

23.0950.01002

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1384

Introduced by

Representative Louser

Senator Hogue

1 A BILL for an Act to amend and reenact section 32-15-22 of the North Dakota Century Code,
2 relating to eminent domain and the assessment of damages.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 32-15-22 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **32-15-22. Assessment of damages.**

7 The jury, or court, or referee, if a jury is waived, must hear such legal testimony as may be
8 offered by any of the parties to the proceedings and thereupon must ascertain and assess:

- 9 1. The value of the property sought to be condemned and all improvements thereon
10 pertaining to the realty and of each and every separate estate or interest therein. If it
11 consists of different parcels, the value of each parcel and each estate and interest
12 therein shall be separately assessed.
- 13 2. If the property sought to be condemned constitutes only a part of a larger parcel, the
14 damages which will accrue to the portion not sought to be condemned by reason of its
15 severance from the portion sought to be condemned and the construction of the
16 improvement in the manner proposed by the plaintiff.
- 17 3. If the property, though no part thereof is taken, will be damaged by the construction of
18 the proposed improvement, the amount of such damages.
- 19 4. If the property is taken or damaged by the state or a public corporation, separately,
20 how much the portion not sought to be condemned and each estate or interest therein
21 will be benefited, if at all, by the construction of the improvement proposed by the
22 plaintiff, and if the benefit shall be equal to the damages assessed under subsections
23 2 and 3, the owner of the parcel shall be allowed no compensation except the value of
24 the portion taken, but if the benefit shall be less than the damages so assessed the

- 1 former shall be deducted from the latter and the remainder shall be the only damages
2 allowed in addition to the value of the portion taken.
- 3 5. As far as practicable, compensation must be assessed separately for property actually
4 taken and for damages to that which is not taken.
- 5 6. Following the assessment of damages by the trier of fact, if the property consists of a
6 primary residence, the court shall increase the award by ~~thirty-three~~twenty percent
7 and enter the judgment accordingly. The increase may not be considered by the trier
8 of fact in the original assessment of damages.