

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

FLORIDA SOUTHEAST  
CONNECTION, LLC,

Plaintiff,

v.

CASE NO. 8:16-cv-679-T-23EAJ

2.841 ACRES OF LAND, MORE OR  
LESS, IN POLK COUNTY, FLORIDA,  
et al.,

Defendants.

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**ORDER**

The plaintiff announces (Doc. 30) a dismissal under Rule 71.1(i)(1)(A), which states, “If no compensation hearing on a piece of property has begun, and if the plaintiff has not acquired title or a lesser interest or taken possession, the plaintiff may, without a court order, dismiss the action as to that property by filing a notice of dismissal.” However, the parties filed (Doc. 27) a “stipulation for immediate possession,” which states that the plaintiff “may immediately access and possess” the easements described in the complaint. Because the plaintiff acquired an interest in the easements, and because no compensation hearing has occurred, the plaintiff may not dismiss this action under Rule 71.1(i)(1)(A). *See In re Appropriation by City of Bethlehem of Prop. of Fox, Hanover Tp., Northampton County, Pa.*, 181 F. Supp. 875, 877 (E.D. Pa. 1960) (Grim, J.) (“While the right to immediate possession does not

amount to title, it certainly constitutes a 'lesser interest' within the meaning of the Rule, sufficient to prevent the City's taking a voluntary dismissal of the action.").

Accordingly, the notice (Doc. 30) of dismissal is **DENIED**.

ORDERED in Tampa, Florida, on June 3, 2016.



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STEVEN D. MERRYDAY  
UNITED STATES DISTRICT JUDGE