

The Order of the Court is stated below:

Dated: April 26, 2023
02:30:10 PM

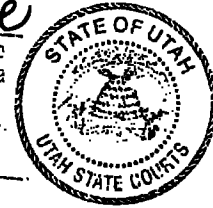
/s/ MATTHEW BATES
District Court Judge



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Attorneys for Utah Department of Transportation

STATE OF UTAH
COUNTY OF Salt Lake
I hereby certify that the document to
which this certificate is attached is a
full, true and correct copy of the
original filed in the Utah State Courts.
WITNESS my hand and seal
this 28 day of April
2023
Matthew Bates
DISTRICT JUVENILE COURT



CLERK

14106103 B: 11419 P: 5097 Total Pages: 6
05/16/2023 03:52 PM By: avice Fees: \$40.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: UTAH DEPARTMENT OF TRANSPORTATION
4501 S. 2700 W.SALT LAKE CITY, UT 84114

IN THE THIRD JUDICIAL DISTRICT COURT

SALT LAKE COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

FUR BREEDERS AGRICULTURAL
COOPERATIVE, a Utah corporation, KC
GARDNER COMPANY, L.C., a Utah limited
liability company, and JOHN DOES 1-5,

Defendants.

ORDER OF IMMEDIATE OCCUPANCY,
PENDENTE LITE

Project S-0209(35)10
UDOT Parcels No. 151B, 151B:C, 151B:E
Affecting Tax Id. No. 27-02-200-025

Civil No. 230902085

Judge Matthew Bates

Tier 2

Plaintiff's unopposed Motion for Order of Occupancy, *Pendente Lite*, having been submitted for decision and the Court having reviewed the memorandum in support thereof and the stipulation of the parties, and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Order of Occupancy is granted.

2. The Plaintiff, Utah Department of Transportation (“UDOT”), is an agency of the State of Utah with the power of eminent domain.

3. The 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 §§ 72-5-101 *et. seq.* and 78B-6-501 *et. seq.*

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

(a) UDOT’s approved appraised value of \$264,561 for Parcel 151B, \$148,781 for Parcel 151B:C, \$30,663 for the temporary easement on Parcel 151B:E, and \$4,924 for cost to cure with the total appraised value of the Subject Property being \$449,000.00 with no severance damages; and

(b) the Subject Property is necessary for the transportation needs to provide a safe means of travel, and UDOT requires speedy occupancy of the described premises to avoid the waste of public resources associated with project interruptions and delay.

6. On April 14, 2023, UDOT deposited the sum of \$449,000.00 for the appraised value of the Subject Property interests for the purposes set forth in Utah Code § 78B-6-510.

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

The Subject Property is located in Salt Lake County, Utah and described as:

Tax Id No. 27-02-200-025

Parcel No. S-0209:151B

A parcel of land in fee, being part of an entire tract of property for the widening of the existing 700 West Street known as Project No. S-0209(35)10, situate in Lot 6 of Section 2, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah. The boundaries of said parcel of land are described as follows:

Beginning at the southeast corner of said entire tract in the northerly right of way line of the existing State Route 209, which corner is 78.30 feet N.00°14'04"E. along the section line and 46.03 feet S.89°54'53"W. from the East Quarter Corner of said Section 2; and running thence S.89°54'53"W. 18.47 feet along said northerly right of way line to a line parallel with and 73.00 feet perpendicularly distant westerly from the control line of 700 West Street opposite engineer station 703+17.80; thence N.00°14'04"E. 544.20 feet along said parallel line to a point opposite engineer station 708+62.00; thence S.89°45'56"E. 64.50 feet; thence S.00°14'04"W. 105.91 feet along said section line; thence N.85°13'14"W. 4.87 feet; thence S.04°55'27"W. 184.37 feet; thence N.86°51'31"W. 9.04 feet; thence S.05°33'17"W. 85.89 feet along the westerly right of way line of 700 West Street; thence S.00°13'21"W. 90.95 feet along said westerly right of way line; thence S.06°50'19"W. 79.33 feet along said westerly 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 23,388 square feet or 0.537 acre, of which 7,354 square feet or 0.169 acre, are now occupied by the existing highway. Balance is 16,034 square feet or 0.368 acre in area.

(Note: Rotate all bearings in the above description 00°15'01" clockwise to obtain highway bearings.)

Parcel No. S-0209:151B:C

A parcel of land in fee, being part of an entire tract of property for the widening of the existing 700 West Street known as Project No. S-0209(35)10, situate in Lot 6 of Section 2, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah. The boundaries of said parcel of land are described as follows:

Beginning at a point in the easterly boundary line of said entire tract in the easterly Section Line of said Section 2, which point is 622.14 feet N.00°14'04"E. along said section line from the East Quarter Corner of said Section 2, said point is also 8.50 feet perpendicularly distant westerly from the control line of 700 West Street opposite engineer station 708+62.00; and running thence N.89°45'56"W. 64.50 feet to a line parallel with and 73.00 feet

perpendicularly distant westerly from said control line opposite engineer station 708+62.00; thence N.00°14'04"E. 39.50 feet along said parallel line to a point opposite engineer station 709+01.50; thence N.03°53'12"E. 494.50 feet to a point in the westerly right of way line of 700 West Street 41.50 feet perpendicularly distant westerly from said control line opposite engineer station 713+95.00; thence S.89°45'56"E. 33.00 feet to said section line; thence S.00°14'04"W. 533.00 feet along said section 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 26,606 square feet or 0.611 acre, of which 17,589 square feet or 0.404 acre, are now occupied by the existing highway. Balance is 9,017 square feet or 0.207 acre in area.

(Note: Rotate all bearings in the above description 00°15'01" clockwise to obtain highway bearings.)

Parcel No. S-0209:151B:E

A temporary easement, upon part of an entire tract of property, situate in Lot 6 of Section 2, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah, to facilitate the construction of 700 West Street known as Project No. S-0209(35)10. 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 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 are described as follows:

Beginning at a point in the northerly right of way line of the existing State Route 209, which point is 78.30 feet N.00°14'04"E. along the section line and 64.50 feet S.89°54'53"W. from the East Quarter Corner of said Section 2; said point is also 73.00 feet perpendicularly distant westerly from the control line of 700 West Street opposite engineer station 703+17.80; thence S.89°54'53"W. 7.00 feet along said northerly right of way line; thence N.00°14'04"E. 583.96 feet; thence N.03°53'12"E. 581.49 feet; thence S.89°45'56"E. 1.46 feet to a point in the existing right of way line of 700 West Street; thence S.00°14'04"W. 87.03 feet to a point 41.50 feet perpendicularly distant westerly from said control line opposite engineer station 713+95.00; thence S.03°53'12"W. 494.50 feet to a line parallel with and 73.00 feet perpendicularly distant westerly from said control line opposite engineer station 709+01.50; thence S.00°14'04"W. 583.70 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 7,916 square feet or 1.182 acres in area.

(Note: Rotate all bearings in the above description 00°15'01" clockwise to obtain highway bearings.)

8. So that construction can proceed timely and efficiently, in the event personal property, equipment, vehicles, or any obstacles to construction work remains on the Subject Property at the start of construction, UDOT is hereby authorized to relocate any such personal property, equipment, vehicles, or any obstacles to construction on the Subject Property on the Defendant's remaining property or to store such items, and after a reasonable time, to charge the owner for storage of such and items and any costs incurred for their disposal, if necessary.

9. This Order is entered pursuant Utah Code § 78B-6-510. Accordingly, consistent with § 78B-6-510(6): (a) the money deposited in the Court shall be an advance on the just compensation to be awarded in this proceeding; (b) withdrawal of the deposited funds by a Defendant shall be considered to be an abandonment by a Defendant of all defenses except a claim for greater compensation; (c) if the compensation finally awarded exceeds the advance, the Court shall enter judgment against UDOT for the amount of the deficiency; and, (d) if the advance received by the Defendants is greater than the amount finally awarded, the Court shall enter judgment against the Defendants for the amount of the excess.

10. This Order is entered without prejudice to the right of the Defendants to contest the amount of just compensation to be paid to the respective Defendant for the Subject Property and/or severance damages. Pursuant to Utah Code § 78B-6-510(5)(c)(i), if any additional compensation were ordered to be paid to the respective 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 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.

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

CERTIFICATE OF SERVICE

I certify that on April 26, 2023, a true and correct copy of the foregoing **ORDER OF OCCUPANCY, PENDENTE LITE** was served upon the following in the manner as indicated below:

R. Scott Rawlings
3441 Decker Lake Drive
Suite 201
Salt Lake City, Utah 84119
srawl104@aol.com

- Via U.S. Mail
- Via Hand Delivery
- Via e-mail transmission
- E-Filing

KC Gardner Company, L.C.
Attn: Christian K. Gardner
Registered Agent
201 South Main Street, Suite 200
Salt Lake City, UT 84111

- Via U.S. Mail
- Via Hand Delivery
- Via e-mail transmission
- E- Filing

/s/ Stacey K. Baird