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CLERK
DEPUTY CLERK

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

3164820

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

| | | |
|--|---|--|
| SALT LAKE COUNTY, a body corporate and politic of the State of Utah, |) | |
| |) | |
| Plaintiff, |) | ORDER OF IMMEDIATE OCCUPANCY AND ORDER DENYING THE MOTIONS OF DEFENDANTS SCOTT |
| vs. |) | |
| LYNN S. SCOTT and ANN B. SCOTT, his wife, and FIRST FEDERAL SAVINGS & LOAN ASSOCIATION, |) | Civil No. C-78-5066 |
| |) | |
| Defendants. |) | |

The above matter came on regularly for hearing and determination before the Honorable G. Hal Taylor, one of the Judges of the above entitled Court, on Friday, September 1, 1978, at 10:00 A.M., on plaintiff's Motion for an Order of Immediate Occupancy and on defendants Scott's Motion to deny plaintiff's Motion for Immediate Occupancy and for an Order for a bifurcated trial to show the necessity of the taking; plaintiff appearing through and being represented by Quentin L. R. Alston, Deputy County Attorney, and defendants Scott appearing through and being represented by Frank A. Roybal of Hansen & Roybal, their attorneys, while defendant First Federal Savings & Loan Association did not appear personally or by counsel although said defendant was duly and regularly served with process; and, testimony and evidence having been adduced in support of and in opposition to the Motions of the respective parties, and, the matter having been argued and submitted, from which testimony and evidence the Court found and determined that the contemplated taking was for a public purpose authorized by law but that the nature and extent of the estate in defendants' property needed and required by plaintiff for the

BOOK 4735 PAGE 1181

Recorded at Request of R. Paul Van Dam, Salt Lake County Attorney
 at 9:20 AM Fee Paid \$ No Fee KATIE L. DIXON, Recorder,
 Salt Lake County, Utah, By Cheryl Warrington Dept. Date SEP 7 1978
 Cheryl Warrington

contemplated storm drainage and flood control facility need not necessarily be a fee simple estate but only a permanent slope easement; and, the Court being further and fully advised in the premises and good cause appearing therefor;

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED that at the election of defendants Scott, plaintiff is authorized to take said defendants' property under its power of eminent domain either in fee simple absolute or as a three horizontal to one vertical (3:1) permanent slope easement to construct, operate and maintain thereon the stability of a storm drainage and flood control facility designated as Detention Basin No. 1A of 11th Avenue Flood Control Project, Phase II, Salt Lake County Flood Control. The property being taken either in fee or as a permanent slope easement is located in Salt Lake County, Utah, and, if taken in fee simple absolute is particularly described as:

Lot 20 Federal Heights Plat "D" Subdivision as recorded in the records of the County Recorder of Salt Lake County

or, if taken as a permanent slope easement is particularly described as:

Beginning at the southwest corner of Lot 20, Plat "D", Federal Heights Subdivision, a subdivision in the Southeast Quarter of Section 33, Township 1 North, Range 1 East, S.L.B. and M., said point further described as being on the rear lot line of said Lot 20, and running thence along said rear lot line North 161.972 feet to the northwest corner of said Lot 20; thence along the north lot line of said Lot 20 S. 58°51'47" E. 180.00 feet; thence S. 10°06'21" W. 105.58 feet to a point on the south lot line of said Lot 20; thence along said south line N. 75° 30' 00' W. 140.00 feet to the point of beginning.

It is further ORDERED, ADJUDGED and DECURED that defendants Scott must make their election as to whether they want plaintiff to take their property in fee or only as a three horizontal to one vertical (3:1) permanent slope easement by filing a written notice of their election with the Clerk of the above Court by noon on Friday, September 8, 1978.

It is further ORDERED, ADJUDGED and DECREED that with reference to whatever of their property and the estate therein defendants Scott elect to have plaintiff take, plaintiff be and is hereby

BOOK 4735 PAGE 1182

authorized to occupy defendants Scott's said property sought by plaintiff for the contemplated storm drainage and flood control facility and plaintiff is hereby permitted to take immediate possession of said property and to continue in possession of the same pending further hearing and trial on the issue of just compensation in this condemnation proceeding and to do such work thereon as may be required for the purposes for which said property is sought to be condemned by plaintiff, PROVIDED, HOWEVER, that plaintiff is not to deface or remove any of the soil or vegetation from said property until after October 5, 1978.

It is further ORDERED, ADJUDGED and DECREED that if defendants Scott elect to have plaintiff take their property in fee, defendants may withdraw the entire \$85,100.00 heretofore deposited with the Clerk of the Court as plaintiff's appraised value of said property in fee without prejudice to any claim defendants may make for additional compensation at the trial of said case, but, if defendants Scott elect to have plaintiff take only a three horizontal to one vertical (3:1) permanent slope easement, defendants may withdraw only \$12,000.00 of the \$85,100.00 heretofore deposited with the Clerk of the Court as plaintiff's appraised value of said permanent slope easement without prejudice to any claim defendants may make for additional compensation at the trial of said case, and further that defendants may have 20 days from and after the entry of this Order of Immediate Occupancy within which to answer plaintiff's complaint.

It is further ORDERED, ADJUDGED and DECREED that pending further hearing and trial on the issue of just compensation which may be presented in this action, and, subject to the conditions herein set forth, defendants and their agents, servants and employees be and they are hereby restrained and enjoined from hindering or interfering in any way with plaintiff or any of plaintiff's agents, servants, employees or contractors in the occupation of said property required by plaintiff for the storm drainage and flood control facility or in the doing of such work thereon as may be

BOOK 4735 PAGE 1183

required for said purposes.

It is further ORDERED, ADJUDGED and DECREED that defendants Scotts' Motions to deny plaintiff's Motion for Immediate Occupancy and for an Order of bifurcated trial to show the necessity of the taking be and the same are hereby denied.

DATED this 7th day of September, 1978.

BY THE COURT:

Hal Taylor
DISTRICT JUDGE

Approved as to Form:

HANSEN & ROYBAL

By Frank A. Roybal
Attorneys for Defendants Scott

ATTEST
W STERLING EVANS
Clerk

By Ed Geanous

STATE OF UTAH
COUNTY OF SALT LAKE } 89
I, THE UNDERSIGNED, CLERK OF THE DISTRICT COURT OF SALT LAKE COUNTY, UTAH, DO HEREBY CERTIFY THAT THE ANNEXED AND FOREGOING IS A TRUE AND FULL COPY OF AN ORIGINAL DOCUMENT ON FILE IN MY OFFICE AS SUCH CLERK. WITNESS MY HAND AND SEAL OF SAID COURT THIS 7th DAY OF September, 1978.
W. STERLING EVANS, CLERK
By Ed Geanous DEPUTY

BOOK 4735 PAGE 1184