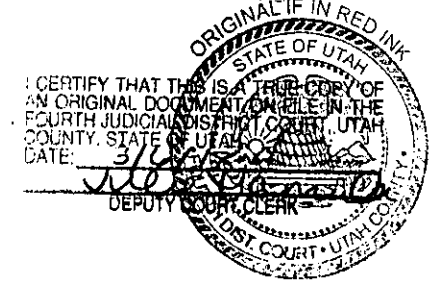


The Order of the Court is stated below:

Dated: March 06, 2018
11:05:39 AM

/s/ KRAIG POWELL
District Court Judge



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ENT 21760:2018 PG 1 of 8
JEFFERY SMITH
UTAH COUNTY RECORDER
2018 Mar 06 4:07 pm FEE 0.00 BY DA
RECORDED FOR UTAH ATTORNEY GENERAL'S OFF

IN THE FOURTH JUDICIAL DISTRICT COURT

IN AND FOR UTAH COUNTY, STATE OF UTAH

<p>UTAH DEPARTMENT OF TRANSPORTATION</p>	<p>ORDER FOR IMMEDIATE OCCUPANCY <i>PENDENTE LITE</i></p>
<p>Plaintiff,</p>	<p>Project No. S-115-6(228)280 Parcel Nos. S-115-6:281:A; S-115-6:281:E; and S-115-6:281:PUE</p>
<p>vs.</p>	<p>Affecting Utah County Tax Parcels ID Nos. 11-032-0460, 11-032-0461</p>
<p> TSAI YUEH LEE an individual; THE TRUST DATED DECEMBER 20, 2002 (ALLEN OCK- LUN LEE and SHARON KIKKAWA LEE as Trustees); THE UTAH COUNTY ASSESSOR; HA CAPITAL PARTNERS, LLC <i>aka</i> HA CAPITAL PARTNERS and JOHN DOES 1-3,</p>	<p>Civil No. 170401860</p>
<p>Defendants.</p>	<p>Judge Kraig Powell</p>

Plaintiff Utah Department of Transportation's ("UDOT") Motion for Order of Immediate Occupancy *Pendente Lite* ("Motion") having been submitted for decision and the Court having reviewed the memorandum in support thereof, and the pleadings and papers including the Declaration of Lyle McMillan, filed herein, and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Immediate Occupancy *Pendente Lite* is granted.
2. The Plaintiff, UDOT, is an agency of the State of Utah with the power of eminent domain.
3. The Plaintiff UDOT 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 sworn declaration that:
 - (a) UDOT's approved appraised value of the premises sought to be condemned is in the amount of Two Hundred Seventy-Five Thousand, Three Hundred Dollars (\$275,300);
 - (b) UDOT's appraisal determined that there are no severance damages to the remaining property; and,
 - (c) the subject property is necessary for the transportation needs of Utah County, to provide a safe means of travel and that UDOT requires speedy occupancy of said premises to avoid the waste of public resources associated with project interruptions and delay.
6. Defendants Tsai Yueh Lee, Allen Ock-Lun Lee and Sharon Kikkawa Lee as Trustees of the Trust Dated December 20, 2002 have answered the Amended Complaint and affirmatively pled (¶¶ 18,19, 20) that they do not oppose entry of an Order of Immediate

Occupancy concerning the affected property. The remaining defendants, after having been served with process and with a copy of UDOT's Motion for Immediate Occupancy have not appeared and opposed the Motion and the time for serving opposition papers has expired.

7. After entry, this Order shall be effective when the Plaintiff deposits with the Clerk of the Court the appraised value of the Subject Property interests being condemned in the sum of Two Hundred Seventy-Five Thousand, Three Hundred Dollars (\$275,300) for the purposes set forth in Utah Code Ann. § 78B-6-510.

8. UDOT, its agents, contractors, assignees and permittees are granted the right to immediate occupancy of the following described 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. 11-032-0460, 11-032-0461

Parcel No. S-I15-6:281:A

A parcel of land in fee for the widening of existing I-15, known as Project No. S-I15-6(228)280 being part of an entire tract of property situate in the NE1/4 SW1/4 of Section 31, Township 4 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the intersection of the existing northeasterly frontage road right of way line of I-15 and the southerly boundary line of said entire tract, at a point 161.02 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite approximate Engineers Station 2279+25.36, which point is 1331.13 feet N.00°12' 16"E along the Quarter Section line and 659.99 feet West and 329.94 feet S.89°56'29"W. from the South Quarter corner of said Section 31; and running thence along said existing northeasterly frontage road right of way line N.41°18'48"W. 42.20 feet to the southeasterly right of way and no-access line of existing Triumph Boulevard; thence along said southeasterly right of way and no-access line the following two (2) courses and distances: (1) N.48°48'43"E. 154.07 feet to a point 315.00 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2279+64.56, (2) thence continuing N.48°48'43"E. 195.93 feet to a full 30.00 foot access opening, as described in that certain Warranty Deed recorded as Entry No.35070:2016 in the office of the Utah County Recorder, designated as Point "CC", at a point

510.93 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite approximate Engineers Station 2279+64.56, thence S.48°48'43"W. 195.93 feet; thence S.04°39'47"W. 20.90 feet to a point 300.00 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2279+50.00, thence S.36°57'07"E. 135.37 feet; to a point 290.00 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2278+15.00, thence S.31°19'21"E. 4.65 feet more or less to the southerly boundary line of said entire tract being in a northerly boundary line of the Mountain Point Medical Center Commercial Subdivision according to the official plat thereof, recorded June 16.2015 as Entry No. 52389:2015 as map number 14642 in the office of the Utah County Recorder; thence S.89°56'29"W. 170.18 feet along said southerly boundary line of said entire tract and northerly subdivision boundary line to the point of beginning. The above described parcel of land contains 13,636 square feet in area or 0.313 acre.

To enable the Utah Department of Transportation to construct and maintain a public highway as a freeway, as contemplated by Title 72, Chapter 6, Section 117, Utah Code Annotated, 1998, as amended, the Owners of said entire tract of property hereby release and relinquish to said Utah Department of Transportation any and all rights appurtenant to the remaining property of said Owners by reason of the location thereof with reference to said highway, including, without limiting the foregoing, all rights of ingress to or egress from said Owner's remaining property contiguous to the lands hereby conveyed to or from said highway.

Parcel No. S-I15-6:281:E

A temporary easement, upon part of an entire tract of property situate in the NE1/4 SW1/4 of Section 31, Township 4 South, Range 1 East, Salt Lake Base and Meridian, in Utah County, Utah, for the purpose of widening of existing I-15, known as Project No. S-I15-6(228)280.

Non-exclusive use. The easement acquired herein does not convey any right except as stated herein, nor does it prevent Defendant(s) from the use of the real property within the easement so long as such use does not interfere with the purposes for which the easement is being acquired. This easement does not convey the right to use the easement in a manner that would deny any right the Defendant may possess of reasonable access to property outside of the easement.

Duration of easement. The easement shall begin at the time actual construction of said project is commenced at the location of the easement, and shall continue for a period of the three years or until the earlier completion of the project. The easement shall run with the real property and shall be binding on Defendant(s), their successors, heirs and assigns.

Restoration of property. UDOT will restore the real property as nearly as reasonably possible to its condition prior to any material disturbance from construction activities, consistent with project improvements.

The boundaries of said parts of an entire tract of land are described as follows:

Beginning at the intersection of the northeasterly right of way and limited-access line of said I-15 Project and the southerly boundary line of said entire tract, which point is 1331.13 feet N.00°12'16"E. along the Quarter Section line and 659.99 feet West and 159.76 feet S.89°56'29"W. from the South Quarter corner of said Section 31; and running thence along said right of way and limited-access line the following three (3) courses and distances: (1) thence N.31°19'21"W. 4.65 feet; (2) thence N.36°57'07"W. 135.37 feet; (3) thence N.04°39'47"E. 20.90 feet to the southeasterly right of way and limited-access line of Triumph Boulevard; thence N.48°48'43"E. 28.71 feet along said right of way and limited-access line to a point 343.71 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite approximate Engineers Station 2279+64.56; thence S.04°39'47"W. 33.91 feet to a point 319.38 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2279+40.94; thence S.36°57'07"E. 128.75 feet to a point 309.87 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2278+12.54; thence S.31°19'21"E. 17.78 feet more or less to the southerly boundary line of said entire tract being in a northerly boundary line of the Mountain Point Medical Center Commercial Subdivision according to the official plat thereof, recorded June 16, 2015 as Entry No. 52389:2015 as map number 14642 in the office of the Utah County Recorder at a point 306.83 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite approximate Engineers Station 2277+95.03; thence S.89°56'29"W. 23.40 feet along said southerly boundary line of said entire tract and northerly subdivision boundary line to the point of beginning. The above described part of an entire tract contains 3,413 square feet in area or 0.078 acre.

Parcel No. S-I15-6:281:PUE

A perpetual easement, upon part of an entire tract of property situate in the NE1/4 SW1/4 of Section 31, Township 4 South, Range 1 East, Salt Lake Base and Meridian in Utah County, Utah, to facilitate the widening of existing I-15, known as Project No. S-I15-6(228)280. The easement shall run with the Real Property and shall be binding upon the Grantor and the Grantors successors, heirs and assigns. The boundaries of said part of an entire tract are described as follows:

Beginning at the intersection of the northeasterly right of way and limited-access line of said I-15 Project and the southerly boundary line of said entire tract, which point is 1331.13 feet N.00°12'16"E along the Quarter Section line and 659.99 feet West and 159.76 feet S.89°56'29"W. from the South Quarter corner of said Section 31; and running thence along said

right of way and limited-access line the following three (3) courses and distances: (1) thence N.31°19'21"W. 4.65 feet; (2) thence N.36°57'07"W. 135.37 feet; (3) thence N.04°39'47"E. 20.90 feet to the southeasterly existing right of way and limited-access line of Triumph Boulevard; thence N.48°48'43"E. 14.36 feet along said existing right of way and limited-access line to a point 329.36 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite approximate Engineers Station 2279+64.56; thence S.04°39'47"W. 27.41 feet to a point 309.69 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2279+45.47; thence S.36°57'07"E. 132.06 feet to a point 299.94 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite Engineers Station 2278+13.77; thence S.31°19'21"E. 11.21 feet more or less to the southerly boundary line of said entire tract being in a northerly boundary line of the Mountain Point Medical Center Commercial Subdivision according to the official plat thereof, recorded June 16, 2015 as Entry No. 52389:2015 as map number 14642 in the office of the Utah County Recorder at a point 298.02 feet perpendicularly distant northeasterly from the right of way control line of said Project opposite approximate Engineers Station 2278+02.72; thence S.89°56'29"W. 11.70 feet along said southerly boundary line of said entire tract and northerly subdivision boundary line to the point of beginning. The above described Easement contains 1,658 square feet in area or 0.038 acre.

9. 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 Defendants for the acquisition of the Subject Property such additional compensation amount would bear interest at an annual rate of 8% over and above that 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.

10. After UDOT's deposit of the funds in accordance with this Order, such deposited funds may be released by the Clerk of Court to the respective Defendants only upon further order

of this Court.

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

Approved as to Form:

M. Dayle Jeffs
Robert L. Jeffs
Attorneys for Defendants
Tsai Yueh Lee, Allen Ock-Lun Lee and
Sharon Kikkawa Lee as Trustees
of the Trust Dated December 20, 2002

Certificate of Service

Pursuant to Rule 7(j)(6)(E) of the Utah Rules of Civil Procedure, no advance service need be made of a proposed order for a motion that has not been opposed.

I hereby certify that on February 20, 2018 a true and correct copy of the foregoing **proposed order** was served via first-class mail, postage prepaid to:

HA Capital Partners, LLC
c/o Brock Andrus, Registered Agent
14836 S. Oak Bluff Place
Draper, Utah 84020

I also certify that on February 20, 2018 true and correct copies of the foregoing **proposed order** were served via email to:

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SEAN D. REYES
Utah Attorney General

/s/ William H. Christensen
WILLIAM H. CHRISTENSEN
J. MICHAEL HANSEN
Assistant Attorneys General
Attorneys for Plaintiff