

The Order of the Court is stated below:

Dated: February 14, 2020
09:14:38 AM

/s/ TERESA WELCH
District Court Judge



JAMES L. WARLAUMONT (#3386)
ANDREW R. KOLTER (#13545)
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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: 2/14/2020
DEPUTY COURT 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. 105, 105:E, 105:2E, 105:3E, 105:C
Affecting Tax ID No. 14-13-100-010

Civil Number 200900200

Judge Teresa Welch

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03/03/2020 09:43 AM \$0.00
Book - 10904 Pg - 5471-5478
RASHELLE HOBBS
RECORDER, SALT LAKE COUNTY, UTAH

UT ST-DEPT OF TRANSPORTATION
BOX 149420 ATT: MOHE WARDLE
SLC UT 84114-8420
BY: DSA, DEPUTY - WI 8 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.*

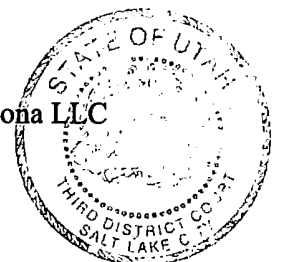
5. Pursuant to Utah Code Ann. § 78B-6-510(2), the Court has taken proof by declaration that:

(a) UDOT's approved appraised value of the premises sought to be condemned is in the amount of (\$807,200.00);

(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 \$807,200.00 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.

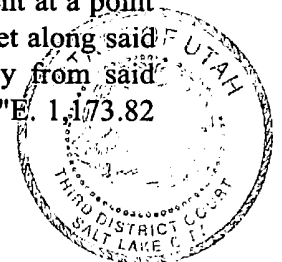
7. The Plaintiff, its agents, contractors, assignees and permittees are granted the right to immediate occupancy of the following premises, *pendente lite*, and to do whatever testing, construction, relocation of utilities, and other work thereon as may be required in furtherance of the project described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

Tax Id No. 14-13-100-010

Parcel No. F-0172:105

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 the SW1/4 NW1/4 and the NW1/4 NW1/4 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 intersection of the existing easterly right of way line of 5600 West Street (SR-172) and the existing southerly right of way line of California Avenue, which intersection is 84.04 feet S.00°00'16"E. along the section line and 40.00 feet N.89°59'44"E. from the Northwest Corner of said Section 13, said intersection is also 40.00 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite approximate engineer station 62+34.81; and running thence S.89°56'57"E. 77.67 feet along said existing southerly right of way line; thence S.00°03'03"W. 10.00 feet to a point 94.00 feet perpendicularly distant southerly from said the California Avenue Right of Way Control Line opposite engineer station 3008+17.75; thence S.42°02'08"W. 83.12 feet to a point 62.00 feet perpendicularly distant easterly from said 5600 West Street Right of Way Control Line opposite engineer station 61+63.00; thence S.00°00'16"E. 82.42 feet along a line parallel with said control line to the southerly line of the Lee Drain Easement at a point opposite approximate engineer station 60+80.58; thence N.82°46'09"E. 61.49 feet along said southerly easement line to a point 123.00 feet perpendicularly distant easterly from said control line opposite approximate engineer station 60+88.32; thence S.00°00'16"E. 1,173.82



feet along a line parallel with said control line to a point opposite engineer station 49+14.50; thence S.89°59'44"W. 62.50 feet to a point 60.50 feet perpendicularly distant easterly from said control line opposite engineer station 49+14.50; thence S.00°00'16"E. 683.25 feet along a line parallel with said control line to the southerly boundary line of said entire tract at a point opposite approximate engineer station 42+31.25; thence S.89°58'48"W. 20.50 feet along said southerly boundary line to said existing easterly right of way line; thence N.00°00'16"¹¹W. 2,003.57 feet along said existing easterly right of way line 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 116,697 square feet in area or 2.679 acres, more or less.

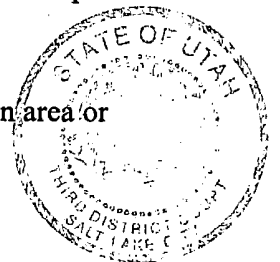
(Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

Parcel No. F-0172:105:2E

A perpetual easement, upon part of an entire tract of property, situate in the NW1/4 NW1/4 of Section 13, T.1S., R.2W., S.L.B.& M., in Salt Lake County, Utah, for the purpose of constructing and maintaining a storm drain pipe and appurtenant parts thereof to facilitate the construction of the widening of 5600 West Street (SR-172) known as Project No. F-0172(32)7. This easement includes the right to construct, maintain, and continue the existence of said storm drain pipe as constructed by UDOT. This easement shall run with the Real Property and shall be binding upon the owner, interest holder(s), 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 84.04 feet S.00°00'16"E. along the section line and 40.00 feet N.89°59'44"E. and 71.80 feet S.00°00'16"E. and 22.00 feet N.89°59'44"E. from the Northwest Corner of said Section 13, said point is also 62.00 feet perpendicularly distant easterly from said control line opposite engineer station 61+63.00; and running thence N.42°02'08"E. 27.95 feet to the northerly line of the Lee Drain Easement; thence N.82°46'09"E. 11.37 feet along said northerly line; thence S.00°00'16"E. 100.80 feet to the southerly line of the Lee Drain Easement; thence S.82°46'09"W. 30.24 feet along said southerly line to a point 62.00 feet perpendicularly distant easterly from said control line opposite approximate engineer station 60+80.58; thence N.00°00'16"W. 82.42 feet along a line parallel with said control line 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 2,852 square feet in area or



0.065 acres, more or less.

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

Parcel No. F-0172:105:3E

A temporary easement, upon part of an entire tract of property, situate in the NW1/4 NW1/4 of Section 13, T.1 S., 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 and interest holder(s) 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:

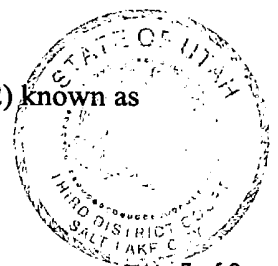
Beginning at a point in the existing southerly right of way line of California Avenue, which is 84.04 feet S.00°00'16"E. along the section line and 40.00 feet N.89°59'44"E. and 183.92 feet S.89°56'57"E. from the Northwest Corner of said Section 13, said point is also 84.00 feet perpendicularly distant southerly from the California Avenue Right of Way Control Line opposite approximate engineer station 3009+24.00; and running thence S.89°56'57"E. 73.00 feet along said existing southerly right of way line; thence S.84°40'25"W. 186.83 feet; thence N.42°02'08"E. 10.10 feet to a point 94.00 feet perpendicularly distant southerly from said control line opposite engineer station 3008+17.75; thence N.84°40'25"E. 106.72 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 1,004 square feet in area or 0.023 acre, more or less.

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

Parcel No. F-0172:105: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 the NW1/4 NW1/4 of Section 13, T.1 S., R.2W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point in the existing southerly right of way line of California Avenue, which is 84.04 feet S.00°00'16"E. along the section line and 40.00 feet N.89°59'44"E. and 77.67 feet S.89°56'57"E. from the Northwest Corner of said Section 13, said point is also 84.00 feet perpendicularly distant southerly from the California Avenue Right of Way Control Line opposite approximate engineer station 3008+17.75; and running thence S.89°56'57"E. 106.25 feet along said existing southerly right of way line parallel to said control line to a point opposite engineer station 3009+24.00; thence S.84°40'25"W. 106.72 feet to a point 94.00 feet perpendicularly distant southerly from said control line opposite engineer station 3008+17.75; thence N.00°03'03"E. 10.00 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.

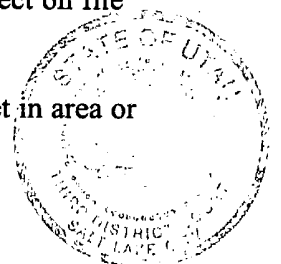
The above described parcel of land contains 531 square feet in area or 0.012 acre, more or less. (Note: Rotate all bearings in the above description 00°15'07" clockwise to obtain highway bearings.)

Parcel No. F-0172:105:E

A perpetual easement, upon part of an entire tract of property, situate 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 and maintaining a storm drain pipe, drainage facilities 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, interest holder(s), 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 southerly boundary line of said entire tract, which point is 84.04 feet S.00°00'16"E. along the section line and 40.00 feet N.89°59'44"E. and 2,003.56 feet S.00°00'16"E. and 20.50 feet N.89°58'48"E. from the Northwest Corner of said Section 13, said point is also 60.50 feet perpendicularly distant easterly from the 5600 West Street Right of Way Control Line opposite engineer station 42+31.25; and running thence N.00°00'16"W. 683.25 feet along a line parallel with said control line to a point opposite engineer station 49+14.50; thence N.89°59'44"E. 30.00 feet; thence S.00°00'16"E. 683.25 feet to said southerly boundary line; thence S.89°58'48"W. 30.00 feet along said southerly boundary line 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 20,497 square feet in area or



0.471 acres, 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.

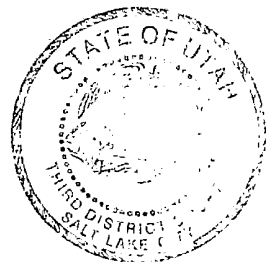
Such payment shall only be made in accordance with Utah Code § 78B-6-510.

**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 L.L.C.
(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

