

28

The Order of the Court is stated below:

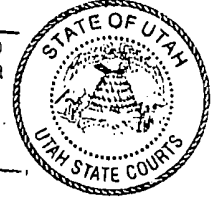
Dated: February 14, 2020
08:52:42 AM

/s/ MATTHEW BATES
District Court Judge



JAMES L. WARLAUMONT (#3386)
STEVEN F. ALDER (#33)
Assistant Attorneys General
SEAN D. REYES (#7969)
Utah Attorney General
Attorneys for Plaintiff
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone (801) 366-0353
jwarlaumont@agutah.gov
stevenalder@agutah.gov

STATE OF UTAH
COUNTY OF Salt Lake
I hereby certify that the document to
which this certificate is attached is a
full, true and correct copy of the
original filed in the Utah State Courts.
WITNESS my hand and seal
this 14 day of February
20 20
DISTRICT/JUVENILE COURT



[Signature]
CLERK

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff

vs.

PARKWOOD ARIZONA, LLC, an Arizona
limited liability company; SALT LAKE CITY,
a municipal corporation; and JOHN DOES 1-
10,

Defendants

**ORDER OF IMMEDIATE OCCUPANCY
AS TO DEFENDANT PARKWOOD
ARIZONA, LLC**

Project No. F-0172(32)7
Parcel Nos. 103, 103:2E, 103:3E, 103:C, 103:E
Affecting Tax ID No. 14-13-100-010

Case No. 200900199

Judge James Gardner

13207620
03/03/2020 09:43 AM \$0.00
Book - 10904 Pg - 5479-5486
RASHELLE HOEBS
RECORDER, SALT LAKE COUNTY, UTAH

UT DEPT OF TRANSPORTATION
BOX 149420 ATT: MONIE WARDLE
SLC UT 84114-8420
BY: DSA, DEPUTY - W1 & P.

Plaintiff, Utah Department of Transportation's ("UDOT"), Motion for Order of Immediate Occupancy as it relates to Defendant Parkwood Arizona LLC ("Defendant") is now before the Court. The Court, having reviewed the Motion, including the Declaration of Charles Stormont, and the Stipulation for Order of Immediate Occupancy as to Parkwood Arizona LLC filed herein, and for good cause appearing,

NOW HEREBY ORDERS, ADJUDGES AND DECREES:

1. That UDOT's Motion of Order for Immediate Occupancy as to Parkwood Arizona LLC is granted.

2. The Plaintiff Utah Department of Transportation is an agency of the State of Utah with the power of eminent domain.

3. The Plaintiff Utah Department of Transportation is entitled to condemn the property which is the subject of this lawsuit.

4. The public use for which the power of eminent domain is being exercised in this matter is for highway and highway-related purposes authorized under Utah Code Ann. §§ 72-5-101 *et. seq.* and 78B-6-501 *et. seq.*

5. Pursuant to Utah Code Ann. Section 78B-6-510(2), the Court has taken proof by declaration that:

(a) UDOT's approved appraised value of the premises sought to be condemned is in the amount of (\$212,100.00);

(b) UDOT's appraisal has determined that there are no severance damages to the remaining property; and,

(c) the subject property is necessary for the transportation needs of Salt Lake County and to provide a safe means of travel and that UDOT requires speedy occupancy of the described premises to avoid the waste of public resources associated with project interruptions and delay.

6. After entry, this Order shall be effective as to Defendant Parkwood Arizona LLC when the Plaintiff deposits with the Clerk of the Court the appraised value of the Subject

Property interests being condemned in the sum of \$212,100.00 for the purposes set forth in Utah Code Ann. § 78B-6-510. The Court Clerk is authorized to accept the deposit. The payment of the deposit shall be governed by Code Ann. § 78B-6-510(b)(6) and shall only be made upon the application of an interested party or pursuant to a stipulation of the parties.

7. The Plaintiff, its agents, contractors, assignees and permittees are granted the right to immediate occupancy of the following premises, *pendente lite*, and to do whatever testing, construction, relocation of utilities, and other work thereon as may be required in furtherance of the project described in Plaintiff's Complaint in Eminent Domain as follows:

Tax Id No.'s 14-13-152-001 and 14-13-152-002

Parcel No. F-0172:103

A parcel of land in fee for the widening of the existing 5600 West Street (SR-172) known as Project No. F-0172(32)7, being part of an entire tract of property situate in Lots 1 and 2, Landmark Commerce Center Phase 1 and California Avenue Road Dedication plat, recorded as Entry No. 9803753, Book 2006P, Page 222, in the office of the Salt Lake County Recorder and in the NW1/4 SW1/4 of Section 13, T.1S., R.2W., S.L.B.& M. The boundaries of said parcel of land are described as follows:

Beginning at the southwest corner of said Lot 2, which corner is 75.01 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite approximate engineer station 35+19.34; and running thence N.00°00'16"W. 59.66 feet along the existing easterly right of way line of 5600 West Street to a point 75.01 feet perpendicularly distant easterly from said control line opposite engineer station 35+79.00; thence S.44°05'24"E. 73.84 feet to a point 49.50 feet perpendicularly distant northerly from the 1730 South Street Right of Way Control Line opposite engineer station 2001+26.50; thence S.00°08'03"E. 6.50 feet to the existing northerly right of way line of 1730 South Street at a point 43.00 feet perpendicularly distant northerly from said control line opposite engineer station 2001+26.50; thence S.89°51'57"W. (S.89°52'14"W. by record) 51.39 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land contains 1,699 square feet in area or 0.039 acre, more or less.

(Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

Parcel No. F-0172:103:2E

A perpetual easement, upon part of an entire tract of property, situate in Lot 2, Landmark Commerce Center Phase 1 and California Avenue Road Dedication plat, recorded as Entry No. 9803753, Book 2006P, Page 222, in the office of the Salt Lake County Recorder and in the SW1/4 NW1/4 of Section 13, T.1S., R.2W., S.L.B.& M., in Salt Lake County, Utah, for the purpose of constructing, maintaining and repairing a storm drain pipe and appurtenant parts thereof to facilitate the widening of 5600 West Street (SR-172) known as Project No. F-0172(32)7. This easement shall run with the Real Property and shall be binding upon the owner, parties of interest, and their successors, heirs and assigns. The boundaries of said part of an entire tract of property are described as follows:

Beginning at a point in the existing easterly right of way line of 5600 West Street (SR-172), which point is 366.66 feet N.00°00'16"W. from the southwest corner of said Lot 2, said point is also 75.00 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite engineer station 38+86.00; and running thence N.00°00'16"W. 10.00 feet along said existing easterly right of way line parallel with said control line to a point opposite engineer station 38+96.00; thence N.89°59'44"E. 19.00 feet; thence S.00°00'16"E. 10.00 feet; thence S.89°59'44"W. 19.00 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described part of an entire tract of property contains 190 square feet in area or 0.004 acre, more or less.

(Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

Parcel No. F-0172:103:3E

A temporary easement, upon part of an entire tract of property, situate in Lots 1 and 2, Landmark Commerce Center Phase 1 and California Avenue Road Dedication plat, recorded as Entry No. 9803753, Book 2006P, Page 222, in the office of the Salt Lake County Recorder and in the NW1/4 SW1/4 and the SW1/4 NW1/4 of Section 13, T.1S., R.2W., S.L.B.&M., in Salt Lake County, Utah, to facilitate the construction of roadway improvements, side treatments and appurtenant parts thereof and blending slopes, incident to the widening of 5600 West Street (SR-172) known as Project No. F-0172(32)7. This easement shall commence upon the beginning of actual construction on the property and shall continue only until project construction on the property is complete, or for three (3) years, whichever first occurs. The easement shall be non-exclusive such that the owner or parties of interest may use the property at any time in a manner which does not interfere with construction activities. The boundaries of said part of an entire tract of property are described as follows:

Beginning at a point in the existing easterly right of way line of 5600 West Street (SR-172), which point is 59.66 feet N.00°00'16"W. from the southwest corner of said Lot 2, said point is also 75.01 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite engineer station 35+79.00; and running thence N.00°00'16"W. 111.51 feet along said existing easterly right of way line; thence N.89°59'44"E. 17.50 feet; thence N.00°00'16"W. 10.00 feet; thence S.89°59'44"W. 17.50 feet to said existing easterly right of way line; thence N.00°00'16"W. 185.50 feet along said existing easterly right of way line; thence N.89°59'44"E. 19.00 feet; thence N.00°00'16"W. 10.00 feet; thence S.89°59'44"W. 19.00 feet to said existing easterly right of way line; thence N.00°00'16"W. 335.25 feet along said existing easterly right of way line to the northwest corner of said Lot 2 at a point 75.00 feet perpendicularly distant easterly from said control line opposite approximate engineer station 42+31.25; thence N.89°58'48"E. 20.00 feet along the northerly boundary line of said Lot 2; thence S.00°00'16"E. 662.26 feet; thence S.65°45'51"E. 21.92 feet; thence S.39°27'42"E. 30.46 feet; thence S.86°20'11"E. 116.26 feet; thence N.89°51'57"E. 116.00 feet; thence S.87°19'55"E. 190.23 feet; thence S.82°57'53"E. 80.13 feet to the existing northerly right of way line of 1730 South Street; thence S.89°51'57"W. (S.89°52'14"W. by record) 80.00 feet along said existing northerly right of way line; thence N.87°19'32"W. 132.66 feet; thence S.89°51'57"W. 53.00 feet; thence N.83°00'33"W. 80.62 feet; thence S.89°51'57"W. 164.00 feet; thence N.44°05'24"W. 73.84 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described part of an entire tract of property contains 17,416 square feet in area or 0.400 acre, more or less.

(Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

Parcel No. F-0172:103:C

A parcel of land in fee for the widening of the existing 5600 West Street (SR-172) known as Project No. F-0172(32)7, being part of an entire tract of property situate in Lots 1 and 2, Landmark Commerce Center Phase 1 and California Avenue Road Dedication plat, recorded as Entry No. 9803753, Book 2006P, Page 222, in the office of the Salt Lake County Recorder and in the NW1/4 SW1/4 of Section 13, T.1S., R.2W., S.L.B.& M. The boundaries of said parcel of land are described as follows:

Beginning at a point in the existing northerly right of way line of 1730 South Street, which is 51.39 feet N.89°51'57"E. from the southwest corner of said Lot 2, said point is also 43.00 feet perpendicularly distant northerly from the 1730 South Street Right of Way Control Line opposite approximate engineer station 2001+26.50; and running thence N.00°08'03"W. 6.50 feet to a point 49.50 feet perpendicularly distant northerly from said control line opposite engineer station 2001+26.50; thence N.89°51'57"E. 164.00 feet along a line parallel with said control line to a point opposite engineer station 2002+90.50; thence S.83°00'33"E. 80.62 feet to a

point 39.50 feet perpendicularly distant northerly from said control line opposite engineer station 2003+70.50; thence N.89°51'57"E. 53.00 feet along a line parallel with said control line to a point opposite engineer station 2004+23.50; thence S.87°19'32"E. 132.66 feet to the existing northerly right of way line of 1730 South Street at a point 33.00 feet perpendicularly distant northerly from said control line opposite engineer station 2005+56.00; thence along said existing northerly right of way line the following three (3) courses: (1) S.89°51'57"W. (S.89°52'14"W. by record) 236.57 feet; thence (2) N.86°19'12"W. (N.86°18'55"W. by record) 150.33 feet; thence (3) S.89°51'57"W. (S.89°52'14"W. by record) 42.93 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described parcel of land contains 3,222 square feet in area or 0.074 acre, more or less.

(Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

Parcel No. F-0172:103:E

A perpetual easement, upon part of an entire tract of property, situate in Lot 2, Landmark Commerce Center Phase 1 and California Avenue Road Dedication plat, recorded as Entry No. 9803753, Book 2006P, Page 222, in the office of the Salt Lake County Recorder and in the SW1/4 NW1/4 of Section 13, T.1S., R.2W., S.L.B.& M., in Salt Lake County, Utah, for the purpose of constructing, maintaining and repairing a storm drain pipe and appurtenant parts thereof to facilitate the widening of 5600 West Street (SR-172) known as Project No. F-0172(32)7. This easement shall run with the Real Property and shall be binding upon the owner, parties of interest, or their successors, heirs and assigns. The boundaries of said easement upon part of an entire tract of property are described as follows:

Beginning at a point in the existing easterly right of way line of 5600 West Street (SR-172), which point is 171.16 feet N.00°00'16"W. from the southwest corner of said Lot 2, said point is also 75.00 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite engineer station 36+90.50; and running thence N.00°00'16"W. 10.00 feet along said existing easterly right of way line parallel with said control line to a point opposite engineer station 37+00.50; thence N.89°59'44"E. 17.50 feet; thence S.00°00'16"E. 10.00 feet; thence S.89°59'44"W. 17.50 feet to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

The above described easement upon part of an entire tract of property contains 175 square feet in area or 0.004 acre, more or less.

(Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

8. This Order is entered without prejudice to the right of the Defendant(s) to contest

the amount of just compensation to be paid to the Defendant(s) for the Subject Property. Pursuant to Utah Code § 78B-6-510(5)(c)(i), if any additional compensation were ordered to be paid to the Defendant(s) for the acquisition of the Subject Property, such additional compensation amount would bear interest at an annual rate of 8% over and above the sum deposited with the Court in connection with this Order of Immediate Occupancy, with interest to be calculated from the date of entry of this Order.

9. After UDOT's deposit of the funds in accordance with this Order, such deposited funds may be released by the Clerk of Court and paid only upon further order of this Court. Such payment shall only be made in accordance with Utah Code § 78B-6-510.

**ENTERED BY THE COURT AS OF THE DATE THE COURT'S STAMP IS
AFFIXED TO THE FIRST PAGE OF THIS DOCUMENT**

Approved as to form and substance:

/s/ Ryan B. Hancey

Ryan B. Hancey

Attorney for Parkwood Arizona LLC

(signature added with permission)

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February 2020, I served the foregoing **ORDER OF IMMEDIATE OCCUPANCY AS TO PARKWOOD ARIZONA LLC** by serving a copy vial electronic filing upon the following:

Ryan B. Hancey
68 South Main Street, Suite 200
Salt Lake City, Utah 84101
rhancey@keslerrust.com
Attorney for Parkwood Arizona, LLC

/s/ James L. Warlaumont

James L. Warlaumont