

FILED DISTRICT COURT
Third Judicial District

AUG 28 2002

SALT LAKE COUNTY
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By _____ Deputy Clerk

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10/28/2002 11:56 AM NO FEE
Book - 8672 Pg - 5557-5565
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
UT ST-DEPT OF TRANSPORTATION
BOX 148440 ATT: J.R. PLUMBHOFF
SLC UT 84114-8440
BY: RDJ, DEPUTY - MA 9 P.

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

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

RODNEY K. WILKERSON; and ZIONS
BANK,

Defendants.

**ORDER OF IMMEDIATE
OCCUPANCY**

Project No. SP-0071(12)1
Parcel Nos. 19, 19:E and 19:2E

Civil No. 020904913

Judge Roger A. Livingston

Plaintiff's Motion for an Order of Immediate Occupancy having been submitted to the Court for decision, together with a Memorandum and an Affidavit and no objection thereto having been filed by the Defendants and the Court having determined from the pleadings that the Plaintiff has the right of eminent domain, and that the purpose for which the premises sought by the Complaint herein to be condemned is a public purpose and that the immediate occupancy of said premises is necessary and proper,

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NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff is hereby authorized to occupy the property of the Defendants, which is sought by this action for highway purposes, all such property interests or other rights as required by the Plaintiff are set out and described in resolution attached as Exhibit A to Plaintiff's Complaint, a copy of which is attached hereto. The Plaintiff is hereby permitted to take immediate possession of the properties of the Defendants as described in Plaintiff's Complaint and to continue possession thereof pending further hearing or trial on the issues that may be raised in this action and to do such work thereon as may be required for the purposes for which said premises are sought to be condemned.

IT IS FURTHER ORDERED that during construction of the project and pending the hearing on the issues presented, that prior to the destruction or removal of any fence on or along the property condemned, the Plaintiff shall make adequate provisions for a fence along the right-of-way so as to provide fencing protection to the properties affected hereby at least equal to that now provided for each of such properties.

IT IS FURTHER ORDERED that pending further hearing or trial on the issues that may be presented in this action, the Defendants and their agents, servants and employees are hereby enjoined from interfering with Plaintiff's occupation of the property, or in the doing of such work thereon as may be required for the purposes for which it is sought to condemn the property as set forth in the Complaint.

This Order shall not be effective until the Plaintiff has deposited with the Clerk of the Court, for the use and benefit of the Defendant parties in interest, the full dollar amount of Plaintiff's approved appraisal of the Defendants' property which is to be acquired in this action.

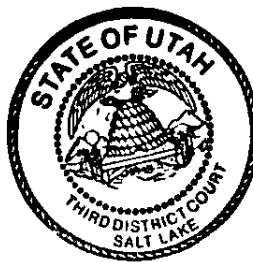
IT IS FURTHER ORDERED that on receipt of said monies, the Clerk of this Court shall remit the same to the appropriate Defendants in the percentage and portion to which each is entitled.

DATED this 28th day of April, 2002.

BY THE COURT:



ROGER A. LIVINGSTON
District Court Judge



I CERTIFY THAT THIS IS A TRUE COPY
OF AN ORIGINAL DOCUMENT ON FILE
IN THE THIRD DISTRICT COURT SALT
LAKE COUNTY STATE OF UTAH

DATE 10-21-02



DEPUTY COURT CLERK

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing ORDER OF IMMEDIATE OCCUPANCY was mailed, postage prepaid, on this 19th day of August, 2002, to the following:

Rodney K. Wilkerson
679 West 12300 South
Draper, UT 84020

Amy Casteline
Secretary

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EXHIBIT A

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CONDEMNATION RESOLUTION
HIGHWAY PROJECT N^o. SP-0071(12)1
12300 South, 950 West to 265 West

- I. The Utah Department of Transportation (UDOT) has determined:
 - A. That the public interest and necessity require the acquisition and immediate occupancy of the real property, or interest in real property, described in this Resolution;
 - B. That the real property, or interest in real property described herein, is needed for a state transportation purpose, as defined in Utah Code Ann. § 72-5-102, and is planned and located in a manner most compatible with the greatest public good and the least private injury, in accordance with Utah Code Ann. § 78-34-5; and
 - C. That the real property, or interest in real property included herein, if sought for the purpose of mitigating the impacts of construction, reconstruction, alteration, or maintenance on state highways, or the mitigation of impacts from public transportation projects, is subject to acquisition under S.B. 256, Transportation Amendments (2001 General Session of the Utah Legislature), UDOT having previously determined that public interest and necessity require the desired mitigation.
- II. UDOT requests that the Attorney General of Utah:
 - A. Acquire, in UDOT's name, the real property, or interest in real property, described in this Resolution, pursuant to the applicable eminent domain laws and statutes of the State of Utah;
 - B. Prosecute or undertake appropriate legal action as necessary in a court of proper jurisdiction for the purpose of acquiring the real property, or interest in real property sought by this Resolution;
 - C. Obtain an order permitting UDOT to take immediate possession and use of the real property, or interest in real property, or for incidental purposes described herein.
- III. UDOT requests that the State Finance Director:
 - A. Prepare a state warrant in the amount of the approved appraisal of each parcel of real property, or interest in real property, set forth and described in this Resolution, with the payee to be the Clerk of the District Court for the County in which the property is located, for the use and benefit of the landowners or lien holders as described in this Resolution;
 - B. Tender to the landowners a sum equal to the fair market value of the property to be acquired in exchange for rights-of-way before issuance of an Order of Immediate Occupancy.
- IV. The real property, or interest in real property which UDOT is authorizing for acquisition, is located in Salt Lake County and described below.

HIGHWAY PROJECT NO. SP-0071(12)1

RECORDED OWNER: Rodney K. Wilkerson
ADDRESS: 679 West 12300 South
Draper, Utah 84020

PARTY IN INTEREST: Zions Bank
ADDRESS: 2460 South 3270 West
West Valley, Utah 84119

LIEN HOLDER: None of record

APPROVED APPRAISAL: \$3,600.00

TAX ID NO. 27-25-302-003

Parcel No. 0071:19

A parcel of land in fee for the purpose of widening 12300 South Street, known as Project No. 0071, being part of an entire tract of property situate in the W½SW¼ of Section 25, T.3 S., R.1 W., SLB&M. The boundaries of said parcel of land are described as follows:

Beginning at the northwest corner of said entire tract, which point is 1804.60 feet West and 1597.67 feet (Record: 1600.50 feet, more or less, and in some deeds as 1576.00 feet) N. 1° 51'00" W. and 572.78 feet (Record: 593.88 feet) West from the Southeast Corner of the Southwest Quarter of said Section 25; and running thence South 33.00 feet along the westerly boundary line of said entire tract, to a point 56.49 feet radially distant southerly from the centerline of said 12300 South Street, opposite Engineers Station 217+43.73; thence East 118.75 feet to the easterly boundary line of said entire tract; thence North 33.00 feet along said easterly boundary line to the northeast corner of said entire tract; thence West 118.75 feet along the northerly boundary line of said entire tract to the point of beginning. The above described parcel of land contains 3919 square feet (0.090 acres) in area, all of which is now occupied by the existing street. Balance 0 square feet (0.000 acres) in area.

(Note: Rotate all bearings in the above description 0°16'02" clockwise to equal highway bearings.)

Parcel No. 0071:19:E

A perpetual easement, upon part of an entire tract of property situate in the W½SW¼ of Section 25, T.3 S., R.1 W., SLB&M., for the purpose of constructing thereon public utilities, and appurtenant parts thereof, to facilitate the widening of 12300 South Street, known as Project No. 0071. The boundaries of said part of an entire tract are described as follows:

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HIGHWAY PROJECT NO. SP-0071(12)1

Beginning at the intersection of the southerly right of way line of said 12300 South Street and the westerly boundary line of said entire tract, which point is 56.49 feet radially distant southerly from the centerline of said 12300 South Street, opposite Engineers Station 217+43.73, which point is also 1804.60 feet West and 1597.67 feet (Record: 1600.50 feet, more or less, and in some deeds as 1576.00 feet) N. 1°51'00" W. and 572.78 feet (Record: 593.88 feet) West and 33.00 feet South from the Southeast Corner of the Southwest Quarter of said Section 25; and running thence East 118.75 feet along said southerly right of way line to the easterly boundary line of said entire tract; thence South 7.00 feet along said easterly boundary line; thence West 118.75 feet to the westerly boundary line of said entire tract; thence North 7.00 feet along said westerly boundary line to the point of beginning. The above described part of an entire tract contains 831 square feet (0.019 acres) in area.

(Note: Rotate all bearings in the above description 0°16'02" clockwise to equal highway bearings.)

After said public utilities are constructed on the above described lands at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages, or maintenance charges which may accrue against said public utilities and appurtenant parts thereof.

Parcel No. 0071:19:2E

A temporary easement, upon part of an entire tract of property situate in the W½SW¼ of Section 25, T.3 S., R.1 W., SLB&M., for the purpose of constructing thereon cut and/or fill slopes, driveway, and appurtenant parts thereof, to facilitate the widening of 12300 South Street, known as Project No. 0071. The boundaries of said part of an entire tract are described as follows:

Beginning at a point which is 1804.60 feet West and 1597.67 feet (Record: 1600.50 feet, more or less, and in some deeds as 1576.00 feet) N. 1°51'00" W. and 572.78 feet (Record: 593.88 feet) West and 40.00 feet South and 61.17 feet East from the Southeast Corner of the Southwest Quarter of said Section 25; and running thence East 22.00 feet; thence South 5.00 feet; thence West 22.00 feet; thence North 5.00 feet to the point of beginning. The above described part of an entire tract contains 110 square feet (0.003 acres) in area.

(Note: Rotate all bearings in the above description 0°16'02" clockwise to equal highway bearings.)

The hereinabove described temporary easement shall expire upon completion of said project, or 3 years after the date of the execution of the within instrument, whichever first occurs.

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HIGHWAY PROJECT NO. SP-0071(12)1

After said cut and/or fill slopes, driveways, and appurtenant parts thereof are constructed at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said cut and/or fill slopes, driveways, and appurtenant parts thereof.