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BLOOMINGTON, Ind. -- In 2006, Barry Elkins paid $850,000 for about 200 acres in Monroe County owned by former Indiana University basketball coach Bob Knight.

Elkins told a local newspaper he had no plans to develop the land. He said he also was quite aware state officials planned to acquire at least some of the property for the new I-69 freeway project.

Nonetheless, Elkins told a reporter: "It's a heck of a piece of ground."

Turns out, it produced a heck of a profit, too.

In July, state highway officials paid Elkins $2.41 million for an easement covering 140 of the 200 acres. That's almost four times the $658,800 that state appraisers said the easement was worth.

An Indianapolis Star investigation reveals Elkins, who also sold two other properties to the state, was not alone in collecting payouts significantly above the appraised value for land in the I-69 corridor, raising questions about whether the state overspent in its rush to build the road.

Confidential settlement documents obtained by The Star detail the appraised values and the state's final offers for the Elkins properties, as well as 31 others in Greene, Pike and Daviess counties. They reveal INDOT offered $7 million for real estate appraised at $3.34 million -- more than double the fair market value of those parcels.

Will Wingfield, an INDOT spokesman, declined to talk about specific purchases but said land acquisition is complicated and the state sometimes has to pay more than the appraised value to entice owners to sell.

"There's nothing simple about acquiring property for a project such as I-69," Wingfield said. "It's complex, and INDOT is working with people who most often don't want to sell. Sometimes INDOT is criticized for paying too much for property, and often INDOT is criticized for offering too little."

The Star also found:

>> Even owners who sold their properties for the appraisal price were eligible for a 10 percent bonus, as part of a "right-of-way incentive program" meant to speed the project along.

>> For several of the properties, it appears state officials -- in a rush to secure land for the project championed by Gov. Mitch Daniels -- deviated from their usual acquisition policies and guidelines, which are supposed to guarantee that taxpayers don't end up paying too much for land.

>> Property appraisal documents are exempt from the state's public records laws, even after a sale is finalized, making it impossible for the public to determine if the acquisition process is fair and above board and, more important, that INDOT is upholding its fiduciary responsibility to taxpayers.

>> In addition to his $2.41 million payout, Elkins may continue to profit from his ownership of the land because of concessions the state included in his easement agreement.

"There are procedures established in state laws for right-of-way land purchases, things that are tried and true that provide a fair value for everybody involved," said taxpayer advocate Aaron Smith, who examined some of the documents obtained by The Star. "It looks like those procedures were at least sometimes not followed."
The records reviewed by The Star cover only a small fraction of the land the state obtained through purchases and easements along the 94-mile highway corridor between Evansville and Bloomington.

According to I-69 cost estimates INDOT provided this summer, $162.6 million in state and federal funds were spent on right-of-way purchases along the new stretch of freeway.

It may never be known, due to the secret nature of the state appraisal records, whether INDOT routinely overpaid for that land and, if so, by how much.

But Denise McHenry, one of the state's former purchasing agents on the I-69 project, says she has no doubt taxpayers ended up paying more than necessary to obtain property along the route.

"It was just, 'get it done,'" she said. "There was no justification (for some payouts). They were throwing away millions."

Earlier this year, McHenry was suspended from the INDOT acquisition program, allegedly for performance issues. She is appealing the suspension, saying the allegations are untrue and that she was targeted in retaliation for whistle-blowing actions.

McHenry said there was so much pressure to start construction on I-69 that some savvy property owners were practically able to write their own checks when state officials approached them with an offer to buy their land. She said it was unlike any other INDOT project she worked on in 20 years.

McHenry said her INDOT liaison on the I-69 project had an edict for her and other property buyers: "He said, word for word, 'Mitch Daniels wants to drive on it before his term is over -- at all costs.'"

The state's response

Daniels' spokeswoman Jane Jankowski declined to comment.

"Property purchases for road projects," she said in an email, "are handled by INDOT."

INDOT spokesman Wingfield responded to a request for an interview with emailed statements.

He said he couldn't discuss specific properties -- including Elkins' land -- because the appraisal documents are confidential under state law.

"And INDOT is not going to put itself in a position of violating the law or landowners' privacy by discussing individual properties," Wingfield wrote.

But, speaking in generalities, Wingfield said, "INDOT followed its typical practice for researching properties and making offers under the federal 'Uniform Act.'"

Wingfield said the state needed to acquire 1,100 acres of land just for the section of new freeway between the Crane Naval Surface Warfare Center and Bloomington, one of four sections of the freeway now under construction.

While buying land, Wingfield said, officials also restored or preserved 3,800 acres of wetlands, streams and forests "as part of the project's unprecedented environmental commitments."

"There are a limited number of these 'mitigation' properties within the same watershed or endangered wildlife habitat," Wingfield said. "No one should be surprised it could be more expensive for INDOT to purchase these
He said the property payments also haven't caused the project to go over budget. He said the I-69 project is 25 percent under budget estimates. Officials this summer pegged the cost of the Evansville-to-Bloomington project at $1.5 billion.

Wingfield said the state also has received praise from two national transportation organizations that recognized "INDOT's personalized, sensitive outreach" for how purchases were made in Greene and Monroe counties.

"And the road is finally being built," he said, "providing southwest Indiana with the type of access to jobs, education and health care of which the rest of the state already benefits."

State officials recently announced that on Nov. 19, they'll open to traffic the first three sections of I-69 between Evansville and Crane in Martin County.

State officials say the section from Crane to Bloomington will be open by 2014.

Watchdogs want answers

Some Hoosiers, including taxpayer advocate Smith, founder of Watchdog Indiana, are disturbed by the purchase amounts -- as well as the state law that keeps appraisals secret.

Smith said he understands the need to keep appraisal and relocation documents confidential before the conclusion of land acquisition deals. But, he added, "they should be available after a land acquisition is completed for the public to determine if all parties (including the taxpayers) are well-served by the land acquisition deal."

He also isn't swayed by INDOT's explanation that the project is under budget.

"INDOT claims the bottom line is that if they are 25 percent under budget, everything ought to be hunky-dory," Smith said. "But if they could be more than 25 percent under budget through responsible land purchases, the taxpayer would have benefitted even more."

According to INDOT's property acquisition guidelines, buyers are supposed to offer a price close to fair market value for property they intend to acquire.

If the owner doesn't accept the offer, the state can initiate eminent domain proceedings through the court system. If that happens, INDOT is supposed to present a judge with an average of three separate appraisals.

The judge then uses that information, along with evidence submitted by the owner, to decide the appropriate purchase price.

INDOT's land acquisition policies, however, encourage buyers to avoid eminent domain if at all possible. To keep that from happening, agency officials in 2011 started offering property owners incentive payments of 10 percent above the state's initial offer.

"The purpose of the incentive payment," INDOT officials wrote in their right-of-way incentive program guidelines, "is to reduce the time needed in which to acquire or/possess the property."

The agency's land acquisition guidelines do allow for paying above the appraised value "if the buyer feels a condemnation suit can be avoided and the request for increase is in the best interest of the state ... due to the evidence presented or past experiences of higher awards from local county courts," according to the INDOT Real Estate Buying Manual.

The manual also offers buyers a tip on dealing with owners who want more than the appraised value: "This is an
C. Kurt Zorn, a professor of state and local government finance and economics at IU’s School of Public and Environmental Affairs, also reviewed some of the administrative settlement documents at The Star's request.

Zorn said some at least provide a brief rationale of why the state paid more for the land: Officials said it would cost less to raise the purchase price than it would to fight the owner in court, for example.

In others, the property owner asked to be compensated for crops the state hadn't accounted for or rebutted the state's land-value calculations.

But the documents offer no such rationale for the Elkins property.

"It leaves me to ask the same question: why?" Zorn said. "I won't go so far as to say the state is paying too much, but why is the state paying that much more? You expect they would have some additional information, just to protect the state, right? That's the way I look at it."

Zorn has some experience on that front. He is the former chairman of the State Tax Board, the predecessor to what's now the Department of Local Government Finance.

He also thinks the state should open its books.

"More transparency is better," Zorn said. "In this day and age, when people are cynical about government, why would you want to give people fuel or an argument that's unnecessary? This is taxpayer money that's paying for property, and -- what the heck -- let us know how much is being paid and hopefully why."

I-69's critics pounce

McHenry, the land acquisition specialist who used to buy property for INDOT, said there's a good reason the state doesn't want to discuss its I-69 purchases.

McHenry said she and her fellow buyers were given very little time -- sometimes as little as two days -- to research and make an offer to property owners. She said purchasing agents also were offered a share of a $500,000 bonus pool if they could quickly close deals without the legal fuss of eminent domain proceedings.

When asked about short deadlines and the alleged bonus plan, Wingfield, the INDOT spokesman, said deadlines were not shortened and "financial bonuses for land buyers were not part of INDOT's contracts with I-69 Section 4 consultants."

Bloomingtom attorney Mick Harrison said the allegations raised by McHenry, as well as the high costs the state paid out to land owners, only reinforce criticisms of the I-69 route.

Harrison represents the Hoosier Environmental Council and Citizens for Appropriate Rural Roads, groups that have opposed I-69 for years and that have pending federal court challenges seeking to block the freeway's passage from Crane to Bloomington.

"The governor has been up front in the past and said he was going to throw out the rule book just so he could rush I-69 through," Harrison said. "There might be an innocent way to interpret that. But what we're seeing is that literally the law has been thrown out."

He calls for an oversight agency to investigate.

"Is there something inappropriate here?" he said. "Maybe?"

"Figure that out on your own"
The land Elkins bought from Knight wasn't the only Monroe County property along I-69's path that he sold to the state for far more than its fair market value. He and two co-owners also got $348,600 for a 27-acre property appraised at $194,625; and $795,956 for 58 acres appraised at $278,295.

As for the former Knight property, the state purchased the easement to create an "environmental mitigation site" to make up for damage to forests, wetlands, wildlife habitat and other natural resources caused by the new freeway.

After the $2.41 million payday -- which was nearly three times the amount Elkins paid Knight for the entire 200 acres -- Elkins still owns the picturesque expanse of undeveloped pasture and woods about eight miles southwest of Bloomington.

The easement forbids any development on 140 acres of the land but allows Elkins to use it for "low-impact" recreational activities such as hiking, photography and hunting.

And he doesn't have to pay property taxes.

But Elkins' deal with the state is even more lucrative. Caveats tucked inside the 52-page easement agreement provide the opportunity for him to reap an additional financial windfall.

The conservation use restrictions do not cover a small limestone quarry on the property, from which Elkins "wishes in the future to access limestone resources from underground mining through this access point," according to the agreement filed with the Monroe County recorder. That work is allowed by another provision that says he "may conduct subsurface mining/recovery" from the existing site if the work does not disturb the surface and the minerals are taken from at least 200 feet below the surface.

The deal also allows Elkins to resell the site -- possibly to another quarry operator -- although all of the easement's other restrictions would remain in place.

Harrison, the attorney representing groups opposing the highway project, said the deal allowed Elkins to retain "perhaps the most valuable part of the property."

"If that's the case," he said, "then you really have to wonder why they paid him so much."

Elkins, reached by phone last week, declined to say why his land commanded such a high price: "You're going to have to figure that out on your own."