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.**

**EMINENT DOMAIN  
NO: 00-1081 C.D.**

**CONDEMNEE'S PRELIMINARY OBJECTIONS  
TO DECLARATION OF TAKING**

*And now* comes the property owner, Green Dot, Inc., by and through its counsel, Kathryn J. Stevenson who, in support of these Preliminary Objections, respectfully avers as follows:

1. The Condemnor is the DuBois Area School District (hereinafter School District) whose address is 500 Liberty Boulevard, DuBois, Pennsylvania 15801.
2. The property which is the subject of this condemnation is owned by Green Dot, Inc., (hereinafter Green Dot) a Pennsylvania Corporation with its principal place of business located at 42 Hoover Avenue, Box 388, DuBois, Pennsylvania 15801.
3. On or about September 1, 2000, the School District filed a Declaration of Taking to the above-captioned term and number by which it purported to acquire in fee simple interest in 3.4 acres of prime commercial property from its owner, Green Dot.
4. Green Dot files these Preliminary Objections to the Declaration of Taking pursuant to the provisions of Section 1-406 of the Pennsylvania Eminent Domain Code (26 P.S. §1-406) seeking relief from this Honorable Court including, but not limited to, an Order setting aside the aforesaid Declaration of Taking, declaring the same to be null and void, and re-vesting title in the name of Green Dot along with the assessment of an award pursuant to the provisions of Sections 1-406, 1-408, and 1-609 of the Pennsylvania Eminent Domain Code, as amended.

**FILED**

OCT 06 2000  
M / 11:00 / ms  
William A. Shaw  
Prothonotary  
1 CENT TO ATR

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

OCT 06 2000

Attest:

William A. Shaw  
Prothonotary

5. These Preliminary Objections are timely filed within 30 days following Green Dot's, receipt on September 7, 2000, via certified mail, of the Declaration of Taking; service was accepted by Green Dot's President, John Ogorchock.

6. By letter dated February 24, 2000, the School District tendered its written offer of Estimated Just Compensation to Green Dot in the amount of **\$85,000.00** "based on a[n] [alleged] appraisal dated as of February 12, 2000". A copy of the School District's written offer of Estimated Just Compensation is attached, marked as Green Dot's "Exhibit A", and incorporated by reference as if the same were fully and completely set forth herein.

7. Upon information and belief, in making its February 24, 2000, written offer of Estimated Just Compensation in the **total amount of \$85,000.00**, the School District acted knowingly, fraudulently, and with palpable bad faith since the School District apparently was, and presumably still is, in possession of an appraisal completed at least 5 years earlier which sets the value of the subject property at "**\$74,000 per acre**". A copy of the correspondence purportedly authored by former School Board member, Michael J. Green, referencing the 1995 appraised value of the subject property along with then recent land transfers with per acre values far in excess of \$74,000.00 per acre is attached, marked as Green Dot's "Exhibits B-1" and "B-2", and is hereby incorporated by reference as if the same were fully and completely set forth herein.

8. Upon information and belief, by further correspondence dated September 6, 2000, which correspondence was directed to the School Board, former School Board member Green reiterated his 1995 concerns to the present School Board regarding what Green termed the "woefully inadequate" offer of Estimated Just Compensation made to Green Dot and further acknowledging that the "price of land in the City is skyrocketing". See Exhibits B-1 and B-2.

9. By way of further objection, the Declaration of Taking and attached plot plan of the area which the School District purports to acquire, fails to accurately depict thereon the size and location of the improvements contained on the subject property despite the School District having been made aware of these improvements, to wit:

I. The site is fully developed with infrastructure, filled and graded ready for the excavation and the placing of the concrete footers for three multi-story buildings.

II. The subject property is improved with drainage and existing sewer lines including a 20 inch collector pipe.

III. The property is serviced by a 12 inch water line, high voltage industrial electric service, cable service, and a medium pressure gas line.

IV. The Jeffers Street portion of the subject property has a paved parking area for approximately one hundred and fifty automobiles and serves as access to the Paris Companies employee and truck parking area.

V. The subject site has been approved by the Planning Commission of the City of DuBois for multiple story office buildings.

10. For the foregoing reasons Green Dot's Preliminary Objections challenge the procedure relating to the Declaration of Taking filed by the School District as authorized by Section 1-407 of the Eminent Domain Code.

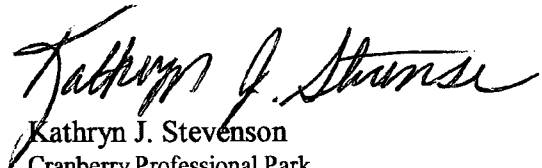
11. Green Dot is commencing Discovery as authorized by the Pennsylvania Rules of Civil Procedure for the purpose of further developing the extent of the School District's fraudulent conduct and palpable bad faith in the making of its Offer of Estimated Just Compensation to Green Dot as well as the inadequate description and depiction of the subject property as set forth in its Declaration of Taking.

12. Following Discovery incident to the filing of these Preliminary Objections, Green Dot respectfully reserves the right to amend said Preliminary Objections pending information developed as a result of the discovery to be undertaken in connection with said Preliminary Objections.

13. Green Dot respectfully avers that these Preliminary Objections in their current form, as unamended, raise disputed issues of fact and challenge the procedures utilized by the School District to acquire the subject property.

*Wherefore*, Green Dot seeks an evidentiary hearing for the purpose of presenting testimony in support of its Preliminary Objections whereafter Green Dot seeks an order of Court sustaining its Preliminary Objections and revesting title to the subject property in Green Dot.

Respectfully submitted,



Kathryn J. Stevenson  
Cranberry Professional Park  
501 Smith Drive, Suite 5  
Cranberry Twp., PA 16066  
(724) 776-5730

# DUBOIS AREA SCHOOL DISTRICT

*Office of the Superintendent*

500 Liberty Boulevard  
DuBois, PA 15801-2410

Phone: 814-371-2700  
Fax: 814-371-2544

February 24, 2000

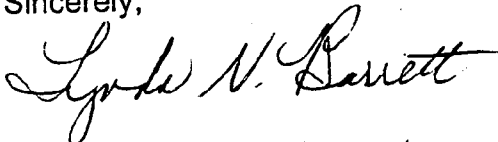
Mr. John H. Ogerchock, President  
Green Dot Inc.  
P.O. Box 388  
DuBois, Pa 15801

Dear Mr. Ogerchock:

The interest of the school board has now reached the level where by they are making an offer based on a appraisal dated as of February 12, 2000. The appraised property consists of 3.4 acres of vacant land next to the Middle School fronted on Beaver Drive. The appraised value was determined to be \$85,000.00 and this then being the offer of the DuBois Area School District to obtain the vacant land.

I know you will want to meet with representatives of the district to discuss the boards' latest decision. If you desire a meeting please contact the superintendent's office.

Sincerely,



Mrs. Lynda N. Barrett, secretary  
DuBois Area School Board

SLK/lmb

c: Mrs. Sharon L. Kirk, Superintendent  
Mr. William R. Strong, solicitor  
DuBois City Manager

From: Mike Green

RE: Fiduciary responsibility to set aside sufficient funds to cover condemnation costs.

Feb. 22, 1995

The Board has thusfar relied on a projected borrowing plan dated Dec. 6 which we directed the Business Manager to draw-up. That plan assumes a condemnation set-aside of \$74,000 per acre for the Ogerchock property, based on an appraisal we had done.

My concern is that:

- A) I don't want to eliminate tax-generating land
- B) But if the condemnation is done, I believe \$74,000 is woefully inadequate and a future board will be left holding a large financial bag.

At \$74,000 per acre, our appraisal says the Ogerchock land is worth about \$251,600.

Mr. Ogerchock values his land closer to \$1 million.

On the off-chance that he is right, and a court 5 or 10 years from now orders he be paid that amount, this Board has the responsibility now to finance this condemnation.

The Dec. 6 plan sets aside about half of the \$500,000 left from the Bond Issue.

It is my belief we need to set aside at a minimum all of the \$500,000, and actually more.

Furthermore, I do not believe there is a financial plan in place that even comes close to accurately estimating our exposure on this condemnation. Please review the attached data on actual land transfers, and I think you will have to agree that \$74,000 an acre is way below what we might reasonably expect a court to award as compensation.

Michael J. Green  
Board Member

1) Delaney/Cook to S&T Bank (.7682 acres) \$286,000

Sackandy to S&T (.49 acres) \$160,000

1.258 acres -- \$446,000=

\$354,531 per acre  
plus \$32,700 paving assessment

2) DuBois to Sunshine, Inc. 2.1 acres -- \$340,000=  
(before sale to Fatboys)  
\$161,905 per acre

3) Wendy Strouss Watt

\$45,000 per ONE-HALF acre PLUS \$15,000  
estimated for fill etc.

4) Clearfield Bank meadow property  
1.41 acres -- \$175,000=

\$124,113 per acre

5) Deposit Bank-Main and Long  
.475 acre = \$168,000



1016 Green Glen Drive  
DuBois, Pa. 15801  
Sept. 6, 2000

To: Members of the Board  
Re: Condemnation of the Green Dot property

I realize that a former board member is about as valuable as yesterday's newspaper. And the same might be true of his opinions. However, I would like to comment on the Board's proposed condemnation of the property: why I opposed it five years ago and continue my opposition today.

A) The land was previously appraised by the Board at \$74,000 per acre. I felt that amount was woefully inadequate, and your appraisal is even less. The court will have to look at current land values when determining a valuation. The price of land in the City is skyrocketing.

I wrote to my fellow board members Feb. 22, 1995:

"At \$74,000 per acre, our appraisal says the Ogorchock land is worth about \$251,600. Mr. Ogorchock values his land closer to \$1 million.

On the off-chance he is right, and a court 5 or 10 years from now orders he be paid that amount, this Board has the responsibility now to finance this condemnation."

My question today would be: How do you plan to pay for the condemnation if Mr. Ogorchock is correct in his assessment?

Again, from my 1995 memo to the Board, I pointed out certain land acquisitions at that time:

- 1) S&T Bank on the Blvd.: 1.258 acres for \$446,000
- 2) Deposit Bank-Main and Long: .475 acre for \$168,000

I have enclosed for your review money paid by Lowe's for certain land along Rt. 255. Again, any court will have to consider such numbers as \$100,000 for a plot 50' by 290' etc.


# SALE OF PROPERTY TO DUBOIS REALTY PARTNERS, L.P.

Lot #13	Roman 3/6/00 14500 S.F.	128-C3-653-13 \$100000 6.90/S.F.	Recording #200004302 50' X 290'
Lot #14	Gudinas 3/30/00 15000 S.F.	128-C3-653-14 \$125000 8.33/S.F.	Recording #200004297 50' X 300'
Lot #15	Brant 2/1/00 45000 S.F.	128-C3-653-15 \$290000 6.44/S.F.	Recording #200003275 150' X 300'+/-
Lot #16	Reed 8/23/99 21673 S.F.	128-C3-653-16 \$128500 5.93/S.F.	Recording #199914223 75.48' X 152'
Lot #17	Flanders 8/16/99 20730+/- S.F.	128-C3-653-17 \$160000 7.72/S.F.	Recording #199914222 68' X 150' + 75.48' X 143.5' X 75' X 135'
Lot #30 & #31	Harris 5/3/99 45000 S.F.	128-C3-653-30/31 \$190000 4.22/S.F.	Recording #199914180 100' X 150' + 100' X 150' + 100' X 150'
Lot #32/#33/#34	Fairman 8/6/99 30000+/- S.F.	128-C3-653-32/33/34 \$127500 4.25/S.F.	Recording #199914179 Approx. 200' X 150'

**VERIFICATION**

The undersigned has read the foregoing *Condamnee's Preliminary Objections to Declaration of Taking* in this case. The undersigned certifies that the statements of fact contained therein are true and correct to the best of my personal knowledge, information and belief.

The statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities which provides that if I knowingly make false averments, I may be subject to criminal penalties.

  
John H. Ogorchock as  
President of Green Dot, Inc.

**FILED**

OCT 06 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: Condemnation of Real Estate  
of Green Dot, Inc.

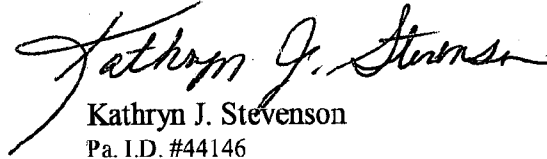
Eminent Domain  
#00-1081-C.D.

***PRAECIPE TO ENTER APPEARANCE***

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Green Dot, Inc., in the above captioned case.

Respectfully,



Kathryn J. Stevenson

Pa. I.D. #44146

Cranberry Professional Park

501 Smith Drive, Suite 5

Cranberry Twp., PA 16066

(724) 776-5730

**FILED**


OCT 16 2000

William A. Shaw  
Prothonotary

***CERTIFICATE OF SERVICE***

I hereby certify that I have caused a true and correct copy of the within **Praecipe to Enter Appearance** to be mailed on this 13th day of October, 2000, to all counsel of record to wit:

**William R. Strong, Esquire  
P.O. Box 7, 616 Main Street  
Clarion, PA 16214**

  
**Kathryn J. Stevenson**  
Attorney for Green Dot, Inc.,

FILED

OCT 16 2000

11:14 AM

William A. Shaw  
Prothonotary

*[Handwritten signature]*

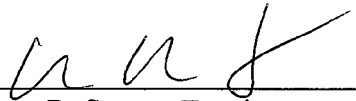
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREEN DOT, INC.

EMINENT DOMAIN  
NO. 00-1081-CD

CERTIFICATE OF SERVICE

I, William R. Strong, Esquire, do hereby certify that a true and correct copy of the within Answer was served on Kathryn J. Stevenson, Esquire at Cranberry Professional Park, 501 Smith Drive, Suite 5, Cranberry Township, Pennsylvania 16066 by depositing a copy of the same in the United States Mail, first class, postage pre-paid, and mailing the same on October 24, 2000.

  
\_\_\_\_\_  
William R. Strong, Esquire

FILED

OCT 30 2000

William A. Shaw  
Prothonotary



FILED

OCT 30 2000

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREEN DOT, INC.

: EMINENT DOMAIN  
: NO. 00-1081-CD

CONDEMNOR'S ANSWER TO PRELIMINARY OBJECTIONS

The Condemnor, DuBois Area School District, by and through their attorney, William R. Strong, files the following Answer to Condemnee's Preliminary Objections and alleges the following:

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. The school district denies that the property is prime commercial property. The balance of the averment is admitted.
4. Admitted. Paragraph 4 is a conclusion of law for which no responsive pleading needs to be filed.
5. Admitted.
6. Admitted in part and denied in part. It is denied that there is an alleged appraisal dated February 12, 2000. On the contrary, there is an actual appraisal of that date which was offered to Mr. John Ogorchock at a meeting which he refused to review. The balance of the averment is admitted.

FILED

OCT 30 2000

William A. Shaw  
Prothonotary

7. Denied. It is specifically denied that the school district has acted knowingly, fraudulently and with palpable bad faith in its offer of February 24, 2000 in the amount of \$85,000.00. On the contrary, the said figure is according to an appraisal of February 12, 2000 a copy of which Mr. Ogorchock refused to review. By way of further denial there was no appraisal completed five years earlier that set the value at \$74,000.00 per acre. By way of further denial, Michael J. Green's letter marked Green Dot's Exhibit B-1 is in error in this regard. By way of further denial, Michael J. Green is not a real estate appraiser and his statements are in error. By way of further denial, Green Dot's Exhibit B-1 is not a true copy of Michael J. Green's letter of February 22, 1995. Attached as Exhibit 1 to this Answer is the correct copy. The true and correct copy shows that the letter was sent to the Board Members for their internal use.
8. Denied. On the contrary, any opinions by Board Member Michael Green are irrelevant and are of no legal validity to the present actions. By way of further denial, Michael Green's opinion as an individual has no legal validity to these proceedings. By way of further denial, the district's offer was not woefully inadequate and the price of land in the city is not skyrocketing. By way of further denial, paragraph 8

contains no legal basis for preliminary objections under Section 406 of the Pennsylvania Eminent Domain Code.

9. Denied. The Declaration of Taking is not required to list the size and location of any improvements under Section 402 of the Pennsylvania Eminent Domain Code. Section 402 (5) merely required a description of the property sufficient for its identification. By way of further denial, paragraph 9 contains no legal basis for preliminary objections under Section 406 of the Pennsylvania Eminent Domain Code.
10. Denied. Paragraph 10 fails to outline which procedure they are challenging under Section 406(a) of the Pennsylvania Eminent Domain Code. By way of further denial, paragraph 10 contains no legal basis for preliminary objections under Section 406 of the Pennsylvania Eminent Domain Code.
11. Denied. By way of further denial, paragraph 11 contains no legal basis for preliminary objections under Section 406 of the Pennsylvania Eminent Domain Code.
12. Denied. Section 406 (d) of the Pennsylvania Eminent Domain Code specifically requires preliminary objections shall be raised at one time and in one pleading. Paragraph 12 is in direct conflict with Section 406 (d) of the Pennsylvania Eminent Domain Code. By way of further denial, paragraph 12 contains no legal basis for preliminary objections under Section 406 of the Pennsylvania Eminent Domain Code.

13. Denied. On the contrary, there are no issues of fact raised in the preliminary objections for which an evidentiary hearing is required. By way of further denial, there is no legal issue raised challenging the Declaration of Taking. By way of further denial, David J. Hopkins, Attorney at Law, in DuBois, Pennsylvania who previously represented Green Dot, Inc. by letter dated October 18, 1994 wrote to DuBois City Counsel and admitted on behalf of Green Dot, Inc. the following:

“Green Dot has been officially notified (copy enclosed) of the school district’s move toward condemnation. Several items are clear in this process:

1. Green Dot, Inc. cannot successfully prevent or defend a condemnation action by the school district.”

By way of further denial, the current preliminary objections by Green Dot, Inc. demonstrates a palpable bad faith and misuse of the legal system in light of the above admission by David J. Hopkins on behalf of Green Dot, Inc.

WHEREFORE, the District requests your Honorable Court to dismiss the preliminary objections and to deny a request for an evidentiary hearing.

Respectfully submitted,




William R. Strong, Esquire

**VERIFICATION**

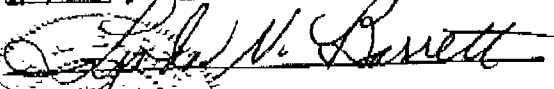
I, Sharon Kirk, Superintendent of DuBois Area School District have read the forgoing Answer and verify that the statements made herein are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S., Section 4904, relating to unsworn falsification to authorities.

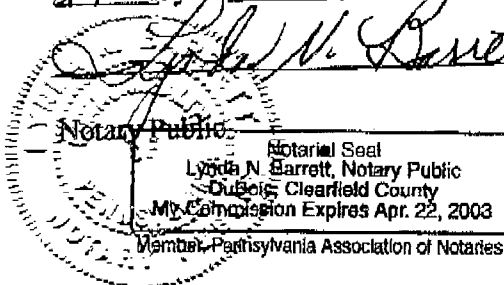
Date: 10-24-2000

  
Sharon Kirk, Superintendent

Sworn to and subscribed before me this

24<sup>th</sup> day of October, 2000





*DuBais  
Condemnation  
12*

*Copy to:  
Mr. Strong  
Mr. Plawny  
2-27-95  
SP*

To: Board  
From: Mike Green  
RE: Fiduciary responsibility to set aside sufficient funds  
to cover condemnation costs.  
Feb. 22, 1995

The Board has thusfar relied on a projected borrowing plan dated Dec. 6 which we directed the Business Manager to draw-up. That plan assumes a condemnation set-aside of \$74,000 per acre for the Ogerchock property, based on an appraisal we had done.

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It is my belief we need to set aside at a minimum all of the \$500,000, and actually more.

Furthermore, I do not believe there is a financial plan in place that even comes close to accurately estimating our exposure on this condemnation. Please review the attached data on actual land transfers, and I think you will have to agree that \$74,000 an acre is way below what we might reasonably expect a court to award as compensation.

Michael J. Green  
Board Member

RECEIVED

FEB 24 1995

Ans'd.....

FILED

OCT 30 2000

11:09 AM  
William A. Shaw  
Prothonotary

cc  
S  
22



*DuBais  
Condemnation*  
*12*

*copy to:*  
*Mr. Strong*  
*Mr. Plawny*  
*2-27-95*  
*SP*

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Board Member

RECEIVED

FEB 24 1995

Ans'd.....

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 plus \$32,700 paving assessment

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 \$124,113 per acre

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 .475 acre = \$168,000

FILED

OCT 30 2000

m1:091ng cc  
William A. Shaw  
Prothonotary

SP

CA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA**

CONDEMNATION OF REAL ESTATE  
OF GREENDOT, INC.

:  
:  
: NO. 00-1081-CD

**MOTION TO POSTPONE BRIEFING AND ORAL ARGUMENT**

The Condemnor, DuBois Area School District, by and through their attorney, William R. Strong, files this Motion to Postpone Briefing Schedule and Oral Argument and alleges the following:

1. The Declaration of Taking was filed in the above caption matter on September 1, 2000.
2. The Condemnee filed Preliminary Objections to the Declaration of Taking on or about October 5, 2000.
3. The Condemnor filed an Answer to the Preliminary Objections on October 26, 2000.
4. The Court by letter dated December 6, 2000 established the Condemnor's brief due December 29, 2000 and oral argument for January 2, 2001 at 2:00 p.m.
5. Counsel for the Condemnor will be on vacation from December 20, 2000 until January 2, 2001.
6. Counsel will have insufficient time to properly prepare a brief and prepare for oral argument.

**FILED**

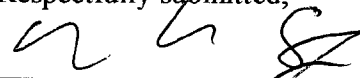
DEC 15 2000

William A. Shaw  
Prothonotary

7. Attorney Kathryn Stevenson on behalf of the Condemnee has been notified of this request and has indicated no objections to the same.

WHEREFORE, the Condemnor requests your Honorable Court to reschedule the brief and oral argument dates in the above caption matter for late January or early February.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'W. R. Strong', is written over a horizontal line.

William R. Strong, Esquire

FILED

DEC 15 2000

01124/KC atty Strong  
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

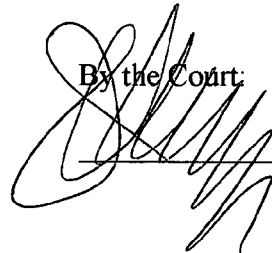
CONDEMNATION OF REAL ESTATE  
OF GREENDOT, INC.

:  
:  
:  
: NO. 00-1081-CD

ORDER

And Now, this 15<sup>th</sup> day of December, 2000, upon presentation and  
consideration of the within Motion to Postpone Brief and Oral Argument in the above caption  
matter Attorney Strong's brief shall be due on the 15<sup>th</sup> day of January,  
2001 and the oral argument in this case shall be held on the 17<sup>th</sup> day of January,  
2001 at 9:30 A. M. at the Clearfield County Court House, Court Room No. 1,  
Clearfield, Pennsylvania.

By the Court:



FILED

DEC 15 2000

William A. Shaw  
Prothonotary

FILED

DEC 15 2000

01/24/00 c atty Strong  
William A. Shaw  
Prothonotary



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF  
REAL ESTATE OF  
Green Dot, Inc.

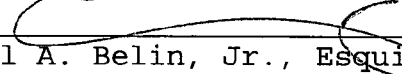
EMINENT DOMAIN  
NO. 00-1081-C.D.

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Green Dot, Inc.,  
in regard to the above-captioned action.

BELIN & KUBISTA

By   
Carl A. Belin, Jr., Esquire

**FILED**

JAN 16 2001

William A. Shaw  
Prothonotary

FILED

JAN 16 2001

011100143  
William A. Shaw  
Prothonotary

1 (ATTN TO ATTN)

*[Handwritten signature]*  
KAT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

IN RE: CONDEMNATION OF REAL : No. 00 – 1081 – CD  
ESTATE OF GREENDOT, INC. :

**ORDER**

NOW, this 17<sup>th</sup> day of January, 2001, this being the day and date set for argument into Preliminary Objections, upon request of Condemnee, it is the ORDER of this Court that said matter shall be and is hereby continued for a period of 30 days to permit discovery.

By the Court,

\_\_\_\_\_  
President Judge

**FILED**  
JAN 17 2001  
William A. Shaw  
Prothonotary

**FILED**

<sup>12/11:30</sup>  
JAN 17 2001

William A. Shaw  
Prothonotary

Ed  
~~Ed~~

4CC

William Strong  
Kathryn Stewson  
Carol Belin  
David Hopkins

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.

EMINENT DOMAIN  
NO: 00-1081 C.D.

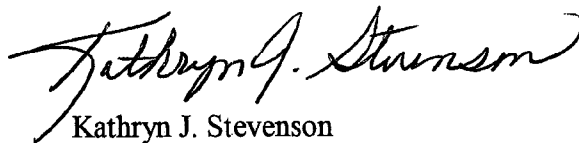
MOTION FOR CONTINUANCE

*And now* comes the Condemnee/property owner, Green Dot, Inc. (hereinafter "Green Dot")  
by and through it's counsel Kathryn J. Stevenson, who, in support of this Motion for Continuance  
respectfully avers as follows:

1. Pursuant to an Order of Court dated January 17, 2001, argument on Preliminary Objections to Declaration of Taking has been scheduled for March 2, 2001.
2. Counsel for Condemnee, Kathryn J. Stevenson, is scheduled to attend a pre-paid continuing legal education course on March 2, 2001. A copy of her seminar ticket is attached hereto as Exhibit A.
3. Counsel for Condemnee, Carl A. Belin, Jr., also has a previously scheduled engagement and is unable to be present at the March 2, 2001, argument.
4. Counsel for Condemnor, William R. Strong, has consented to this continuance.

*Wherefore*, it is respectfully requested that the March 2, 2001, argument be continued and rescheduled as soon as possible.

Respectfully,

  
Kathryn J. Stevenson

FILED

FEB 13 2001

William A. Shaw  
Prothonotary

**Pennsylvania  
Bar Institute**  
CONTINUING LEGAL EDUCATION

5080 RITTER ROAD • MECHANICSBURG, PA 17055 • (717) 796-0804

**ENROLLMENT FORM**

**COURSE LOCATION**

20 PITTSBURGH, PA

**COURSE NAME**

A DAY IN DISCOVERY  
FOR ATTENDANCE AT

RAMADA PLAZA SUITES  
ONE BIGELOW SQUARE

TO BE HELD ON

FRIDAY, MARCH 2, 2001  
REGISTRATION 8:00 TO 8:30 AM  
PROGRAM 8:30 AM TO 4:15 PM

THIS CERTIFIES THAT ON 01/04/01 AT THE TUITION FEE OF  
ENROLLMENT WAS ENTERED ON OUR RECORDS IN THE NAME OF:

\$239.00

\$239.00

532900

AMOUNT PAID

CHECK NO.

BALANCE TO BE PAID BY:

AMOUNT

044146-00  
Kathryn J. Linn-Stevenson  
Cranberry Professional Park  
501 Smith Dr Ste 5  
Cranberry Townsh, PA 16066

**RETAIN FOR YOUR RECORDS**

E: 1

S: 5

MAX: 6

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.

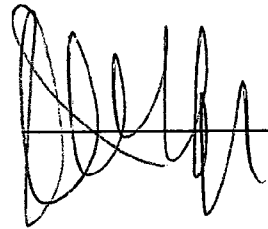
EMINENT DOMAIN  
NO: 00-1081 C.D.

ORDER OF COURT

*And now*, this 13<sup>th</sup> day of February, 2001, upon consideration of the Motion for Continuance, it is hereby ordered that the March 2, 2001, argument of Preliminary Objections to Declaration of Taking is hereby continued and shall be rescheduled as soon as possible.

Said argument is rescheduled for the 21<sup>st</sup> day of March, 2001, at 10:00 o'clock A.m. in Courtroom # 1 of the Clearfield County Courthouse.

By the Court:



\_\_\_\_\_ J.

**FILED**

FEB 13 2001

o / 4:00 / wgs

William A. Shaw  
Prothonotary

2 CENS TO ATT

E  
KDG



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA


IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.

EMINENT DOMAIN  
NO: 00-1081 C.D.

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a certified copy of the within *February 13, 2001, Order*  
*of Court* to be mailed on this 21st day of February, 2001, to all counsel of record to wit:

**William R. Strong, Esquire**  
P.O. Box 7  
616 Main Street  
Clarion, PA 16214

  
**Kathryn J. Stevenson**  
Attorney for Condemnee,  
Green Dot, Inc.

**FILED**

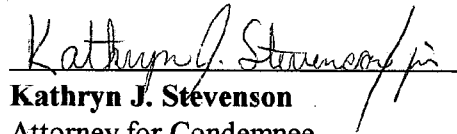
MAR 05 2001

William A. Shaw  
Prothonotary

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the within *Certificate of Service* to be mailed on this 21st day of February, 2001, to all counsel of record to wit:

**William R. Strong, Esquire  
P.O. Box 7  
616 Main Street  
Clarion, PA 16214**

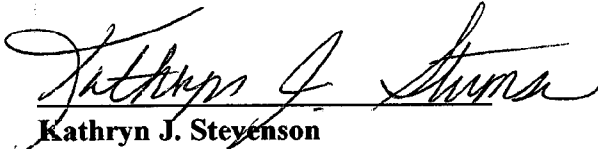
  
**Kathryn J. Stevenson**  
Attorney for Condemnee,  
Green Dot, Inc.

FILED  
MAR 10 2001  
MAR 05 2001  
William A. Shaw  
Prothonotary  
NO  
CC  
KCB

***CERTIFICATE OF SERVICE***

I hereby certify that I have caused a true and correct copy of the within **Condemnee's Preliminary Objections to Declaration of Taking** to be mailed on this 5th day of October, 2000, to all counsel of record to wit:

**William R. Strong, Esquire  
P.O. Box 7, 616 Main Street  
Clarion, PA 16214**

  
**Kathryn J. Stevenson**  
Attorney for Green Dot, Inc.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA**

**IN RE: CONDEMNATION OF  
REAL ESTATE OF  
Green Dot, INC.**

**EMINENT DOMAIN  
NO: 00-1081 C.D.**

**ORDER OF COURT**

**And now, this \_\_\_\_\_ day of \_\_\_\_\_, 2000, based upon the filing of Preliminary Objections in the above-captioned matter on behalf of the Condemnee, Green Dot, Inc., it is hereby Ordered, Directed and Decreed that the Court Administrator schedule an Evidentiary Hearing in this matter which hearing shall take place no less than 90 days following the filing of the Preliminary Objections by Green Dot.**

**Said Evidentiary Hearing is scheduled for the \_\_\_\_\_ day of \_\_\_\_\_, 2000,  
at \_\_\_\_\_ o'clock \_\_\_\_ m. in Courtroom \_\_\_\_\_ before the Honorable Judge \_\_\_\_\_  
\_\_\_\_\_ at the Clearfield County Courthouse, Clearfield, Pennsylvania.**

**By The Court:**

\_\_\_\_\_  
J.

CA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA**

**IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.**

**EMINENT DOMAIN  
NO: 00-1081 C.D.**

***PETITION SEEKING APPOINTMENT OF BOARD OF VIEW***

**TO THE HONORABLE, THE JUDGES OF THE SAID COURT:**

The Petition of Green Dot, Inc. Respectfully represents:

1. That immediately prior to September 1, 2000, Green Dot, Inc. was the owner in fee simple of the premises located at the South West corner of Jeffers Street and Beaver Drive, City of DuBois, Clearfield County, Pennsylvania, which premises is more specifically depicted in the attached plot plan. The plot plan is marked as "Exhibit A" and incorporated herein as if the same were fully and completely set forth.

2. On September 1, 2000, a Declaration of Taking was filed of record by the Dubois Area School District thereby condemning the entire 3.4 acres of property as depicted in Exhibit A.

3. Green Dot filed timely Preliminary Objections to the Declaration of Taking; however said Preliminary Objections have been withdrawn with the consent of the DuBois Area School District. A copy of the above-referenced consent is attached, marked as "Exhibit B" and incorporated by reference as if the same were fully and completely set forth herein.

4. Green Dot, Inc., has no knowledge of the existence of any other condemnees or mortgagees who have an interest in the condemned property as referenced in Exhibit A.

5. By virtue of the Declaration of Taking filed on September 1, 2000, the DuBois Area School District acquired, appropriated and condemned the property referenced in Exhibit A, in fee simple or absolute title.

**FILED**

MAY 21 2001

William A. Shaw  
Prothonotary

6. Green Dot, Inc., and the DuBois Area School District have been unable to agree on the amount of Just Compensation that should be paid as a result of the above-referenced condemnation.

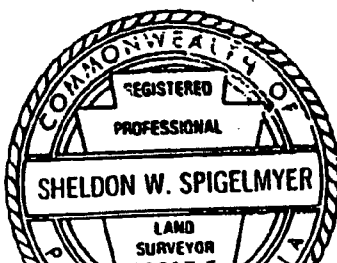
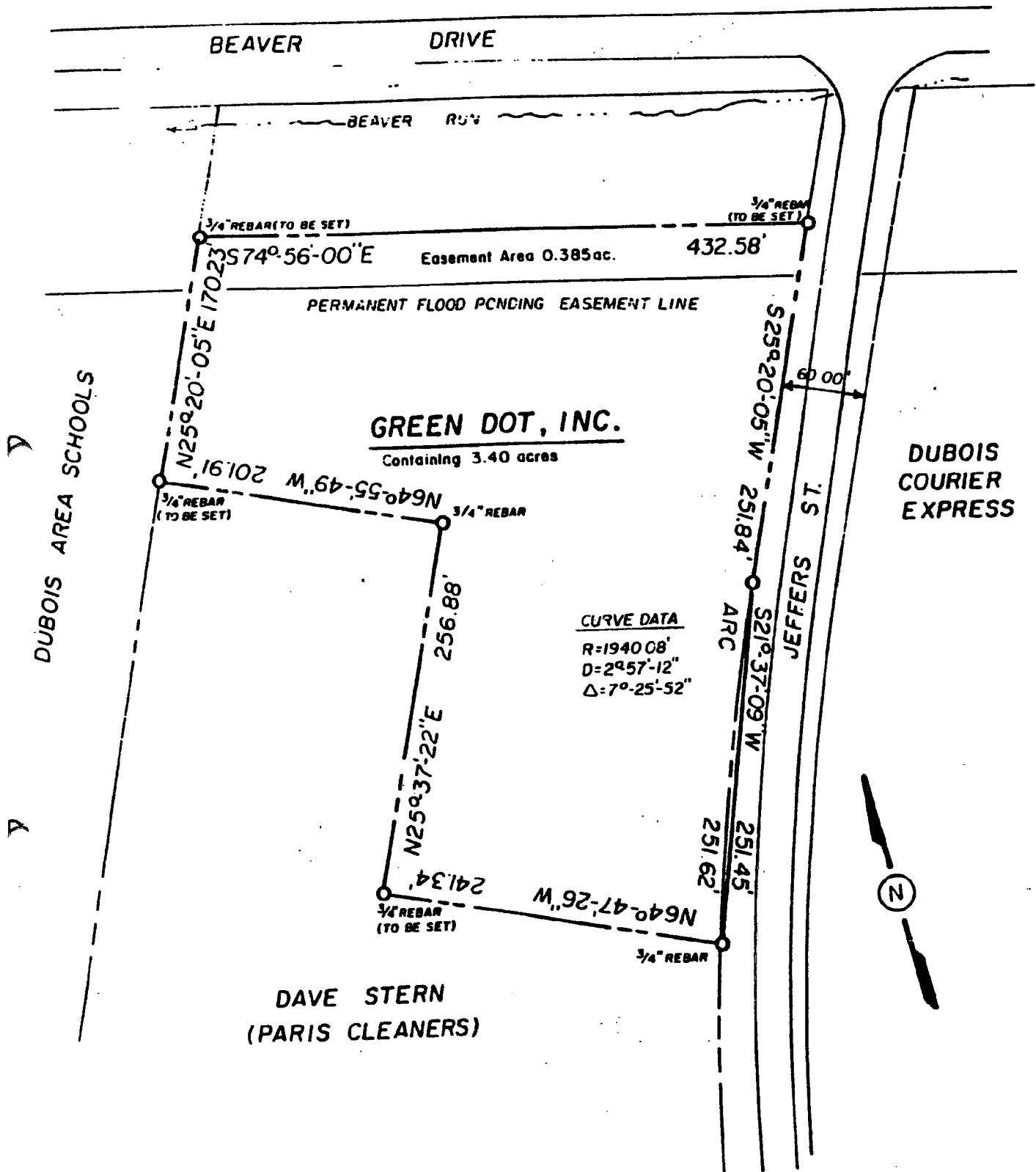
WHEREUPON, Green Dot, Inc. prays your Honorable Court to appoint three viewers to assess the damages to which Green Dot, Inc. is entitled by reason of the condemnation.

AND your Petitioner will ever pray.

Respectfully submitted,

A handwritten signature in black ink, reading "Kathryn J. Stevenson". The signature is written in a cursive, flowing style.

Kathryn J. Stevenson, Esquire  
Pa. I.D. 44146  
Law Office of Kathryn J. Stevenson  
334 East Main Street  
Evans City, PA 16033  
724-538-9300



"Exhibit A"

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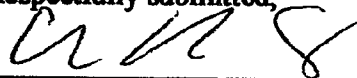
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
IN RE: CONDEMNATION OF REAL  
ESTATE OF GREENDOT, INC. :  
NO. 00-1081 CD

ANSWER TO MOTION TO WITHDRAW CONDEMNEE'S PRELIMINARY OBJECTIONS

AND NOW, comes the DuBois Area School District, by and through their Attorney,  
William R. Strong, and files this Answer to Greendot's Motion to Withdraw Condemnee's  
Preliminary Objections and states as follows:

1. The DuBois Area School District hereby consents with the withdraw of the  
Preliminary Objections in the above caption.

Respectfully submitted,



---

William R. Strong, Esquire  
PO Box 7, 616 Mains Street  
Clarion, PA 16214  
814-226-4171

Exhibit B

**VERIFICATION**

The undersigned has read the foregoing *Petition For Appointment of Board of Viewers* in this case. The undersigned certifies that the statements of fact contained therein are true and correct to the best of my personal knowledge, information and belief.

The statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities which provides that if I knowingly make false averments, I may be subject to criminal penalties.

---

**John Ogorchock, President Green Dot, Inc.**

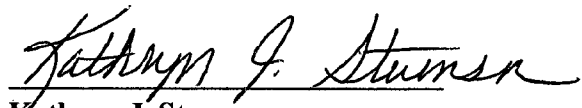
**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the within *Petition Seeking Appointment of Board of* to be mailed on this 16th day of May, 2001, to all counsel of record to wit:

**William R. Strong, Esquire  
P.O. Box 7  
616 Main Street  
Clarion, PA 16214**

**Carl A. Belin, Esquire  
15 North Front Street  
Clearfield, PA 16830**

**David J. Hopkins  
The Hopkins Law Firm  
900 Beaver Drive  
DuBois, PA 15801**

  
**Kathryn J. Stevenson**  
Attorney for Condemnee,  
Green Dot, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.

EMINENT DOMAIN  
NO: 00-1081 C.D.

ORDER OF COURT APPOINTING A BOARD OF VIEW

AND NOW, this 2<sup>nd</sup> day of May, 2001, upon consideration of the foregoing  
Petition for Appointment of Board of View filed by Kathryn J. Stevenson, Esquire, on behalf of the  
Condemnee, Green Dot, Inc., the Court appoints:

J. Richard Motters, II, Esquire  
Sam Yost  
Edo Goodine

as a Board of View to assess the damages caused by the above-captioned condemnation.

By The Court:  
[Signature] J.

**FILED**

MAY 21 2001

William A. Shaw  
Prothonotary

FILED

MAY 21 2001

11:07:34 a.m.

William A. Shaw

Prothonotary

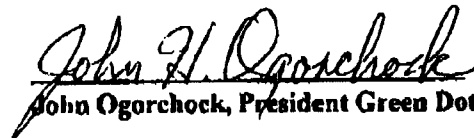
Sturgeson



**VERIFICATION**

The undersigned has read the foregoing *Petition For Appointment of Board of Viewers* in this case. The undersigned certifies that the statements of fact contained therein are true and correct to the best of my personal knowledge, information and belief.

The statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities which provides that if I knowingly make false averments, I may be subject to criminal penalties.

  
John Ogorchock, President Green Dot, Inc.

**FILED**

MAY 21 2001

O/1107/no cc

William A. Shaw

Prothonotary

*[Handwritten signature]*

CP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.

EMINENT DOMAIN  
NO: 00-1081 C.D.

**MOTION TO WITHDRAW CONDEMNEE'S PRELIMINARY OBJECTIONS**

AND NOW comes the property owner, Green Dot, Inc., by its Attorney, Kathryn J. Stevenson, who in support of the within Motion to Withdraw Condemnee's Preliminary Objections states as follows:

1. On or about September 1, 2000, the Dubois Area School District filed a Declaration of Taking thereby appropriating approximately 3.4 acres from the property owner, Green Dot, Inc.

2. Subsequent to September 1, 2001, Green Dot, Inc. filed timely Preliminary Objections.

3. On or about January 17, 2001, oral argument was held on Green Dot's Preliminary Objections; following oral argument this Court granted Green Dot leave to take the deposition of former school board member Mike Green concerning whether the current school board members had made its offer of Estimated Just Compensation to Green Dot, Inc. in bad faith.

4. During the deposition of Mr. Green, on February 9, 2001, it was disclosed that Mr. Green believed that the school district had conducted a prior appraisal which appraisal was purported to have valued the subject property significantly above the offer which was made to Green Dot, Inc. pursuant to the above-referenced condemnation.

5. Green Dot's efforts to locate documentation of this previous appraisal have proven to be fruitless.

6. Green Dot's counsel has been on medical leave for the past two months and is scheduled to return from authorized disability leave on May 16, 2001; accordingly, the court has only

**FILED**

MAY 21 2001

William A. Shaw  
Prothonotary



recently rescheduled part two of the oral argument on the Preliminary Objections to take place on Wednesday, June 6, 2001 at 3:00 p.m.

7. Following further telephonic consultation with its counsel on Friday May 4, 2001, Green Dot, by its President, Jack Ogorchock, has determined that it would be in Green Dot's long term best interest to withdraw its Preliminary Objections and proceed to a Board of Viewers hearing in order to determine the damages resulting from the condemnation.

8. Green Dot, Inc. agrees to tender possession to the Condemnor of the subject property immediately upon the school district's payment to Green Dot, Inc. of its offer of Estimated Just Compensation in accordance with the Pennsylvania Eminent Domain Code.

9. The school district consents to Green Dot's request to withdraw its Preliminary Objections.

Wherefore, Green Dot, Inc. requests that the Preliminary Objections filed to the above-referenced docket number be withdrawn and that the Court appoint a Board of Viewers to take testimony on the issue of damages due, if any, to the property owner, Green Dot, Inc. in accordance with the attached Petition for Board of Viewers.

Respectfully submitted,

  
Kathryn J. Stevenson

**VERIFICATION**

The undersigned has read the foregoing *Motion To Withdraw Condemnee's Preliminary Objections* in this case. The undersigned certifies that the statements of fact contained therein are true and correct to the best of my personal knowledge, information and belief.

The statement and verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities which provides that if I knowingly make false averments, I may be subject to criminal penalties.

  
John Ogorchock, President Green Dot, Inc.

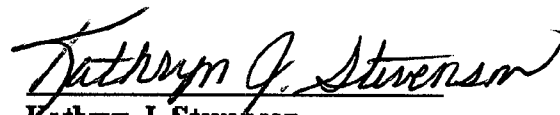
**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the within *Motion To Withdraw Condemnee's Preliminary Objections* to be mailed on this 16th day of May, 2001, to all counsel of record to wit:

**William R. Strong, Esquire  
P.O. Box 7  
616 Main Street  
Clarion, PA 16214**

**Carl A. Belin, Esquire  
15 North Front Street  
Clearfield, PA 16830**

**David J. Hopkins  
The Hopkins Law Firm  
900 Beaver Drive  
DuBois, PA 15801**

  
**Kathryn J. Stevenson**  
Attorney for Condemnee,  
Green Dot, Inc.

**FILED**

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William A. Shaw  
Prothonotary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA**

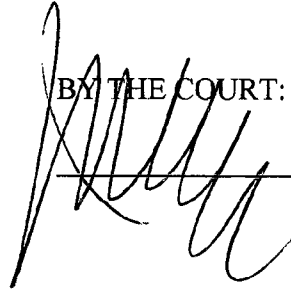
**IN RE: CONDEMNATION OF  
REAL ESTATE OF  
GREEN DOT, INC.**

**EMINENT DOMAIN  
NO: 00-1081 C.D.**

**ORDER OF COURT**

AND NOW, this 21<sup>st</sup> day of May, 2001, upon consideration of the  
Condemnee's Motion to Withdraw Preliminary Objections and the Condemnor's consent thereto, it  
is hereby ORDERED, DIRECTED AND DECREED the Condemnee's Preliminary Objections are  
Withdrawn.

BY THE COURT:



J.

**FILED**

MAY 21 2001

**William A. Shaw**  
Prothonotary

FILED

MAY 21 2001

01/10813 CC

William A. Shaw

Prothonotary

*atty. Stevenson*  
*for*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**In Re: Condemnation of  
Real Estate of Green Dot, Inc.**

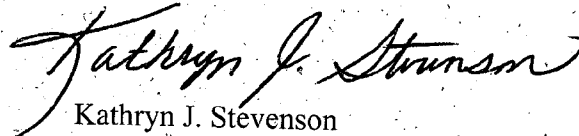
**Eminent Domain No.: 00-1081-CD**

***PRAECIPE TO WITHDRAW APPEARANCE***

TO THE PROTHONOTARY:

Kindly withdraw my appearance on behalf of the Plaintiff, Green Dot, Inc., in the above captioned case.

Respectfully,

  
Kathryn J. Stevenson

Morgan Management Building  
165 Brugh Avenue, Suite 100  
Butler, PA 16001  
724-287-9800  
Pa. ID Number: 44146

**FILED** <sup>NO CC</sup>  
m110450  
OCT 28 2002 <sup>E</sup> <sub>KEY</sub>

William A. Shaw  
Prothonotary

CLEARFIELD, PENNSYLVANIA 16830

P. O. BOX 1

15 NORTH FRONT STREET

ATTORNEYS AT LAW

BELIN & KUBISTA

With  
Procedural  
History

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
:  
: PETITION SEEKING  
: PERMISSION TO FILE  
: ADDITIONAL PRELIMINARY  
: OBJECTIONS

Filed on Behalf of:  
Petitioner, Green Dot, Inc.

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

**FILED**

JUN 03 2003

William A. Shaw  
Prothonotary

FILED

JUN 03 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

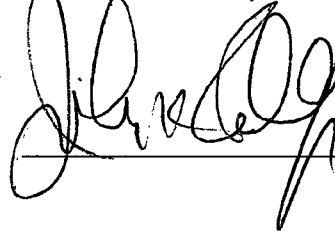
RULE

AND NOW this 3 day of June, 2003, upon reading and considering the foregoing Petition Seeking Permission to File Additional Preliminary Objections, it is the ORDER of this Court that a rule be issued upon the DuBois Area School District to show cause why Petition should not be permitted to file Additional preliminary objections in the above-captioned case.

RULE returnable for written response June 18, 2003.

HEARING, if necessary, to be held on the 10 on the 10 day of July, 2003, at 1:30 o'clock, 1 M., in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania 16830.

BY THE COURT,



**FILED**

JUN 03 2003

William A. Shaw  
Prothonotary

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William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

**PETITION SEEKING PERMISSION TO FILE ADDITIONAL  
PRELIMINARY OBJECTIONS**

AND NOW comes Petitioner-Condemnee, Green Dot, Inc. ("Green Dot") in the above-captioned Eminent Domain action ("the action"), by and through its attorneys, Belin & Kubista, and file the following petition seeking to file additional preliminary objections in the action, and in support thereof, aver as follows:

1. That the DuBois Area School District, Condemnor in the action ("DASD"), filed a declaration of taking as to 3.4 Acres of land owned by Green Dot in the City of DuBois ("the parcel") on September 1, 200, and title thereof passed to DASD by virtue of Section 402 of the Eminent Domain Code, 26 P.S. Section 1-402 (hereinafter "Section 402 of the Act").

2. That DASD has paid Green Dot the amount of just compensation estimated by it pursuant to Section 407 of the Act and as a result thereof has taken possession of the parcel.

3. That preliminary objections were filed in the action on October 6, 2000, but were withdrawn by motion of Green Dot on May 21, 2001, which Your Honorable Court approved on May 21, 2001.

4. That a Board of View was appointed by Your Honorable Court on May 21, 2001, but a hearing has not been held and is scheduled for July 31, and August 1, 2003.

5. That DASD adopted a resolution on January 22, 2003, that .64 Acre of the parcel condemned was no longer needed for the project and filed a petition in the Court of Common Pleas of Clearfield County seeking to swap the .64 acre with David J. Stern for land he owned next to the .64 acre parcel to No. 03-200-CD.

6. That on May 23, 2003, Your Honorable Court entered an Opinion and Order denying the petition of DASD to swap the land.

7. That after the hearing was held on the merits of the petition on March 24, 2003, DASD entered into a lease on April 16, 2003, which seeks to swap, in effect, the same land which was the subject of the petition, making it even more clear that the land is no longer needed for the project.

8. That under Section 410 of the Act where a project is abandoned as to any property which has been condemned and said action of the condemnor occurs within three (3) years of the date of the condemnation, the condemnor cannot dispose of the property without having first offered the parcel to the condemnee at the same price paid to the condemnee by the condemnor.

9. That the actions of the DASD in failing to offer the land to Green Dot should be raised by preliminary objections: see *Biernacki v. Redevelopment Authority of the City of Wilkes-Barre*, 66 Luz. L.R. 205 (1974).

10. That the Petitioner seeks to raise the issue that DASD has abandoned the project as to the .64 Acres and desires to enforce its reversionary right under the Act to secure a reconveyance of that tract.

11. That the Petitioner also seeks to raise the issue that under the circumstances including the .64 acre tract in the condemnation was for a private purpose and that the declaration of taking should be stricken as to the .64 acre parcel.

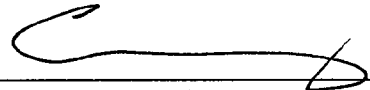
12. That a copy of the proposed preliminary objections are hereto attached, made a part hereof, and marked Exhibit "A."

WHEREFORE, Petitioner requests Your Honorable Court to enter a rule upon DASD to show cause why it should not be permitted to file preliminary objections.

RESPECTFULLY SUBMITTED,

BELIN & KUBISTA

By



Carl A. Belin, Jr., Esq.  
Attorney for  
Green Dot, Inc.



COMMONWEALTH OF PENNSYLVANIA

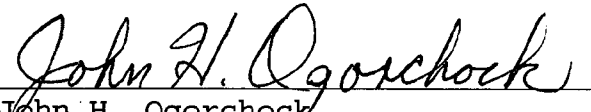
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COUNTY OF CLEARFIELD

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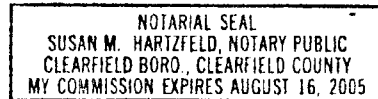
Before me the undersigned officer, personally appeared John H. Ogorchock, who deposes and says he is the President of Green Dot, Inc., and as such President being authorized to do so, and being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition Seeking Permission To File Additional Preliminary Objections are true and correct to the best of his knowledge, information and belief.

  
John H. Ogorchock

Sworn and subscribed before me this 31<sup>st</sup> day of

June, 2003.

  
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE:	CONDEMNATION OF	:	EMINENT DOMAIN
	REAL ESTATE OF	:	
	GREEN DOT, INC.	:	NO. 00-1081-CD
		:	
		:	ADDITIONAL PRELIMINARY
		:	OBJECTIONS

Filed on Behalf of:  
Petitioner, Green Dot, Inc.

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

ADDITIONAL PRELIMINARY OBJECTIONS

The Condemnee, Green Dot, Inc. ("**Green Dot**") hereby files the following additional preliminary objections in the above-captioned action:

REVERSIONARY INTEREST

1. The procedure followed by the Condemnee DuBois Area School District ("**DASD**") as to a .64 acre tract of land is contrary to Section 420 of the Eminent Domain Code ("**the Act**"), 26 P.S. 1-410 in that:

a. the DASD has established by resolution, petition to swap land, and a lease, a copy of which is hereto attached as Exhibit "1" that it has abandoned the purpose of the condemnation as to the .64 acre tract;

b. that title to the land is vested in DASD by virtue of Sections 1-402, 1-403, and 1-407 of the Act;

c. that the DASD has, in effect, transferred or attempted to transfer the .64 acre parcel to David J. Stern through the lease even though the swap was disallowed by the Court of Common Pleas in a separate action, No. 03-200-CD, on May 23, 2003;

d. that the DASD was obliged to offer the parcel first to Green Dot "at the same price paid to the condemnee by the condemnor" pursuant to Section 410 of the Act; and

e. that this preliminary objection is authorized by Section 406(a)(3) of the Act.

#### PRIVATE PURPOSE

2. That it is believed and averred that the DASD knew at the time it condemned the original tract of 3.4 acres on September 1, 2000, that it did not need nor would it use the .64 acre tract for the purposes for which it condemned the parcel.

3. That it condemned Green Dot's tract, including the .64 acre tract, rather than condemn a tract of David J. Stern which would "square up" the area needed to accomplish the purpose for which Green Dot's tract was condemned.

4. That from the plans it had developed for the purposes of the condemnation, it knew that it would have "to swap" land with David J. Stern if it condemned only the Green Dot tract.

5. In effect, DASD has used the condemnation process to favor David J. Stern by condemning "excess land" of Green Dot, in effect, and has swapped the "excess land" with David J. Stern in order that Stern can build a parking lot behind his building on the .64 acre tract that was the property of Green Dot.

6. That prior to the condemnation David J. Stern had negotiated with Green Dot to acquire the .64 acre tract for a parking lot but the parties were unable to reach an agreement.

7. That the eminent domain action filed by the DASD as to the .64 acre tract was, in effect, a taking for a private purpose, i.e. to vest title in David J. Stern, through a swap with the DASD.

8. That DASD did not need to swap the .64 acre tract as it has the power to condemn the land it has acquired or seeks to acquire through the swap.

9. That the "private purpose" objection is authorized by Section 406(1) and (4) of the Act.

WHEREFORE, Green Dot seeks to reacquire title to the .64 acre tract of land in that it seeks an order: (a) to enforce its reversionary rights to the tract under Section 410 of the Act, or (b) to have the declaration of taking stricken as to the .64 acre tract of land as being a taking for a private purpose.

RESPECTFULLY SUBMITTED:

BELIN & KUBISTA

By \_\_\_\_\_  
Carl A. Belin, Jr., Esq.  
Attorney for  
Green Dot, Inc.

REAL ESTATE LEASE

THIS AGREEMENT, dated the 16<sup>th</sup> day of April 2003, by and between DAVID J. STERN, of 67 Hoover Avenue, P.O. Box 1063, DuBois, Pennsylvania, hereinafter referred to as "Stern"

A  
N  
D

DuBOIS AREA SCHOOL DISTRICT, 500 Liberty Blvd., DuBois, Pennsylvania, hereinafter referred to as "The District"

WHEREAS, both David J. Stern and The District each own adjoining parcels of land located along Jeffers street between Hoover Ave. and Beaver Drive in the City of DuBois; and

WHEREAS, in the area where the parcels meet, both parcels are irregularly shaped like interlocking "Ls"; and

WHEREAS, in order to make each of their parcels more suitable for intended uses by their respective owner, each party would prefer to use property more rectangular in shape; and

WHEREAS, the parties have previously agreed to swap certain 0.64 acre parcels as indicated on the attached plot plan, which subdivision has already been approved by the City of DuBois; and

WHEREAS, due to certain disputes, the parties are presently unable to consummate their intended swap of these 0.64 acre parcels; and

WHEREAS, each party desires to proceed with the planned development of the land as if the swap were already consummated without further delay.

NOW THEREFORE, intending to be legally bound hereby, the parties agree to lease the identified 0.64 acre parcel to the other on the following terms and conditions:

1. Initial term: Stern leases Parcel No. 1 on the attached plat to The District and The District leases Parcel No. 2 to Stern for term of Six (6) months commencing April 15, 2003.
2. Automatic renewal: The term(s) shall automatically renew for additional and successive six month periods unless terminated in writing by either party at least thirty days prior to the end of the initial or renewed term.
3. Consideration: In lieu of a monthly rental, the parties recognize that each party is leasing a 0.64 acre parcel of the other's land. Therefore, the value conferred to the other is the same and no exchange of monthly rental shall be necessary to make this lease binding on the parties.
4. Assignment: Given the unique nature of the relationship between the parties, this lease is not assignable by either party without the express approval of the other.
5. Improvements: Each party recognizes that the other party fully intends to make improvements of their remaining property in addition to the leased premises. Specifically, Stern intends on putting in improved paved parking for use by Paris Company, and The District intends to put in an access road and soccer field on its property. Each party shall be entitled to make the intended improvements as already agreed among the parties, including improvements upon the leased property of the other. If a party makes the intended improvements, it shall not become liable to the other for any damages caused to the leases property in making the improvements, nor shall a party



Apr-24-2003 08:00am

From-DASD-DISTRICT OFFICE

8143712544

T-014 P.005/006

F-121

have any claim against the other for the value of such improvements made upon the leased property of the other in the event that the actual swap of 0.64 acre parcel is never consummated. Instead, each party specifically authorizes the other to use the leased property as intended, contemplating that the actual swap of these parcels will ultimately be consummated.

6. Automatic Termination: Unless terminated earlier as provided herein, this lease shall automatically become null and void upon the consummation of the intended land swap of these 0.64-acre parcels between the parties.

7. Choice of Law: This lease shall be construed under the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have set their hands and seals the day and date first above written.

David J. Stern  
David J. Stern

DuBois Area School District  
DuBois Area School District

Witness  
Witness

Attest  
Attest

Each party hereto acknowledges that they have received a copy of this Agreement.

08-01 03:47

Apr-24-2003 09:00am

From-DASD-DISTRICT OFFICE

ID=  
8143712544

-014 P.000/000 P-121 P12

DD 1339-262  
Paris Cleaners Inc.

PARCEL NO. 1

IP-1

PARCEL NO. 2

IP-1

IP-1

JEFFERS STREET

62-02-01 22:35 TO:

FROM: 8143712544

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

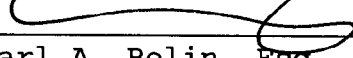
IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Petition Seeking Permission to File Additional Preliminary Objections on behalf of Green Dot, Inc., in the above-captioned matter to the following parties by postage prepaid First Class United States mail on June 3rd, 2003:

William R. Strong, Esquire  
616 Main Street  
P.O. Box 7  
Clarion, PA 16214

BELIN & KUBISTA

By   
Carl A. Belin, Esq.  
Attorney for Petitioner  
Green Dot, Inc.

**BELIN & KUBISTA**

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P.O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

**FILED**

*At 10:43 AM 3/22/2003*

JUL 31 2003

**William A. Shaw**  
**Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREEN DOT, INC.

:EMINENT DOMAIN

:  
: 107/  
:NO. 00-1981-CD

TYPE OF PLEADING: ANSWER TO PETITION  
SEEKING PERMISSION TO FILE ADDITIONAL  
PRELIMINARY OBJECTIONS

FILED ON BEHALF OF: DUBOIS AREA SCHOOL DISTRICT

FILED BY: WILLIAM R. STRONG, ESQUIRE  
PO BOX 7, 616 MAIN STREET  
CLARION, PA 16214  
814-226-4171  
PA ID NO. 19980

**FILED**

JUN 18 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREEN DOT, INC.

:EMINENT DOMAIN  
:No. 00-~~1981~~-CD  
1081

ANSWER TO PETITION SEEKING PERMISSION TO FILE  
ADDITIONAL PRELIMINARY OBJECTIONS

The Condemnor, DuBois Area School District, by and through their Attorney, William R. Strong, files this Answer to Petition Seeking Permission to File Additional Preliminary Objections and alleges the following:

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. It is admitted that bogus Preliminary Objections were filed by Green Dot on October 6, 2000. The Preliminary Objections alleged that the District was guilty of fraudulent and bad faith dealings in its offer of just compensation. Argument was held before the Court on January 17, 2001. Green Dot requested and received an additional 30 days to complete discovery. Green Dot conducted discovery by deposition and by interrogatories. Discovery disclosed absolutely no basis for the bogus Preliminary Objections which were then withdrawn by Green Dot.

4. Admitted in part and denied in part. It is admitted that a Board of View was appointed by the Court and a hearing has not been yet and had been tentatively scheduled for July 31, and August 1, 2003. It is denied that the delay in holding the hearing is a result of the actions of the District. On the contrary, the hearing has been continually delayed and canceled by actions of Green Dot. The tentative hearing for July 31 and August 1, 2003 have been continued because of the unavailability of the District's witness because of a severe stroke and Green Dot's filing of this Petition.
5. Admitted in part and denied in part. It is admitted that the District adopted a Resolution declaring .64 acres of the land unused and unnecessary and filed a Petition with the Court to approve the sale to David Stern in exchange for a conveyance of an identical parcel containing .64 acres to eliminate the irregular shaped parcel for better utilization as a soccer field.
6. Admitted.
7. Admitted in part and denied in part. It is admitted that the District entered into a Lease on April 16, 2003 with David Stern concerning the above parcel of land. It is denied that this land has not been improved and is no longer needed for the project. On the contrary, this parcel is needed in order to make the exchange with Mr. Stern.

Additionally, if the sale is not approved by the Court, this parcel will be necessary for the District's purposes.

8. Denied. Paragraph 8 contains a conclusion of law for which no responsive pleading is required.
9. Denied. Paragraph 9 contains a conclusion of law for which no responsive pleading is required. By way of further denial, the Biernacki vs. Redevelopment Authority of the City of Wilkes-Barre is a county case not binding upon this Court. By way of further denial, the Biernacki case does not hold that Preliminary Objections are available to raise an alleged violation of Section 410 of the Eminent Domain Code.
10. Denied. It is specifically denied that the District has abandoned the project. By way of further denial, the District has not abandoned the project as to the .64 acres. By way of further denial, the enforcement of Section 410 is by separate action rather than by Preliminary Objections under Section 406. By way of further denial, Green Dot has waived any right to challenge the leasing of the .64 acres because they withdrew their Preliminary Objections and the matter is not now subject to sale.
11. Admitted in part and denied in part. It is admitted that Petitioner is raising the issue of condemnation for private purposes and that the Declaration of Taking should be

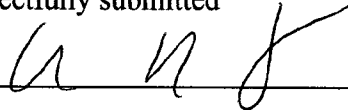


stricken. It is specifically denied that the condemnation was for private purposes. By way of further denial the Declaration of Taking should not be stricken.

12. Admitted.

WHEREFORE, the Respondent requests your Honorable Court to deny the Petition for the reasons stated.

Respectfully submitted

A handwritten signature in dark ink, appearing to read 'W R Strong', is written over a horizontal line.


William R. Strong, Esquire

VERIFICATION

I verify that the statements made in the foregoing document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date:

6/18/03

A handwritten signature in dark ink, appearing to read 'Sharon Kirk', is written over a horizontal line.

Sharon Kirk, Superintendent

FILED

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012:50-601  
JUN 18 2003

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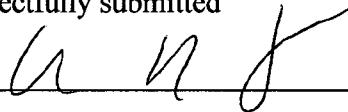
William A. Shaw  
Prothonotary

stricken. It is specifically denied that the condemnation was for private purposes. By way of further denial the Declaration of Taking should not be stricken.

12. Admitted.

WHEREFORE, the Respondent requests your Honorable Court to deny the Petition for the reasons stated.

Respectfully submitted


A handwritten signature in black ink, appearing to read 'W R Strong', is written over a horizontal line.

William R. Strong, Esquire

VERIFICATION

I verify that the statements made in the foregoing document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 6/18/03

A handwritten signature in black ink, appearing to read 'Sharon Kirk', is written over a horizontal line.

Sharon Kirk, Superintendent

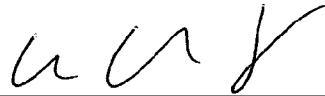
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREEN DOT, INC.

:EMINENT DOMAIN  
:NO. 00-1981-CD  
1021

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Answer in this matter has been served on Carl A. Belin, Esquire by mailing a copy to him by first class mail, prepaid, to his address of PO Box 1, Clearfield, Pennsylvania 16830 on June 18, 2003.



---

William R. Strong, Esquire

FILED

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JUN 18 2003

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William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF	:	EMINENT DOMAIN
REAL ESTATE	:	No. 00-1081 CD
OF GREEN DOT, INC.	:	

**OPINION AND ORDER**

The DuBois Area School District (the "School District") filed a Declaration of Taking as to 3.4 acres of land located in the City of DuBois (the "parcel") and owned by Green Dot, Inc. ("Green Dot") on September 1, 2000. Green Dot filed preliminary objections to the taking on October 6, 2000, but withdrew said objections with this Court's approval on May 21, 2001. Title to the parcel passed to the School District pursuant to Title 26, Section 1-402 (1997) of Pennsylvania's Eminent Domain Code (the "Code"), and the School District paid Green Dot in accordance with Section 407 of the Code. This Court appointed a Board of View on May 21, 2001, and a hearing was scheduled for July 31, 2003 and August 1, 2003.<sup>1</sup> By resolution dated January 22, 2003, the School District determined that a portion of the condemned parcel was no longer needed for the project. In accordance with the resolution, on February 13, 2003, the School District filed a Petition for Approval of Private Sale of Unused and Unnecessary Land (the "Petition") pursuant to 24 P.S. § 7-707(3), seeking this Court's approval for an exchange of the parcel for a different parcel owned by Mr. David J. Stern of DuBois, Pennsylvania. Following a public hearing on May 23, 2003, this Court issued an Opinion and Order denying the Petition. On June 3, 2003, Green Dot filed a Petition seeking Permission to File Additional Preliminary Objections. A hearing was held on said Petition on July 10, 2003, and in accordance with this Court's Order, both parties have submitted briefs.

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<sup>1</sup> This hearing has since been continued due to the unavailability of the School District's witness and the filing of the Petition.

Pennsylvania's Eminent Domain Code "is intended to provide the exclusive procedure and law governing all condemnations of property, including assessments of damages therefore." Gilyard v. Redevelopment Auth. of Philadelphia, 780 A.2d 793 (Pa. Cmwlth. 2001). As such, the Rules of Civil Procedure do not apply in condemnation cases. Appeal of Edgewood Building Co., Inc., 43 Pa. Cmwlth. 91, 402 A.2d 276 (1979).

Pertinent to the action at hand, Section 406 of the Code provides that

(a) Within thirty days after being served with notice of condemnation, the Condemnee may file preliminary objections to the declaration of taking. The Court upon cause shown may extend the time for filing preliminary objections. Preliminary objections shall be limited to and shall be the exclusive method of challenging (1) the power or right of the Condemnor to appropriate the condemned property unless the same has been previously adjudicated; (2) the sufficiency of the security; (3) any other procedure followed by the Condemnor; or (4) the declaration of taking. Failure to raise these matters by preliminary objections shall constitute a waiver thereof.

26 Pa. C.S. §1-406.

Notwithstanding this provision, Green Dot seeks this Court's permission to file preliminary objections at the present time alleging (1) that the School District's actions in failing to offer the parcel to Green Dot prior to engaging in the "swap" violated Section 410 of the Code, and (2) that the School District's taking was for a private purpose and thus beyond the scope of the power vested in the District under the Code. The School District asserts that there is no binding precedent for allowing a violation of Section 1-410 of the Code to be raised by preliminary objection, and that under the terms of Section 406, Green Dot's failure to file preliminary objections within the 30 day period following the notice of condemnation constitutes a waiver of its claim. See In re Condemnation by Commonwealth, Dep't of Transp., 112 Pa.Cmwlth. 368, 535 A.2d 1210 (1988).

Central to whether such permission to file preliminary objections should be granted, is the determination of what constitutes "cause shown" as provided in Section 406. While

Pennsylvania courts have provided guidance as to what does *not* constitute “cause shown,” there is little guidance as to what would satisfy this standard. For example, in Appeal of McCoy, 153 Cmwlt. Ct. 504, 621 A.2d 1163 (1993), the condemnees retained counsel and instructed him to contest the taking. The attorney neither timely filed objections nor sought an extension of time. As such, the Court found that the condemnees had waived their preliminary objections and that such late filing would not be excused by counsel’s inadvertence or misconduct. Id. at 1165. Likewise, in West Whiteland Assoc. v. Commonwealth of PA Dept of Transp., 690 A.2d 1266 (Pa. Cmwlt. Ct. 1997), where the condemnees did not file preliminary objections to the description of the condemned property, the Commonwealth Court found such action to amount to a waiver because the objection related to information available to the condemnees at the time of the taking because such information would have been included in the declaration of taking and notice of condemnation. Id. at 1269. As such, there was no cause for permitting the untimely filing of the preliminary objections. Finally, in McCullough v. Commonwealth Dept. of Transp., 578 A.2d 698 (1990), the Commonwealth Court held that a condemnee had waived the issue of the abandonment of a highway easement by his failure to file preliminary objections to the taking. That case involved a scenario where PennDOT had acquired an easement by eminent domain, and several years later sought to acquire the underlying fee interest. The condemnee asserted that PennDOT had abandoned the easement prior to its filing of a second declaration of taking, but failed to file preliminary objections to the second taking. As such, the Commonwealth Court found that the condemnee’s failure to file preliminary objections to the second taking (which took place in excess of ten years after the first taking), amounted to a waiver of their right to file such objections.



In summary, inadvertence or misconduct by counsel, failure to contest information basic to the taking and failure to act upon information known at the time of the taking are not sufficient cause to satisfy the “cause shown” standard. Additionally, in one case, the Commonwealth Court directed that courts deciding whether there has been “cause shown” should look to whether the condemnor is partly responsible for the delay. McCoy, 621 A.2d at 1166, *citing* Smith v. Dep’t of Transp., 358 A.2d 734 (Pa. Cmwlth. Ct. 1976).

In the case at hand, Green Dot’s first proposed preliminary objection asserts that the School District’s action in attempting to swap the subject parcel prior to offering such parcel back to Green Dot violates Section 410 of the Code. Specifically, that section provides that

If a condemnor has condemned a fee and thereafter abandons the purpose for which the property has been condemned, the condemnor may dispose of it by sale or otherwise: Provided, however, that if the property has not been substantially improved, it may not be disposed of within three years after condemnation without first being offered to the condemnee at the same price paid to the condemnee by the condemnor . . .  
26 P.S. § 1-410(a).

Green Dot argues that it could not have raised this claim within the time frame set forth in Section 406 because at the time of the taking in September 2000, the School District had not yet determined to engage in the swap, and Green Dot had no knowledge that it would take such action. By its terms, Section 410 requires the condemnor to give the condemnee a right of first refusal for a period of three years to “buy-back” the condemned property *after* title has vested in the condemnor<sup>2</sup>, should the purpose of the condemnation be abandoned. Obviously, the condemnee has no exercisable right under this provision unless and until the condemnor, who at that point is the title holder, fails to abide by the right of first refusal. As a result, any claim

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<sup>2</sup> 26 Pa. C.S.A. §1-402(a)(1997)(“[c]ondemnation . . . shall be effected only by the filing in court of a declaration of taking and thereupon the title which the condemnee acquires in the property condemned shall pass to the condemnor *on the date of such filing.*”)(emphasis added).

brought under Section 410 could only be timely within 30 days of the taking as per the terms of Section 406.

The current situation wherein the School District seeks to swap the condemned parcel some 16 months following the taking provides a perfect illustration of the problem inherent in the terms of Section 410. Green Dot's rights under Section 410 did not (and could not) arise until title vested in the School District and the proposal for the swap was introduced. Refusing to permit Green Dot to enforce its rights under Section 410 based upon the timeliness of its objections as provided under Section 406 would render Section 410 meaningless. On this basis alone, the Court believes that there is "cause shown" for permitting the extension of time during which Green Dot may file its preliminary objection under Section 410.

Additionally, under the standards set forth above, the Court is satisfied that Green Dot has satisfied its burden of demonstrating "cause" for the filing of this preliminary objection. There is no issue of counsel's inadvertence or misconduct in not filing these objections within 30 days of the taking, because, as noted above, there was no way that counsel could have anticipated this development. The School District itself did not raise the possibility of a swap until over a year following the condemnation. Moreover, any delay in asserting this preliminary objection resulted from the timing of the swap, something beyond Green Dot's control. This is not the situation described in West Whiteland or McCullough where the condemnee had the information necessary to make the appropriate objection but did not assert it. Based upon the facts of this case, this Court believes that Green Dot has established cause permitting the filing of its preliminary objection.

Finally, while there appears to be no binding precedent on this issue, the analysis set forth in Biernacki v. Redevelopment Authority of the City of Wilkes-Barre, 66 Luz. L.R. 205

(1974) is illustrative in the present case. In Biernacki, the Authority filed a declaration of taking against certain property owned by the Biernackis. No preliminary objections to the Declaration were filed, and the Biernackis were compensated for their land. Thereafter, the Authority changed course, and entered into an agreement with a third party for the development of the condemned property. The Authority never advised the Biernackis that the subject property was not to be demolished, or of their right to repurchase such parcel. The Biernackis filed a complaint alleging that the Authority violated Section 410 of the Code by failing to offer the property to them, and that the Authority violated their constitutional rights by taking private property for other than a public purpose. The Authority pointed to Section 406 of the Code arguing that because the Biernackis did not file preliminary objections, their claims under Section 410 of the Code were procedurally barred. The court disagreed, finding as follows:

5. As the facts creating the reversionary right under Section 410 of the Eminent Domain Law cannot possibly exist until after the condemnation has been completed, that is to say, *until title vests in the condemnor and the condemnee has been paid, the thirty day limitation (after service of notice of condemnation) upon condemnees' right to raise preliminary objections to the declaration of taking cannot apply to litigation rising out of Section 410, and, since Section 406 mandates that preliminary objections under that section are the exclusive method of challenging any procedure followed by the condemnor, the right of the condemnees under Section 406 is to seek an extension of time for filing preliminary objections for cause shown, and to proceed within the statutory procedure . . . To deny a condemnee the right to raise a Section 410 issue at a later stage on the basis that such relief had to be sought within 30 days of the service of notice of its filing of the declaration of taking would render Section 410 meaningless and would deprive a condemnee of a valuable right specifically created by Section 410 . . . Procedurally and substantively there is no prejudice to the condemnor . . . by considering the Petition and Rule issued thereon by [the judge] as a preliminary objection authorized by Section 406 and as an application for extension of time for filing such preliminary objection, it being uncontradicted that condemnees had no knowledge of the changes made by the Authority in the approved plans for the demolition of [the premises] until the*

Fall of 1975<sup>3</sup> and had not been notified of this at any time by the Authority. Id. at 223-25<sup>4</sup> (emphasis added).

As in Biernacki, Green Dot could not have known that the School District would attempt to engage in a swap of the condemned land until such time as the School District actually resolved to take such action on January 22, 2003, such time being well after title to the premises had vested in the School District under the Code. Likewise, Green Dot had no knowledge of the proposed change in plans with respect to the condemned property prior to the January 22, 2003 action. To find that Green Dot has no remedy against the School District for its failure to follow the procedures set forth in the Code would effectively eviscerate the requirement set forth in Section 410 that the land be offered back to the condemnee should the purpose of the taking be abandoned. Finally, the School District's contention that a mandamus action would lie to enforce compliance with the Code is without merit. As recently stated by the Commonwealth Court, "the Code is the exclusive procedure and law governing all condemnations of property, including all assessments of damages therefore." In re Condemnation, 814 A.2d 1272, 1274 (Pa. Cmwlth. 2003), *quoting*, Gilyard v. Redevelopment Auth. of Philadelphia, 780 A.2d 793 (Pa. Cmwlth. 2001). *See Redding v. Atlantic City Electric Co.*, 269 A.2d 680, 682 (Pa. 1970)(equity has no jurisdiction to determine the propriety of the taking because section 406 is the exclusive, mandatory remedy). As such, this Court will consider Green Dot's Petition seeking Permission to File Additional Preliminary Objections as an application for extension of time for filing preliminary objections, and will grant such application with respect to Green Dot's objections under Section 410 of the Code.

---

<sup>3</sup> The Declaration of Taking was filed on April 19, 1974, no preliminary objections were filed, and on November 22, 1974, the Board of View filed its award.

<sup>4</sup> Biernacki was appealed to the Commonwealth Court, and the Order entered in that case was vacated solely because of the failure to join an indispensable party (the developer). *See Biernacki v. Redevelopment Authority*, 379 A.2d 1366, 1368 (Pa. Cmwlth. 1977). The Commonwealth Court never ruled upon the issue of whether a claim under Section 410 of the Eminent Domain Code could be raised by preliminary objections not filed in accordance with the terms of Section 406.

Notwithstanding the foregoing, the Court notes that Green Dot also seeks to assert by preliminary objection that the School District's inclusion of the .64 acre tract in the condemnation was for a private purpose and that the declaration should thus be stricken as to such parcel. Pennsylvania courts have found that the issue of whether the taking is for a public purpose "palpably challenges the condemnor's power to acquire the premises." In re Condemnation, 535 A.2d at 1214, *citing Conway Appeal*, 432 A.2d 276, 278 (Pa. Cmwlth. 1981). Green Dot's preliminary objection challenging the public purpose of the taking amounts to a challenge to the School District's power to acquire the parcel, which under the terms of Section 406 must be raised by preliminary objection to the declaration of taking. Id. While the School Board's actions in attempting the swap certainly lends credence to Green Dot's claim, the Court finds that this issue is one which Green Dot could have raised at the time of the taking, and that the failure to do so amounts to waiver of this issue under Section 406.

WHEREFORE, the Court enters the following Order:

#### ORDER

AND NOW this 29<sup>th</sup> day of July, 2003, upon consideration of the Green Dot, Inc.'s Petition Seeking Permission to File Additional Preliminary Objections, the Court hereby GRANTS an extension of time to Green Dot, Inc. to file its preliminary objection relating to the alleged violation of 26 P.S. §1-410; with respect to all other matters raised therein, said Petition be and is hereby DENIED.

**FILED**

JUL 30 2003

William A. Shaw  
Prothonotary

By the Court,

John K. Reilly, Jr.,  
President Judge

FILED

(4)

10:00 AM 1 cc atty. Strong  
JUL 30 2003 1 cc atty. Bolin  
1 cc atty. McKee

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
: :  
: ADDITIONAL PRELIMINARY  
OBJECTIONS

Filed on Behalf of:  
Petitioner, Green Dot, Inc.

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

**FILED**

JUL 31 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

ADDITIONAL PRELIMINARY OBJECTIONS

The Condemnee, Green Dot, Inc. ("**Green Dot**") hereby files the following additional preliminary objections in the above-captioned action:

REVERSIONARY INTEREST

1. The procedure followed by the Condemnee DuBois Area School District ("**DASD**") as to a .64 acre tract of land is contrary to Section 420 of the Eminent Domain Code ("**the Act**"), 26 P.S. 1-410 in that:

a. the DASD has established by resolution, petition to swap land, and a lease, a copy of which is hereto attached as Exhibit "1" that it has abandoned the purpose of the condemnation as to the .64 acre tract;

b. that title to the land is vested in DASD by virtue of Sections 1-402, 1-403, and 1-407 of the Act;



c. that the DASD has, in effect, transferred or attempted to transfer the .64 acre parcel to David J. Stern through the lease even though the swap was disallowed by the Court of Common Pleas in a separate action, No. 03-200-CD, on May 23, 2003;

d. that the DASD was obliged to offer the parcel first to Green Dot "at the same price paid to the condemnee by the condemnor" pursuant to Section 410 of the Act; and

e. that this preliminary objection is authorized by Section 406(a)(3) of the Act.

WHEREFORE, Green Dot seeks to reacquire title to the .64 acre tract of land in that it seeks an order: (a) to enforce its reversionary rights to the tract under Section 410 of the Act.

RESPECTFULLY SUBMITTED:

BELIN & KUBISTA

By 

Carl A. Belin, Jr., Esq.  
Attorney for  
Green Dot, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

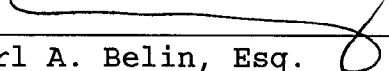
IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Additional Preliminary Objections on behalf of Green Dot, Inc., in the above-captioned matter to the following party by postage prepaid First Class United States mail on July 31, 2003:

William R. Strong, Esquire  
616 Main Street  
P.O. Box 7  
Clarion, PA 16214

BELIN & KUBISTA

By   
Carl A. Belin, Esq.  
Attorney for Petitioner  
Green Dot, Inc.

FILED 300  
O'LO'S 5/16/01  
AUG 18 2003  
Atty Belin

William A. Shaw  
Prothonotary/Clerk of Courts

BELIN & KUBISTA  
ATTORNEYS AT LAW  
15 NORTH FRONT STREET  
P. O. BOX 1  
CLEARFIELD, PENNSYLVANIA 16830

JP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: COI  
RE/  
GRI

00-1081-CD

IN

Answer to Adm P.O.'s  
Aug 11, 03

TO: PROTH

To: Marcy

KIND

Y.

1. The m  
The C

18 Aug 03

2. Oral argument is requested
3. This is not a discovery matter.
4. I certify that notice has been given to all counsel of record and to all unrepresented parties of record of the filing of the Praecipe.

Respectfully submitted,



**WILLIAM R. STRONG**  
**ATTORNEY FOR PLAINTIFFS**

**FILED**

**AUG 11 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

Prothonotary/Clerk of Courts

William A. Shaw

7/9/15 ~~2011~~ copy to C/A  
AUG 11 2003

FILED No CC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
: ANSWER TO ADDITIONAL  
: PRELIMINARY OBJECTIONS

Filed on Behalf of:  
DuBois Area School District

Counsel of Record for This Party:

William R. Strong, Esquire  
PA I.D. #19980

William R. Strong, Esquire  
P. O. Box 7  
616 Main Street  
Clarion, PA 16214

WILLIAM R. STRONG  
ATTORNEY AT LAW  
P. O. BOX 7  
616 MAIN STREET  
CLARION, PA 16214  
814-226-4171

**FILED**

**AUG 11 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

**ANSWER TO ADDITIONAL PRELIMINARY OBJECTIONS**

The DuBois Area School District (District) by and through their attorney, William R. Strong, File this answer to Condemnee's Additional Preliminary Objections and alleges as follows:

1. Denied.

The Court, by Opinion and Order dated July 29, 2003, denied the Petition to File Additional Preliminary Objections in all matters except an alleged violation of Section 410 of the Eminent Domain Code. The Petitioner is seeking relief for violation of Section 420 of the Eminent Domain Code, which is contrary to the Court's Opinion and Order.

1a). Denied.

The District passed a resolution to exchange a small portion of the condemned parcel for a parcel of equal value so as to get greater utilization for its soccer field.

The District has not abandoned the project. Additionally, there was no resolution

WILLIAM R. STRONG  
ATTORNEY AT LAW  
P. O. BOX 7  
616 MAIN STREET  
CLARION, PA 16214  
814-226-4171

attached to the preliminary objections as alleged by the Condemnee.

1b). Admitted.

1c). Denied.

The District has not sold the small parcel to David Stern because the Court by Order dated May 23, 2003 denied the request for approval of the sale, which is a prerequisite under Section 707 of the Public School Code, 24 P. S. Section 707.

1d). Denied.

The District under the Public School Code is authorized to lease lands under Section 709 of the Public School Code, 24 P. S. Section 709.

Section 709 provides as follows:

The board of school directors of any district may lease for any lawful purpose, other than educational use, unused and unnecessary lands and buildings of the district pending the sale thereof or until such time as the board shall decide again to make use thereof for school purposes. Terms and conditions of lease shall be fixed by the board in the motion or resolution authorizing the lease. All rents collected shall be paid into the general fund of the district.

The authority to lease under Section 709 is different than the authority to privately sell under Section 707 (3) of the Public School Code. By way of further denial, the District is not obligated to offer this small parcel of land to Green Dot because the District has not abandoned the project; the property has been substantially



improved, and the District has now chosen to lease the small parcel of land under Section 709 of The Public School Code rather than sell it.

1e). Denied.

The Court by Order dated July 29, 2003 denied Green Dot permission to file Additional Preliminary Objections on all other grounds except Section 410. This allegation attempts to raise new grounds under Section 406 (a) (3) in direct contradiction of the Court's order of July 29, 2003.

WHEREFORE, the District requests your Honorable Court to deny the Preliminary Objection in all respects.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'W R S', is written above the printed name.

William R. Strong, Esquire  
Attorney for DuBois Area School District

WILLIAM R. STRONG  
ATTORNEY AT LAW  
P. O. BOX 7  
616 MAIN STREET  
CLARION, PA 16214  
814-226-4171

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

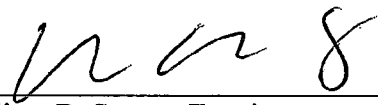
IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has sent a certified copy of the DuBois Area School District's Answer to Additional Preliminary Objections in the above captioned matter to the following party by postage prepaid First Class United States mail on August 6, 2003:

Carl A. Belin, Esquire  
BELIN & KUBISTA  
15 North Front Street  
P. O. Box 1  
Clearfield, PA 16830

WILLIAM R. STRONG  
ATTORNEY AT LAW  
P. O. BOX 7  
616 MAIN STREET  
CLARION, PA 16214  
814-226-4171

By:   
William R. Strong, Esquire  
Attorney for DuBois Area School District

William A. Shaw  
Prothonotary/Clerk of Courts

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AUG 11 2003  
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
: :  
: MOTION TO STRIKE  
: PRAECIPE FOR ARGUMENT

Filed on Behalf of:  
Petitioner, Green Dot, Inc.

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

**FILED**

**AUG 18 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
:

MOTION TO STRIKE PRAECIPE FOR ARGUMENT

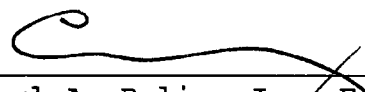
AND NOW comes Condemnee, Green Dot, Inc. ("Green Dot"), by and through its attorneys, Belin & Kubista, and files the following Motion to Strike Praecipe for Argument and in support thereof aver as follows:

1. That Additional Preliminary Objections have been filed by leave of the Court following its Opinion and Order on July 29, 2003.
2. That an Answer to Additional Preliminary Objections has been filed in which the School Board has denied all of the allegations of Green Dot.
3. That a hearing as to the disputed issues raised by Green Dot should be schedule before argument is herd in this matter.
4. That Green Dot seeks discovery in aid of preparation of the hearing.

WHEREFORE, Green Dot requests Your Honorable Court to strike the Praecipe for Argument and to:

- a. order the School Board to submit to discovery;
- and
- b. to schedule a date for hearing on the Preliminary Objections.

BELIN & KUBISTA

By   
Carl A. Belin, Jr. Esquire  
Attorney for Condemnee  
Green Dot, Inc.

FILED

AUG 19 2003

0/10:58 am

William A. Shaw  
Prothonotary

GA

mv = c

**BELIN & KUBISTA**

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P. O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
: CERTIFICATE OF SERVICE  
: MOTION TO STRIKE  
: PRAECIPE FOR ARGUMENT

Filed on Behalf of:  
Petitioner, Green Dot, Inc.

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

**FILED**

AUG 19 2003

William A. Shaw  
Prothonotary



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy Of Motion to Strike Praecipe for Argument on behalf of Green Dot, Inc., in the above-captioned matter to the following party by postage prepaid First Class United States mail on August 18, 2003:

William R. Strong, Esquire  
616 Main Street  
P.O. Box 7  
Clarion, PA 16214

BELIN & KUBISTA

By 

Carl A. Belin, Esq.  
Attorney for Petitioner  
Green Dot, Inc.

Prothonotary/Clerk of Courts  
William A. Shaw

AUG 25 2003

FILED

**BELIN & KUBISTA**

ATTORNEYS AT LAW

15 NORTH FRONT STREET

P. O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

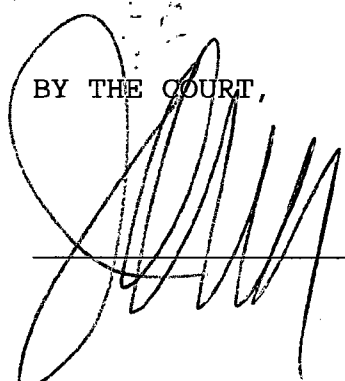
IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
:

ORDER

AND NOW, this 20<sup>th</sup> day of August, 2003, upon reading and considering the foregoing Motion, it is the ORDER of this Court that argument is hereby scheduled on the Motion to Strike the Praecipe for Argument and Order to submit to discovery.

Argument to be held the 22 day of September, 2003, at 1:30 o'clock P.M. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, PA 16830.

BY THE COURT,



**FILED**

AUG 22 2003

William A. Shaw  
Prothonotary

FILED

0 11:48 AM

AUG 22 2003

*see to City Police*

William A. Shaw  
Prothonotary

6 76 1071

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
GREENDOT, INC.

:  
:  
:NO. 00-1081-CD.

FILED ON BEHALF OF: DUBOIS AREA SCHOOL DISTRICT

TYPE OF PLEADING: ANSWER TO MOTION TO STRIKE PRAECIPE  
FOR ARGUMENT

FILED BY: WILLIAM R. STRONG, ESQUIRE  
PO BOX 7, 616 MAIN STREET  
CLARION, PA 16214  
814-226-4171

FILED

AUG 25 1993  
m/1:40/m  
William A. Shaw  
Prothonotary/Clerk of Courts

no C/C [signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
GREENDOT, INC.

:  
:  
:NO. 00-1081-CD

ANSWER TO MOTION TO STRIKE PRAECIPE FOR ARGUMENT


The Condemnor, DuBois Area School District, by and through their Attorney, William R. Strong, files this Answer to Motion to Strike Praecipe for Argument and alleges the following:

1. Admitted.
2. Admitted.
3. Denied. No hearing is necessary. There are no disputed factual issues. The issues that are disputed are issues of law to be determined by the Court at oral argument. Hence, the District properly filed its Praecipe for Argument.
4. Denied. Green Dot has had extensive discovery on the previous Preliminary Objections. Additionally, there is no need for discovery because there are no factual issues. Section 406(e) of the Eminent Domain Code fully provides for discovery upon disputed issues of fact. By way of further denial, Section 406 requires the Court to promptly determine all Preliminary Objections. Green

Dot through their former counsel and current counsel have been deliberately delaying the condemnation proceedings.

WHEREFORE, the District requests your Honorable Court to deny the Motion to Strike Praecipe for Argument.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'WRS', is written over a horizontal line.

William R. Strong, Esquire

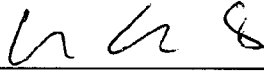
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
GREENDOT, INC.

:  
:  
:NO. 00-1081-CD.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion in this matter has been served on Carl A. Belin, Jr., Esquire by mailing a copy to him by first class mail, prepaid, to his address of PO Box 1, Clearfield, Pennsylvania 16830 on August 22, 2003.

  
\_\_\_\_\_  
William R. Strong, Esquire



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: :  
CONDEMNATION OF REAL ESTATE OF : NO. 00-1081-CD  
GREEN DOT, INC. :

O R D E R

NOW, this 22nd day of September, 2003, following argument into the above-captioned matter, it is the ORDER of this Court that counsel file briefs with this Court within twenty (20) days from this date, and five (5) days thereafter for any reply brief, if necessary.

BY THE COURT,

\_\_\_\_\_  
President Judge

**FILED**

**SEP 22 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

SEP 22 2003

1cc Atty Bein  
1cc Atty Hopkins

William A. Shaw  
Prothonotary/Clerk of Courts

1cc Atty Stevenson  
1cc Atty Strong  
KEL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD  
: CERTIFICATE OF SERVICE  
: ORDER

Filed on Behalf of:  
Petitioner, Green Dot, Inc.

Counsel of Record for  
This Party:

Carl A. Belin, Jr., Esquire  
PA I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830  
(814) 765-8972

FILED

AUG 25 2003

0/3:00/16  
William A. Shaw

Prothonotary/Clerk of Courts

wo c/c

821

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a  
certified copy of Order on behalf of Green Dot, Inc., in the  
above-captioned matter to the following party by postage prepaid  
First Class United States mail on August 25, 2003:

William R. Strong, Esquire  
616 Main Street  
P.O. Box 7  
Clarion, PA 16214

BELIN & KUBISTA

By 

Carl A. Belin, Esq.  
Attorney for Petitioner  
Green Dot, Inc.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
GREENDOT, INC.

:  
:  
:NO. 00-1081-CD

FILED ON BEHALF OF: DUBOIS AREA SCHOOL DISTRICT

TYPE OF PLEADING: MOTION TO STRIKE ADDITIONAL  
PRELIMINARY OBJECTIONS

FILED BY: WILLIAM R. STRONG, ESQUIRE  
PO BOX 7, 616 MAIN STREET  
CLARION, PA 16214  
814-226-4171  
PA ID NO. 19980

FILED

SEP 05 2003

013.000/nocw

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE :  
GREENDOT, INC. :  
:NO. 00-1081-CD

MOTION TO STRIKE ADDITIONAL PRELIMINARY OBJECTIONS

The DuBois Area School District (District), by and through their Attorney,  
William R. Strong, files this Motion to Strike Additional Preliminary Objections and in  
support therefore avers as follows:

1. The Court by Opinion and Order dated July 29, 2003 granted Condemnee the right to file additional Preliminary Objections.
2. On July 31, 2003, Condemnee filed additional Preliminary Objections.
3. On or about August 7, 2003, the District filed an Answer to the Additional Preliminary Objections.
4. On September 1, 2000 the District filed a Declaration of Taking for property owned by Green Dot, Inc. (Condemnee) in the City of DuBois, Clearfield County, Pennsylvania containing 3.4 acres.
5. On February 13, 2003, the District filed a Petition for Approval of Private Sale of unused and unnecessary land seeking the Court's approval to

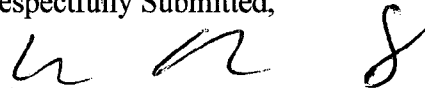
exchange a .64 acre parcel of land with an identical .64 acre parcel of land owned by Mr. David J. Stern.

6. On May 23, 2003, your Honorable Court entered an Opinion and Order denying the approval for the land exchange recited above.
7. Section 410(a) (Abandonment of Project) provides in part as follows:
  - (a) If a Condemnor has condemned a fee and thereafter abandons the purpose for which the property has been condemned, the Condemnor may dispose of it by sale or otherwise: Provided, however, That if the property has not been substantially improved, it may not be disposed of within three years after condemnation without first being offered to the Condemnee at the same proceeds paid to the Condemnee by the Condemnor:"
8. The three-year period requiring the District to first offer the property to Condemnee prior to disposing of the same expired on September 1, 2003 because the Declaration of Taking was filed on September 1, 2000.
9. Condemnee no longer has any reversionary claim under Section 410 because the District has not disposed of the property within the three-year period of time.

10. The Additional Preliminary Objections are now invalid as a matter of law because of the expiration of the three-year period of time.

WHEREFORE, the District requests your Honorable Court to strike the additional Preliminary Objections and to remand the matter to the Board of View for hearing.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read 'W R Strong', is written over a horizontal line.

William R. Strong, Esquire



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
GREENDOT, INC.

:  
:  
:NO. 00-1081-CD

ORDER

And Now, this 9<sup>th</sup> day of September, 2003, upon reading and considering the foregoing Motion, it is the Order of this Court that argument is hereby scheduled on the Motion to Strike Additional Preliminary Objections.

Argument to be held on the 22 day of September, 2003,  
at 1:30 P.m. in Court Room No. 1, of the Clearfield County Court  
House, Clearfield, PA 16830.

By the Court,



FILED

SEP 10 2003

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

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SEP 10 2003

Atty Strong



William A. Shaw  
Prothonotary/Clerk of Courts

William A. Shaw  
Prothonotary

DEC 0 8 2004

FILED

**BELIN & KUBISTA**  
ATTORNEYS AT LAW

15 NORTH FRONT STREET  
P. O. BOX 1

CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

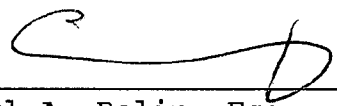
IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00-1081-CD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true and correct copy of Brief on behalf of Green Dot, Inc., in the above-captioned matter to the following party by postage prepaid First Class United States mail on October 10, 2003:

William R. Strong, Esquire  
616 Main Street  
P.O. Box 7  
Clarion, PA 16214

BELIN & KUBISTA

By   
Carl A. Belin, Esq.  
Attorney for Petitioner  
Green Dot, Inc.

FILED

OCT 15 2003

William A. Shaw  
Prothonotary/Clerk of Courts

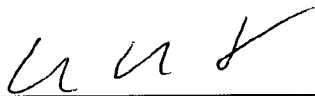
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

IN RE: CONDEMNATION OF REAL ESTATE  
OF GREEN DOT, INC.

:CIVIL DIVISION  
:NO. 00-1081-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Brief in this matter has been served on Carl A. Belin, Jr, Esquire by mailing a copy to him by first class mail, prepaid, to his address of PO Box One, Clearfield, Pennsylvania 16800 on October 14, 2003.

  
\_\_\_\_\_  
William R. Strong, Esquire

FILED  
OCT 14 2003  
William A. Shaw  
Prothonotary/Clerk of Courts

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~~Del. 10-13-03~~

10-20-03

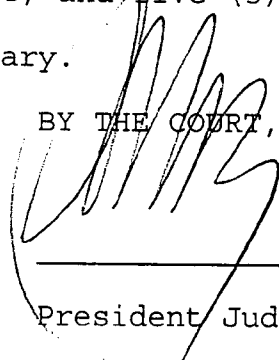
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: :  
CONDEMNATION OF REAL ESTATE OF : NO. 00-1081-CD  
GREEN DOT, INC. :

O R D E R

NOW, this 22nd day of September, 2003, following argument into the above-captioned matter, it is the ORDER of this Court that counsel file briefs with this Court within twenty (20) days from this date, and five (5) days thereafter for any reply brief, if necessary.

BY THE COURT,



\_\_\_\_\_  
President Judge

FILED

SEP 22 2003

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

NOV 06 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

William A. Shaw  
Prothonotary/Clerk of Courts

IN RE: CONDEMNATION OF REAL ESTATE : EMINENT DOMAIN  
OF GREEN DOT, INC. : No. 00-1081 CD

**OPINION AND ORDER**

On July 23, 2003, this Court entered an Order permitting Green Dot, Inc. ("Green Dot") to file an additional preliminary objection relating to the DuBois Area School District's ("DASD") alleged violation of Section 1-410 of Pennsylvania's Eminent Domain Code, 26 P.S. §1-101 et seq. (the "Code"). Green Dot filed said preliminary objection on July 31, 2003, and DASD answered the preliminary objection on August 11, 2003. On August 18, 2003, Green Dot filed a motion to strike the praecipe for argument and to direct discovery for a hearing. Argument on Green Dot's motion was scheduled for September 22, 2003. On September 5, 2003, DASD filed a motion to strike Green Dot's preliminary objections, arguing that the reversionary interest arising under Section 410 of the Code had expired because DASD had not disposed of the property within three years of the commencement of the action. Both parties have filed briefs addressing the issues raised in their respective motions.

**I. Green Dot's right to assert the existence of a reversionary interest under Section 410 of the Code has not expired.**

DASD filed its declaration of taking on September 1, 2000; as such, the period "within three years after condemnation," as provided in Section 410 of the Code would have elapsed on September 1, 2003. 26 P.S. §1-410. Green Dot filed its preliminary objection on July 31, 2003, well within that three-year period. This Court agrees that the filing of the preliminary objection by Green Dot relating to the attempt by DASD to dispose of the property within the three-year statutory period satisfies the requirement of Section 410. DASD has failed to direct this Court to any authority for its contention that an actual disposition of the condemned

property must have taken place within this period in order for Green Dot to have an enforceable right under Section 410.

**II. Section 410 does not require that the subject property actually be disposed of for the condemnee to have an enforceable right.**

In its Motion to Strike Green Dot's Preliminary Objections, DASD asserts three grounds upon which it bases its argument that no violation of Section 410 exists. First, DASD argues that "a mere offer to exchange property" does not constitute disposal of the property prior to the expiration of the three-year period set forth under Section 410. Second, DASD asserts that existing case law directs that a condemnor must actually dispose of the property for a violation of Section 410 to exist. Third, DASD contends that this Court's Opinion and Order dated May 23, 2003, filed at Docket No. 03-200 C.D., refusing to approve a swap of the condemned property for another parcel, requires a finding in this matter that there has been no disposal of the property which would trigger Green Dot's rights under Section 410.

Section 410 of the Code provides direction to the condemnor with respect to a prospective disposition of condemned property, and states that

If a condemnor has condemned a fee and thereafter abandons the purpose for which the property has been condemned, the condemnor may dispose of it by sale or otherwise: Provided, however, that if the property has not been substantially improved, *it may not be disposed of* within three years after condemnation *without first being offered* to the condemnee at the same price paid to the condemnee by the condemnor . . .

26 P.S. § 1-410(a)(emphasis added).

This language is framed in the future tense, and clearly indicates that the condemnee's reversionary right to repurchase is activated when the determination to sell or dispose has been reached, such that the condemned property cannot be disposed of "without first being offered to the condemnee . . ." 26 P.S. §1-410. This language clearly indicates that the condemnee's reversionary right is activated prior to an actual disposition of the property, and that in such a



situation, the recognition of the condemnee's reversionary right is mandatory. As stated in the Comment—Joint State Government Commission, 1964 Report to 26 P.S. §1-410, the statute

sets forth exactly what alternatives are available to the condemnor if the original purpose of condemnation is abandoned. The property *must be offered to the condemnee* under the conditions specified and *only if the condemnee refuses to repurchase the property* can the condemnor otherwise dispose of it. (Emphasis added).

In some cases, the condemnee will not be aware of the violation of Section 410 prior to an actual disposition of the condemned property. However, given the admonitory phrasing of the statute, it is clear to this Court that should circumstances indicate a clear intention to dispose of the property, the condemnee should be able to enforce its rights under Section 410 without waiting for an actual sale or disposition.

Similarly, this Court finds no support for DASD's position in Biernacki v. Redevelopment Authority of the City of Wilkes Barre, 379 A.2d 1366 (Pa. Commw. Ct. 1977).

In that case, the Commonwealth Court quashed the appeal from the Order of the trial court requiring the condemnor to revoke the condemnation of a parcel of land sold to a third party during the three-year period following condemnation. The Commonwealth Court never reached the issue of the condemnor's rights under Section 410. Id. at 1368. Moreover, while the trial court's opinion in Biernacki found that the condemnor had violated Section 410 because the condemnor had actually disposed of the subject property without offering to reconvey it back to the condemnees, there is no language in that opinion which supports DASD's contention that only an actual sale would trigger the requirements of Section 410. Biernacki v. Redevelopment Authority of the City of Wilkes Barre, 66 Luz. L.R. 205 (1974).

**III. Green Dot has alleged sufficient facts to support its claim that DASD has violated the terms of Section 410 of the Code by failing to offer Green Dot the right to repurchase prior to making another disposition of the condemned property.**

In the case at hand, the pleadings, briefs and arguments support Green Dot's contention that (1) the purpose of the condemnation has been abandoned<sup>1</sup>, and (2) the condemned property has not been substantially improved. Next, the Petition itself provides support for Green Dot's assertion that DASD had acted to dispose of the condemned property without complying with the mandates of Section 410. As indicated in the resolution approved by the Board of Directors of DASD at its January 22, 2003 session, an agreement for the disposition of the condemned property had been reached.<sup>2</sup> Moreover, the Petition itself indicates that

“[t]he District and David J. Stern *have agreed to exchange parcels of land of equal size and value . . .* Said purpose of the exchange is to eliminate the irregular shapes of the parcels to render them more useful for the District . . . “

Finally, attached to the Petition are “proposed deeds” between DASD and Mr. Stern, with the copy designating DASD as grantor bearing the witnessed signature of the President of DASD. Exhibit B to Petition. In sum, these facts as set forth in the Petition clearly evidence not only a prospective intention to dispose of the condemned property, but also demonstrate that DASD had taken certain affirmative steps to complete the transaction. The Petition also supports Green Dot's contention that at no time did DASD communicate any offer to repurchase to

---

<sup>1</sup> The Petition was filed under the authority of Section 7-707 of the Public School Code, entitled, “Sale of unused and unnecessary lands and buildings.” 24 P.S. §7-707. This at least suggests that the purpose of the condemnation has been abandoned and/or that the Subject Property has not been substantially improved.

<sup>2</sup> The resolution states that

WHEREAS, the District *has made an agreement with David J. Stern to exchange parcels of land of equal size and value to the benefit of the District for the purposes of recreational fields; . . .*

NOW, THEREFORE, BE IT RESOLVED, that the DuBois Area School District in accordance with the authority conferred by law, *hereby authorizes the exchange of property with David Stern.*

RESOLVED, that the appropriate officers of the DuBois Area School District sign documents to accomplish the same.

RESOLVED, that the Solicitor of the DuBois Area School District and its appropriate officers are hereby authorized to petition the Court of Common Pleas of Clearfield County for approval of the said exchange pursuant to Section 707 of the Public School Code. Exhibit D to Petition (emphasis added).

Green Dot in compliance with Section 410. Based upon the foregoing, this Court finds that Green Dot may proceed with discovery relating to DASD's alleged breach of Section 410.

**IV. This Court's May 23, 2003 Opinion and Order entered at Docket No. 03-2003 relating to DASD's power to swap or exchange the condemned property does not nullify Green Dot's rights under Section 410.**

Lastly, DASD argues that this Court's findings in its May 23, 2003 Opinion at Docket No. 03-2003 that Section 7-707(5) of the Public School Code does not authorize an "exchange" or "swap" of one property for another, mandates the conclusion that there can be no violation of Section 410 because "a legally void offer can never be accepted precluding the District from disposing of the same as required by Section 410." As set forth above, this transaction was not a 'mere offer.' These parties had agreed to the exchange or swap of the condemned real estate for another parcel. This Court's finding that the proposed "swap" did not comply with the mandates of Section 7-705, thus precluding this Court from approving the transaction, does not constitute a finding that the condemnor did not agree to "dispose" of the subject property "by sale or otherwise." DASD's efforts taken to dispose of the property, including the passing of a resolution authorizing the disposal of the property pursuant to an agreement reached between those parties, as well as the execution of a deed for the property were affirmative steps directed towards the disposal of the condemned property. As set forth above, this Court finds that such actions were sufficient to give Green Dot an actionable claim under Section 410.

WHEREFORE, the Court enters the following Order:

O R D E R

AND NOW this 5<sup>th</sup> day of November, 2003, upon consideration of the DuBois Area School District's Motion to Strike Preliminary Objections it is the ORDER of this Court that said Motion be and is hereby DENIED; Green Dot, Inc.'s Motion to Strike Praecipe for Argument and to Direct Discovery be and is hereby GRANTED.

By the Court,

John K. Reilly, Jr.,  
President Judge

**FILED** *1cc Atty's Belin, Strong, Mikesell*  
\$ *0/11:00 AM*  
NOV 06 2003

William A. Shaw  
Prothonotary/Clerk of Courts

CA

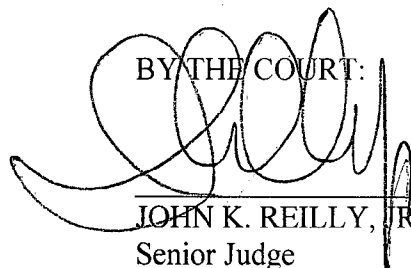
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

CONDEMNATION OF REAL :  
ESTATE OF GREEN DOT, INC. : No. 00-1081-CD

**ORDER**

AND NOW, this 12 day of October, 2004, it is the Order of the Court that an Evidentiary Hearing in the above-captioned matter has been scheduled for one-half (1/2) day on **Tuesday, November 9, 2004 at 9:00 A.M.** in the Clearfield County Courthouse, Clearfield, PA before the Honorable John K. Reilly, Jr., Senior Judge, Specially Presiding. Please report to the Court Administrator's Office. You will be directed from there where this hearing will be held.

BY THE COURT:

  
JOHN K. REILLY, JR.  
Senior Judge

**FILED** *EBK*  
*0 20900 1cc Atty. Bellw.*  
*1cc Atty. Sharp*  
OCT 12 2004

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD  
:  
: ORDER AND JOINT MOTION  
: TO DISMISS ADDITIONAL  
: PRELIMINARY OBJECTIONS  
: AND TO DISCHARGE BOARD  
: OF VIEW

Filed on behalf of:

Solicitor for Condemnor:

R. EDWARD FERRARO, ESQUIRE  
P.A. I.D. #05880

690 Main Street  
Brockway, PA 15824

814-268-2202

Counsel of Record for  
Condemnee:

CARL A. BELIN JR.,  
ESQUIRE  
P.A. I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

(814) 765-8972

FILED

DEC 08 2004

William A. Shaw  
Prothonotary

2 CERT TO BELIN

2 CERT TO FERRARO

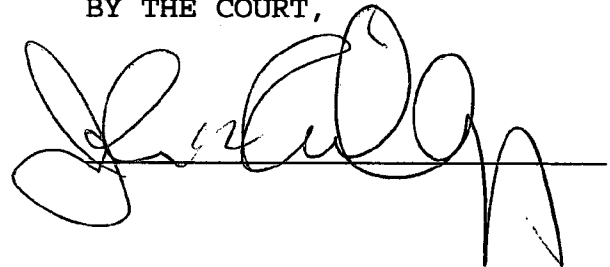
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD

AND NOW, this 8 ORDER day of Dec, 2004, the  
Joint Motion of the DuBois Area School District and Green Dot,  
Inc. is hereby granted and the additional Preliminary  
Objections filed in the above-captioned action are hereby  
dismissed.

It is the FURTHER ORDER of the Court that the Board of  
View consisting of J. Richard Mattern, Samuel D. Yost, and Evo  
G. Facchine, are hereby discharged and they are hereby  
directed to file a statement of fees and costs.

BY THE COURT,

A large, stylized handwritten signature in black ink, likely belonging to a court clerk or judge, is written over a horizontal line.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD

JOINT MOTION TO DISMISS ADDITIONAL PRELIMINARY  
OBJECTIONS AND TO DISCHARGE BOARD OF VIEW

AND NOW comes Green Dot, Inc., by and through its attorney, Carl A. Belin, Jr., Esquire, Belin & Kubista, and the DuBois Area School District, by and through its solicitor, R. Edward Ferraro, Esquire, and files the following joint motion to dismiss additional preliminary objections and to discharge the Board of View and in support thereof avers as follows:

1. A declaration of taking was filed by the DuBois Area School District ("Condemnor") in the above-captioned action on September 1, 2000.

2. Preliminary Objections were filed by Green Dot, Inc. ("Condemnee") on October 6, 2000.

3. On May 21, 2001, the Condemnee withdrew the Preliminary Objections which was approved by Your Honorable Court on May 21, 2001.

4. That Condemnee filed additional Preliminary Objections with Your Honorable Court's approval on July 31, 2003.

5. That the parties have settled the condemnation action and are requesting the Court to dismiss the additional Preliminary Objections.

6. That Your Honorable Court appointed a Board of View by Order of Court on May 21, 2002, consisting of J. Richard Mattern, Samuel D. Yost, and Evo G. Facchine.

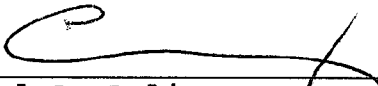
7. That the parties are also requesting Your Honorable Court to discharge the Board of View and direct it file a statement as to any fees or costs incurred.

8. That Condemnor shall pay all costs of suit.

WHEREFORE, Condemnee and Condemnor move Your Honorable Court to enter an order dismissing the additional preliminary objections and to discharge the Board of View.

AND they will ever pray.

BELIN & KUBISTA

  
\_\_\_\_\_  
Carl A. Belin, Jr., Esquire  
Attorney for Condemnee

  
\_\_\_\_\_  
R. Edward Ferraro, Esquire  
Solicitor for Condemnor

FILED  
DEC 08 2004  
William A. Shaw  
Prothonotary

**BELIN & KUBISTA**  
ATTORNEYS AT LAW  
15 NORTH FRONT STREET  
P. O. BOX 1  
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD  
: STIPULATION FOR PAYMENT  
: OF JUST COMPENSATION

Filed on behalf of:

Solicitor for Condemnor:

R. EDWARD FERRARO, ESQUIRE  
P.A. I.D. #05880

690 Main Street  
Brockway, PA 15824

814-268-2202

Counsel of Record for  
Condemnee:

CARL A. BELIN JR.,  
ESQUIRE  
P.A. I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

(814) 765-8972

FILED

DEC 08 2004  
012137/1ms (Pm)  
William A. Shaw  
Prothonotary  
2 cert to Belin  
2 cert to Ferraro

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD

STIPULATION FOR PAYMENT OF JUST COMPENSATION

Now this 8<sup>th</sup> day of December, 2004, the following is hereby agreed to by and between the solicitor for the DuBois Area School District ("Condemnor") and counsel for Green Dot, Inc. ("Condemnee"), in connection with the taking of property located at the intersection of Beaver Drive and Jeffers Street, in the City of DuBois, Clearfield County, Pennsylvania ("the property") which was condemned for school purposes pursuant to Resolution 1, approved May 16, 2000, and which taking was effected September 1, 2000, pursuant to the Eminent Domain Code, as amended, 26 P.S. § 1-101, et seq. ("Code"):

1. Condemnor shall pay and Condemnee shall accept the sum of \$520,000.00 as just compensation for the property. Condemnor has paid Condemnee \$85,000.00 on February 24, 2000, and is paying \$435,000.00 as the balance due under this stipulation.

2. The sum set forth in Paragraph 1 shall constitute full and final compensation for and shall be in full settlement

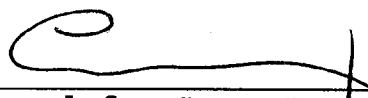
of any and all claims for general and special damages under the Eminent Domain Code in connection with the condemnation of the property, including but not limited to, all expenses, statutory attorneys fees, and all other fees, costs, or entitlements allowed by the Code.

R. EDWARD FERRARO, ESQUIRE

A handwritten signature in dark ink, appearing to read "R. Edward Ferraro", written over a horizontal line.

DuBois Area School District  
Solicitor

BELIN & KUBISTA

By   
Counsel for Green Dot, Inc.

A handwritten signature in dark ink, appearing to be a stylized "C" or "K", written over a horizontal line.

CLEARFIELD, PENNSYLVANIA 16830

P. O. BOX 1

15 NORTH FRONT STREET

ATTORNEYS AT LAW

**BELIN & KUBISTA**

**FILED**

**DEC 08 2004**

**William A. Shaw**  
**Prothonotary**

---

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD  
:   
: PRAECIPE FOR  
: SATISFACTION

Filed on behalf of:

Solicitor for Condemnor:

R. EDWARD FERRARO, ESQUIRE  
P.A. I.D. #05880

690 Main Street  
Brockway, PA 15824

814-268-2202

Counsel of Record for  
Condemnee:

CARL A. BELIN JR.,  
ESQUIRE  
P.A. I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

(814) 765-8972

FILED

DEC 08 2004

6/239/L  
William A. Shaw  
Prothonotary

2 cmt to Atty Belin  
2 cmt to Atty Ferraro



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

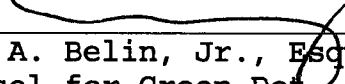
IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD

PRAECIPE FOR SATISFACTION

TO THE PROTHONOTARY:

The stipulated amount in favor of Green Dot, Inc., having been paid by the DuBois Area School District, please enter satisfaction of record upon payment of your costs only.

BELIN & KUBISTA

By   
Carl A. Belin, Jr., Esquire  
Counsel for Green Dot, Inc.

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

**CIVIL DIVISION**

**IN RE: Condemnation of Real  
Estate of Green Dot, Inc.**

**No. 2000-01081-CD**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 8, 2004, marked:

Satisfaction

Record costs in the sum of \$80.00 have been paid in full by Atty. Strong'.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 8th day of December A.D. 2004.

---

William A. Shaw, Prothonotary

CERTIFIED TO ATTY'  
C/A.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: CONDEMNATION OF : NO. 00-1081-CD  
REAL ESTATE OF :  
GREEN DOT, INC. : EMINENT DOMAIN

**ORDER**

AND NOW, this 4 day of February, 2005, the Court acknowledges the filing of the Report of the Chairman of the Board of Viewers, together with the attached Schedule of Fees and Costs and ORDERS that CLEARFIELD COUNTY, PA, pay for the services rendered and costs incurred in the above case the sum of Nine Hundred Sixty-Three Dollars and fifty-six cents (\$963.56) to J. Richard Mattern II, Esquire, directly at 211 East Pine Street, Clearfield, Pa., 16830.

It is the FURTHER ORDER of this Court that the Condemnor, Dubois Area School District of Dubois, Pa., reimburse Clearfield County for \$963.56 as per paragraph 7 of the Joint Motion to Discharge the Board of View and Order of this Court dated December 8, 2004.

BY THE COURT,

  
JOHN K. REILLY, JR., JUDGE

FILED *uCC*

*09:56 AM*  
FEB 04 2005

*William A. Shaw*  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: CONDEMNATION OF : NO. 00-1081-CD  
REAL ESTATE OF :  
GREEN DOT, INC. :  
: Type of Case: EMINENT DOMAIN  
: :  
: Type of Pleading: **REPORT OF**  
: **CHAIRMAN OF BOARD OF**  
: **VIEWERS, SCHEDULE OF FEES &**  
: **COSTS and ORDER FOR AYMMENT**  
: :  
: Filed on Behalf of:  
: CHAIRMAN OF BOARD OF  
: VIEWERS  
: :  
: Counsel of Record for this Party:  
: J. Richard Mattern II  
: Attorney ID#06817  
: CHAIRMAN, BOARD OF VIEWERS  
: 211 East Pine Street  
: Clearfield, PA 16830  
: (814) 655-6416

FILED<sup>2cc</sup>

9:50 AM Feb 04 2005  
Atty Mattern

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: CONDEMNATION OF : NO. 00-1081-CD  
REAL ESTATE OF  
GREEN DOT, INC. : EMINENT DOMAIN

**REPORT OF CHAIRMAN OF BOARD OF VIEWERS  
AND SCHEDULE OF COSTS**

TO: THE HONORABLE JOHN K. REILLY, JR., JUDGE OF SAID COURT:

J. Richard Mattern II, Esquire, Chairman of the Board of Viewers, respectfully  
represents:

1. By Order of Court dated May 21, 2001, J. Richard Mattern II, Esquire, Sam Yost and Evo Facchine were appointed Board of View to assess the damages caused by the condemnation of real estate of Green Dot, Inc., by Declaration of Taking filed by the Dubois Area School District on September 1, 2000.

2. By Order of your Honorable Court dated December 8, 2004, the case was apparently settled and the Board of View was discharged.

3. Said Order of December 8, 2004 further provided that the Board was directed to file a Statement of Fees and Costs, and further, pursuant to the Joint Motion settling the case, it was agreed that the Condemnor, Dubois Area School District, shall pay all costs of the suit.

4. That your Petitioner has spent substantial time from July 16th of 2001 through February 2, 2005 in an effort to schedule a View and Hearing in this matter. The

2003, Continued

6/5-6/25 Requests from Attorney Strong, School District, letters, faxes, phone calls, requesting continuances due to unavailability of material witnesses, Preparation of Notice of Continuance to all parties, letters and phone calls to Attorney Belin;

2005

1/5 Review letter from Attorney Belin of 12/8/04, together with Joint Motion to Dismiss and Order of Court.

**Note: My file contains over seventy-five letters, Notices, scheduling Notices, etc., all of which are too numerous to copy and attach to this Report.**

Total Time: 13 1/2 Hours @ \$75.00 per hour \$945.00

Costs: Notices of View and Hearing and  
Continuances Only

Postage \$10.56

Copies \$ 8.00

Total Costs: \$18.56

(\*Fee per hour by Order of Court dated 2/16/01)

TOTAL FEE: \$945.00

TOTAL COSTS: \$ 18.56

**BALANCE DUE: \$963.56**

Respectfully submitted,

  
J. RICHARD MATTERN H, ESQ.  
CHAIRMAN, BOARD OF VIEWERS

Dated: February 2, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD  
:  
: ORDER AND JOINT MOTION  
: TO DISMISS ADDITIONAL  
: PRELIMINARY OBJECTIONS  
: AND TO DISCHARGE BOARD  
: OF VIEW

Filed on behalf of:

Solicitor for Condemnor:

R. EDWARD FERRARO, ESQUIRE  
P.A. I.D. #05880

690 Main Street  
Brockway, PA 15824

814-268-2202

Counsel of Record for  
Condemnee:

CARL A. BELIN JR.,  
ESQUIRE  
P.A. I.D. #06805

BELIN & KUBISTA  
15 North Front Street  
P.O. Box 1  
Clearfield, PA 16830

(814) 765-8972

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

DEC 08 2004

Attest.

*William L. Shaw*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD

ORDER

AND NOW, this 8<sup>TH</sup> day of December, 2004, the Joint Motion of the DuBois Area School District and Green Dot, Inc. is hereby granted and the additional Preliminary Objections filed in the above-captioned action are hereby dismissed.

It is the FURTHER ORDER of the Court that the Board of View consisting of J. Richard Mattern, Samuel D. Yost, and Evo G. Facchine, are hereby discharged and they are hereby directed to file a statement of fees and costs.

BY THE COURT,

/s/ JOHN K. REILLY, JR.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION OF : EMINENT DOMAIN  
REAL ESTATE OF :  
GREEN DOT, INC. : NO. 00 - 1081 - CD

JOINT MOTION TO DISMISS ADDITIONAL PRELIMINARY  
OBJECTIONS AND TO DISCHARGE BOARD OF VIEW

AND NOW comes Green Dot, Inc., by and through its attorney, Carl A. Belin, Jr., Esquire, Belin & Kubista, and the DuBois Area School District, by and through its solicitor, R. Edward Ferraro, Esquire, and files the following joint motion to dismiss additional preliminary objections and to discharge the Board of View and in support thereof avers as follows:

1. A declaration of taking was filed by the DuBois Area School District ("Condemnor") in the above-captioned action on September 1, 2000.
2. Preliminary Objections were filed by Green Dot, Inc. ("Condemnee") on October 6, 2000.
3. On May 21, 2001, the Condemnee withdrew the Preliminary Objections which was approved by Your Honorable Court on May 21, 2001.
4. That Condemnee filed additional Preliminary Objections with Your Honorable Court's approval on July 31, 2003.

5. That the parties have settled the condemnation action and are requesting the Court to dismiss the additional Preliminary Objections.

6. That Your Honorable Court appointed a Board of View by Order of Court on May 21, 2002, consisting of J. Richard Mattern, Samuel D. Yost, and Evo G. Facchine.


7. That the parties are also requesting Your Honorable Court to discharge the Board of View and direct it file a statement as to any fees or costs incurred.

8. That Condemnor shall pay all costs of suit.

WHEREFORE, Condemnee and Condemnor move Your Honorable Court to enter an order dismissing the additional preliminary objections and to discharge the Board of View.

AND they will ever pray.

BELIN & KUBISTA

  
\_\_\_\_\_  
Carl A. Belin, Jr., Esquire  
Attorney for Condemnee

\_\_\_\_\_  
R. Edward Ferraro, Esquire  
Solicitor for Condemnor

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION

IN RE:

PAYMENT OF BOARD OF VIEWERS  
FOR PROFESSIONAL SERVICES  
RENDERED IN CONDEMNATION-  
EMINENT DOMAIN PROCEEDINGS

No. Misc. 11 page 475

ORDER

NOW, this 16<sup>th</sup> day of February, 2001, it is the ORDER of this Court that the Board of Viewers shall each be paid for future services in Condemnation - Eminent Domain proceedings the sum of Seventy (\$70.00) Dollars per hour.

Said fee shall be paid by Clearfield County and reimbursed to the County by the Condemnor or, if agreed upon, be paid directly to the Viewers by the Condemnor.

The Viewers shall, upon completion of their services, file a Schedule of Costs to be approved by the Court, and when approved, the Court shall issue an appropriate Order for payment.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true  
and correct copy of the original  
as filed in this case.

FEB 16 2001

Attest:

*William A. Brown*  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: CONDEMNATION OF : NO. 00-1081-CD  
REAL ESTATE OF :  
GREEN DOT, INC. : EMINENT DOMAIN

**CHAIRMAN OF BOARD OF VIEW**  
**SCHEDULE OF FEES AND COSTS**

**TO BE PAID BY CLEARFIELD COUNTY AND REIMBURSED TO  
CLEARFIELD COUNTY BY THE DUBOIS AREA SCHOOL DISTRICT**

PAYABLE TO: J. RICHARD MATTERN II, ESQ.,  
CHAIRMAN OF BOARD OF VIEWERS  
211 East Pine Street  
Clearfield, Pa., 16830

Thirteen and one-half (13 1/2) Hours  
@ \$70.00 per hour: \$945.00

Postage: \$ 10.56

Copies: \$ 8.00

**TOTAL \$963.56**

**Please mail check directly to J. Richard Mattern II, Esquire, at 211 East Pine  
Street, Clearfield, PA 16830.**

I certify the above to be the accurate fees and costs incurred by the Chairman of the  
Board of Viewers.

Dated: February 2, 2005

\_\_\_\_\_  
J. RICHARD MATTERN II, ESQ.  
CHAIRMAN, BOARD OF VIEWERS

**FILED**

**FEB 04 2005**

William A. Shaw  
Prothonotary/Clerk of Courts