

Recorded at request of State Dept of Highways Fee Paid \$ 7.00 per
Date MAR 27 1969 at 10:43 A.M MARGUERITE S. BOURNE Recorder Davis County
BY Grace Hansrud Deputy Book 411 Page 44

329718

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



STATE OF UTAH, by and through :
its ROAD COMMISSION,

Plaintiff, :

ORDER OF

-v-

IMMEDIATE OCCUPANCY

FLORA MAE LOVE, a widow; and :
BYRON H. NAISBITT and CAROL P. :
NAISBITT, his wife; and :
FRANK L. HART and ALETHEA :
HART, his wife, :

Civil No. 14200

Project No. F-030-1-(4)
Parcel No. 62D:A

Defendants. :

The plaintiff's motion for an order of immediate occupancy having come on regularly for hearing before the above entitled court on the 11 day of March, 1969, at the hour of 10:00 A.M., and it having been shown to the satisfaction of said court that notice of such motion has been given to the defendants above named in the manner prescribed by law; and the court having heard the evidence offered by the plaintiff in support of such motion and have determined that the plaintiff has the rights 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, which premises are sought for highway purposes or concerning which premises, easements or other rights for highway purposes are sought, all such property, easements or other rights as required by the plaintiff herein, and the property belonging to the defendants as affected thereby

Entered

being particularly 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 hereby annexed, and the plaintiff is hereby permitted to take immediate possession of said properties of said defendants as required and as described and as set out in the plaintiff's complaint and to continue the possession of the same pending further hearing and 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 and according to the nature thereof.

IT IS FURTHER ORDERED that during construction of the project and pending the hearing on the issues presented, the plaintiff shall protect any private drains now crossing the proposed highway right of way, and further, 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 highway 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 AND ADJUDGED that pending further hearing and trial on the issues that may be presented in this action, and subject to the conditions herein set forth, the defendants and their agents, servants and employees be and they are hereby restrained and enjoined from hindering or interfering with plaintiff or any of the agents, employees or contractors of the plaintiff in the occupation of said premises required by plaintiff as particularly described and set forth in plaintiff's complaint, or in the doing of such work thereon as may be required for the purposes for which it is sought to condemn the said property, as set forth in said complaint.

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, a sum equal to 75 per cent of the approved appraisal of the defendants' property to be acquired in this action.

IT IS FURTHER ORDERED that on receipt of said moneys, the clerk of this court is ordered to remit the same to the appropriate defendants in the percentage and ratio to which entitled.

Dated this 11 day of March, 1969.

15/ Thornley K. Swan
DISTRICT JUDGE

STATE OF UTAH
 COUNTY OF DAVIS
 JOHN M. PARK, County Clerk and Ex-officio Clerk of the District Court of the Second Judicial District of the State of Utah, in and for the County of Davis, do hereby certify that the foregoing copy of Order of Immediate Occupancy has been by me compared with the original thereof now of record in this office and that the same is a full, true and correct transcript therefrom and of the whole of said original as the same appears of record in my office and in my custody.

IN WITNESS WHEREOF I have hereunto set my hand and official seal this 13 day of March A.D. 1969

File No. 74200

JOHN M. PARK
 Clerk

By Arlton W. Tidwell
 Deputy Clerk

Original Filed March 13, 1969

CO*030-1*62D:A

CONDEMNATION RESOLUTION
HIGHWAY PROJECT NO. F-030-1(4)
Farmington Jct. to Cherry Lane

RESOLVED, by the State Road Commission of Utah that it finds and determines and hereby declares that:

The public interest and necessity require the acquisition, construction and completion by the State of Utah acting through the State Road Commission, of a public improvement, namely a State Highway. The public interest and necessity require the acquisition and immediate occupancy, for said public improvement, of the real property, or interests in real property, hereinafter described.

Said proposed state highway is planned and located in a manner which will be most compatible with the greatest public good and the least private injury, and has been heretofore designated as a limited-access facility, as provided by Title 27, Chapter 12, Section 95, Utah Code Annotated 1953 as amended.

BE IT FURTHER RESOLVED by this Commission that the Attorney General of Utah shall be instructed and requested, on behalf of this Commission:

To acquire, in the name of the State Road Commission of Utah, the said hereinafter described real property, or interests in real property, 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 such acquisition;

To obtain, from said court, an order permitting said Commission to take immediate possession and use of said real property, or interests in real property, for highway purposes, or purposes incidental thereto.

BE IT FURTHER RESOLVED that the State Finance Director shall be instructed and requested, on behalf of this Commission:

To prepare State Warrant in a sum equal to 75% of the approved appraisal of each parcel of real property, or interest in real property set forth and described herein; payee to be the Clerk of the District Court of the County wherein the real property is located, for the use and benefit of the landowner and/or lien holder as described herein;

That a tender to the landowner of a sum equal to at least 75% of the fair market value of the property to be acquired for rights of way herein shall be made prior to issuance of Order of Immediate Occupancy;

That the payment contemplated herein shall be without prejudice to landowner.

The real property, or interests in real property, which the State Road Commission is by this resolution authorized to acquire for said public use, is situate in the County of Davis, State of Utah, Highway Project No. F-030-1(4), and is described as follows:

HIGHWAY PROJECT NO. F-030-1(4)
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RECORDED OWNER: Flora Mae Love, a widow
 ADDRESS: 271 North Highway 89, Kaysville, Utah
 CONTRACT PURCHASER: Byron H. Naisbitt and Carol P. Naisbitt, his wife
 ADDRESS: 1474 Mitchell Drive, Ogden, Utah
 CONTRACT PURCHASER: Frank L. Hart and Alethea Hart, his wife
 ADDRESS: 1454 Kingston Drive, Ogden, Utah
 Approved Appraisal: \$525.00
 Amount to be tendered landowner at time
 Order of immediate Occupancy is granted: \$470.00
 Parcel No. 030-1:62D:A

A parcel of land in fee for a frontage road incident to the construction of an expressway known as Project No. 030-1, being part of an entire tract of property, situate in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 24, T. 4 N., R. 1 W., S.L.B.&M. Said parcel of land is bounded on the westerly side by a line parallel to and 145.0 ft. distant westerly from the center line of said project. The boundaries of said parcel of land are described as follows:

Beginning in the westerly limited-access line of the existing Highway No. U.S. 89 at a point approximately 89.5 feet N. 89°46' E. and 395.3 feet N. 0°26' W. from the SE. corner of said Section 23; thence S. 82°37' W. 60.4 feet, more or less, to a point 145.0 feet perpendicular distant westerly from said center line at Engineer Station 198+14.4; thence N. 0°25' W. 183.7 feet along the said westerly side line to the northerly boundary line of said entire tract; thence N. 82°37' E. 60.4 feet along said northerly boundary line to a point 85.0 feet perpendicular distant westerly from said center line at Engineer Station 200+05.4; thence S. 0°26' E. 183.7 feet along said westerly limited-access line to the point of beginning. The above described parcel of land contains 0.25 acre, more or less. Together with any and all rights or easements appurtenant to the remaining portion of said entire tract of property by reason of the location thereof with reference to said expressway and with all abutters rights of access in and to the inner through traffic lanes of said expressway, PROVIDED, however, that such remaining property shall abut upon and have access to a frontage road which will be connected with said inner through traffic lanes only at such points as may be established by public authority.