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CAROL DEAN PAGE, DAVIS CNTY RECORDER  
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REC'D FOR WARD, STEPHEN C.

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IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR  
DAVIS COUNTY, STATE OF UTAH

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT,	)	
	)	ORDER OF IMMEDIATE OCCUPANCY
Plaintiff,	)	
	)	
vs.	)	
	)	
CLARENCE L. BIRT; LAVON B. HARVATIN; LEUJENE B. WEST; and LARNA B. HAVIN	)	Civil No. 950700383
	)	
Defendants.	)	Judge Rodney S. Page

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,

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED, that the Plaintiff be and is hereby permitted and authorized to occupy the premises belonging to the Defendants above named by having the terms of the easement imposed thereon pending further hearing or trial on the issues that may be raised by this action. The easement terms and purposes, as required by the Plaintiff, and the property belonging to the Defendants as affected thereby are set out and described in the Complaint on file in this action, and in the condemnation resolution filed in this action, a copy of which is hereto annexed and the Plaintiff is hereby permitted to take immediate possession of said properties of said Defendants by having the terms of its easement as described in Plaintiff's Complaint effective and continue pending further hearing and trial on the issues that may be raised in this action.

This Order shall not be effective until the Plaintiff herein has deposited with the Clerk of the Court, for the use and benefit of the Defendant parties in interest herein, the full dollar amount of the approved appraisal of the easement interests to be acquired in this action.

IT IS FURTHER ORDERED that on receipt of said moneys, 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 8<sup>th</sup> day of February, 1996.

BY THE COURT:

Rodney S. Page  
RODNEY S. PAGE  
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER OF IMMEDIATE OCCUPANCY was mailed, postage prepaid, this 30 day of January, 1996, to:

J. D. Poorman  
Attorney for Defendant  
3856 Washington Blvd.  
Ogden, UT 84403

J. D. Poorman

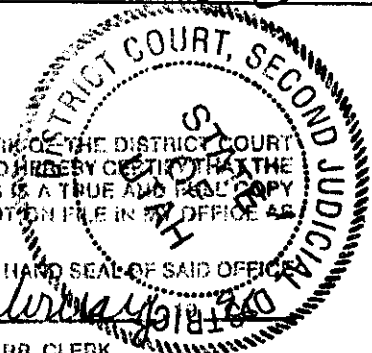
STATE OF UTAH )  
COUNTY OF DAVIS ) ss.

I, THE UNDERSIGNED, CLERK OF THE DISTRICT COURT OF DAVIS COUNTY, UTAH, DO HEREBY CERTIFY THAT THE ANNEXED AND FOREGOING IS A TRUE AND FAITHFUL COPY OF AN ORIGINAL DOCUMENT ON FILE IN MY OFFICE AS SUCH CLERK.

WITNESS MY HAND AND SEAL OF SAID OFFICE

THIS 9 DAY OF February  
PAULA CARR, CLERK

BY: Paula Carr



CONDEMNATION RESOLUTION

HILL AIR FORCE BASE EASEMENT ACQUISITION PROJECT

RESOLVED by the Utah Department of Community and Economic Development, hereinafter referred to as the Department, that it finds and determines and hereby declares that:

The Utah State Legislature enacted Title 63, Chapter 43a, Section 1, et seq., Utah Code Annotated, 1953, as amended, which directs the acquisition by the Department of restrictive easements against certain real properties located near Hill Air Force Base, which easement and real property is more particularly described hereinafter.

BE IT FURTHER RESOLVED by said Department that the Attorney General of Utah shall be requested, on behalf of said Department:

To acquire in the name of the Department the restrictive easement described on the attached page against the real property described on the attached pages by condemnation in accordance with the provisions of the Statutes and of the Constitution of Utah relating to eminent domain.

To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as are necessary for acquisition of such restrictive easement.

To obtain from said court an order permitting said Department to obtain said restrictive easement for public purposes.

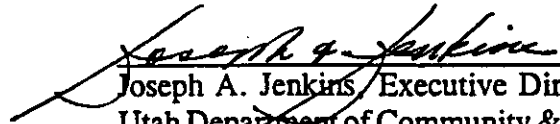
BE IT FURTHER RESOLVED that the State Finance Director shall be requested on behalf of said Department:

To prepare a State Warrant in the amount of the approved appraisal of each restrictive easement; payee to be the Clerk of the District Court of the County wherein the affected real property is located, for the use and benefit of the landowners and/or lien holder as described herein;

That a tender to the landowners of a sum equal to the appraised value of the restrictive easement to be acquired shall be made prior to issuance of an Order of Immediate Occupancy.

The restrictive easement against real property, or interest in real property, which the Department is by this resolution authorized to acquire for said public use, is situate in the County of Davis, State of Utah, and is described on the attached pages.

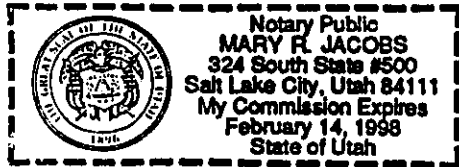
The foregoing Condemnation Resolution is hereby approved by the Director of the Department of Community and Economic Development pursuant to the provisions of 63-49a-1, et seq., Utah Code Annotated, on this 8th day of November, 1995

  
\_\_\_\_\_  
Joseph A. Jenkins / Executive Director  
Utah Department of Community & Economic  
Development

On the 8th day of November, 1995, personally appeared before me Joseph A. Jenkins, who by me duly sworn did say that he is the Executive Director of the Department of Community & Economic Development and he further acknowledged to me that said instrument was signed by him in behalf of said Utah Department of Community & Economic Development.

My Commission Expires: 2-14-98

  
\_\_\_\_\_  
Notary Public



**LAND USE EASEMENT  
(APZ 1)**

The property hereinafter described will by this action be subject to a perpetual Land Use Easement for the purpose of protecting the health and safety of the citizens of Utah and assuring the continued operation of Hill Air Force Base as an active military base, as recited by Section 63-49a-1 et seq; Utah Code Annotated, 1953, as amended. Said easement regulates the use of the land hereinafter described and makes it subject to the following restrictions.

1. Owners of the hereinafter described property (Owners) shall not use or permit any use of said property or any of the air space above said tract of land for any purpose other than the following:

**A. INDUSTRIAL-MANUFACTURING**

- (1) Lumber and Wood Products
- (2) Furniture and Fixtures
- (3) Paper and Allied Products
- (4) Printing, Publishing
- (5) Food and Kindred Products
- (6) Textile Mill Products
- (7) Rubber and Misc. Plastics
- (8) Stone, Clay and Glass
- (9) Fabricated Metal
- (10) Miscellaneous Manufacturing, except for chemicals, primary metal industry, professional, scientific and controlling instruments, photographic and optical goods, watches and clocks, petroleum refining, apparel and leather-goods manufacturing

**B. TRANSPORTATION - COMMUNICATIONS & UTILITIES**

- (1) Railroad, Rapid Rail Transit, except for terminals
- (2) Highway and Street Right of Way
- (3) Auto Parking
- (4) Communications, except noise sensitive
- (5) Utilities, except for major above ground transmission lines
- (6) Other Transportation, Communications and Utilities

**C. COMMERCIAL - RETAIL TRADE**

- (1) Wholesale Trade
- (2) Building Materials - Retail
- (3) Automotive, Marine
- (4) Furniture, Home Furnishings, Retail
- (5) Retail - Trade Food
- (6) Retail - Trade Apparel
- (7) Miscellaneous Retail Trade, except for eating and drinking establishments
- (8) Storage Units

**D. PUBLIC AND QUASI PUBLIC SERVICES**

- (1) Cemeteries
- (2) Business Services
- (3) Repair Services
- (4) Contract Construction Services

**E. OUTDOOR RECREATION**

- (1) Golf Course, Riding Stables (without Clubhouse)
- (2) Water Based Recreational
- (3) Nature Exhibition
- (4) Parks
- (5) Miscellaneous Outdoor, except for cultural activities (including churches), public assemblies, auditoriums, concert halls, outdoor music shells, amphitheaters, outdoor sports arenas, spectator sports, amusement and resorts, and group camps

**F. RESOURCE PRODUCTION, EXTRACTION AND OPEN SPACE**

- (1) Agriculture
- (2) Livestock Farming, Animal Breeding
- (3) Forestry Activities
- (4) Fishing Activities & Related Services
- (5) Mining Activities
- (6) Permanent Open Space
- (7) Water Areas
- (8) Other Resource Extraction and Production

2. No residential dwellings shall be allowed under any of the above mentioned uses.
3. Regardless of those uses shown above as permitted, in no case shall any use be made of any of the above property which will result in any of the following: (a) A concentration of persons having an average density of more than (1) per three hundred (300) square feet of building or outdoor facility space, or (b) A concentration of persons having an overall density greater than ten (10) within a building or buildings or outdoor facilities per acre of land, or (c) A concentration of persons in a number greater than twenty-five (25) per building or outdoor facility.
4. Measures to achieve Noise Level Reduction (NLR) of 30 db or 35 db must be incorporated into the design and construction of occupied portions of all facilities constructed in the 75-80 or 80+ LdN areas respectively.
5. Improvements located on the property subject to this easement at the time said easement is executed shall not be required to be removed. Single family dwellings in existence at the time this document is executed shall not be converted into multiple family dwellings.
6. The uses allowed under this easement shall not affect restrictions placed on the property by zoning ordinances and uses which may be permitted in this easement may be prohibited

by zoning ordinances. The restrictions of this easement shall not apply to use existing at the time the easement is executed.

7. The Owners, their successors or assigns, shall not construct or place, or cause to be constructed or placed, any improvement upon the property subject to this easement which will exceed a height of 257 feet.

8. Any use made of the property subject to this easement by the Owners, their successors, or assigns, shall be such that no smoke, dust, steam or other substances is released into the airspace which would interfere with pilot vision.

9. The Owners shall not put said property to a use which will produce light emissions, either direct or indirect (reflections), which would interfere with pilot vision or a use which would produce electrical or other emissions which would interfere with aircraft communication systems or navigational equipment.

The description of the tract of land upon which said perpetual easement is to be imposed is as described on the attached pages:



PROPERTY #503

E 1227583 B 1967 P 1477

RECORDED OWNER:

Clarence L. Birt  
Joint Tenant, Equal Undivided  
One-Fourth Interest

ADDRESS:

185 East South Weber Drive  
South Weber, UT 84405

RECORDED OWNER:

Lavon B. Harvatin  
Joint Tenant, Equal Undivided  
One-Fourth Interest

ADDRESS:

5581 West Elane Ave.  
West Valley, UT 84120

RECORDED OWNER:

Leujene B. West  
Joint Tenant, Equal Undivided  
One-Fourth Interest

ADDRESS:

119 East South Weber Drive  
South Weber, UT 84405

RECORDED OWNER:

Larna D. Haven  
Joint Tenant, Equal Undivided  
One-Fourth Interest

ADDRESS:

569 South 600 West  
Provo, UT 84601

PARTY IN INTEREST:

Clarence H. Birt and Martha A.  
Birt

ADDRESS:

130 East South Weber Drive  
South Weber, UT 84403

LIEN HOLDERS:

None of record

APPRAISED VALUE:

\$25,000.00

PARCEL NO. 503:

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF DAVIS, STATE OF UTAH, AND IS DESCRIBED AS FOLLOWS:

BEGINNING 1320 FEET NORTH OF THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, AND RUNNING THENCE WEST 2000 FEET, MORE OR LESS, ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 19 TO THE NORTHEASTERLY RIGHT OF WAY LINE OF THE DAVIS AND WEBER COUNTIES CANAL COMPANY; THENCE SOUTHEASTERLY ALONG SAID RIGHT OF WAY LINE TO THE EAST LINE OF SAID SECTION 19; THENCE NORTH 860 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

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