

Office of the Davis County Recorder



Davis
COUNTY

Office of the Recorder

Recorder
Richard T. Maughan
Chief Deputy
Laile H. Lomax

RETURNED
MAY 27 2021

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
05/27/2021 01:58 PM
FEE \$0.00 Pgs: 7
DEP RTT REC'D FOR UTAH DEPT OF TRANSPORTATION

THE UNDERLYING DOCUMENT ATTACHED HERETO IS AN ORIGINAL DOCUMENT SUBMITTED FOR RECORDING IN THE OFFICE OF THE COUNTY RECORDER OF DAVIS COUNTY, UTAH. THE DOCUMENT HAS INSUFFICIENT MARGIN SPACE FOR THE REQUIRED RECORDING ENDORSMENT STAMP. THIS PAGE BECOMES THE FRONT PAGE OF THE DOCUMENT FOR RECORDING PURPOSES.

THE DOCUMENT HEREIN RECORDED IS A Order
(Document Type)

07-272-0043, 07-272-0052
Tax Serial Number(s) 07-272-0053
07-272-0048

The Order of the Court is stated below:

Dated: May 03, 2021
11:08:39 AM

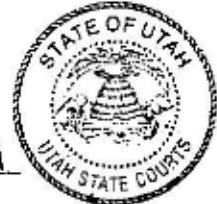
/s/ ROBERT J. DALE
District Court Judge



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STATE OF UTAH }
COUNTY OF DAVIS } SS.

I HEREBY CERTIFY THAT THIS IS A TRUE
COPY OF THE ORIGINAL ON FILE IN THE
UTAH STATE COURTS.



DATED: May 4 2021
DISTRICT COURT

BY: Robert J. Dale DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR DAVIS COUNTY, STATE OF UTAH

<p>UTAH DEPARTMENT OF TRANSPORTATION, Plaintiff, vs. FARMINGTON CITY, a municipal corporation, Defendant.</p>	<p>ORDER OF IMMEDIATE OCCUPANCY, PENDENTE LITE</p> <p>Project No. S-R199(299) Parcel No.(s): 236B:RE, 237B:RE, 238B:RE</p> <p>Tax Id Nos. 07-272-0043; 07-272-0044; <u>0052, 0053</u> and 07-272-0048;</p> <p>Case No. 210700221</p> <p>Judge Robert J. Dale</p> <p>Tier 2</p>
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Plaintiff's Motion for Order of Occupancy, *Pendente Lite*, having been submitted for decision and the Court having reviewed the memorandum in support thereof, having noted Defendant's non-opposition to the Motion, and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Order of Immediate Occupancy, *Pendente Lite*, 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 §§ 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 the vacant conservation easements sought to be condemned is in the amount of zero dollars with no severance damages;

(b) the Subject Property is necessary for the transportation needs of Davis County 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. Consistent with its Motion, Plaintiff shall cause to be deposited with the Court \$300.00, which is more than the appraised value of the Subject Property interests sought to be condemned, for the purposes set forth in Utah Code § 78B-6-510.

7. Effective upon the Court's receipt of the occupancy deposit, the Plaintiff, its contractors, assignees and permittees are granted the right to immediate occupancy of the following premises, *pendente lite*, and to do whatever 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 on the Subject Property described as follows:

Tax Id No. 07-272-0048, 07-272-0043, 07-272-0044

Parcel No. S-R199:236B:RE

All rights, title and interest granted to Farmington City, in and to that certain Conservation Easement executed the 7th day of January 2009, by Rainey Development, INC., a Utah corporation; said Conservation Easement was recorded as Entry No. 2417505 in Book No. 4697 at Page No. 345 in the Office of the Davis County Recorder, Utah; said Conservation Easement is over and upon the following described tract of land in Davis County, State of Utah, to-wit:

A part of the above referenced Conservation Easement, being all of an entire tract of property, situate in Parcel E, Tuscany Village P.U.D., according to the official plat thereof, recorded January 22, 2009 as Entry No. 2417499 in Book 4697 at Page 262, situate in the SW1/4 NW1/4 of Section 31, Township 3 North, Range 1 East, Salt Lake Base and Meridian. The boundaries of said tract of land are described as follows:

Parcel E, Tuscany Village P.U.D., according to the official plat thereof as recorded in the office of the Davis County Recorder.

The above described tract of land contains 2,509 square feet in area or 0.058 acre.

Parcel No. S-R199:237B:RE

All rights, title and interest granted to Farmington City, in and to that certain Conservation Easement executed the 7th day of January 2009, by Rainey Development, INC., a Utah corporation; said Conservation Easement was recorded as Entry No. 2417504 in Book No. 4697 at Page No. 329 in the Office of the Davis County Recorder, Utah; said Conservation Easement is over and upon the following described tract of land in Davis County, State of Utah, to-wit:

A part of the above referenced Conservation Easement, being part of an entire tract of property, situate in Lot 43, Tuscany Village P.U.D., according to the official plat thereof, recorded January 22, 2009 as Entry No. 2417499 in Book 4697 at Page 262, situate in the SW1/4 NW1/4 of Section 31, Township 3 North, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the Southwest corner of said Lot 43; and running thence N.00°10'51"E. 54.75 feet along the westerly boundary line to the Northwest corner of said Lot 43; thence N.87°35'00"E. 74.38 feet along the northerly boundary line of said Lot 43; thence S.01°39'44"W. 54.53 feet; thence S.56°42'03"E. 4.80 feet to the southerly boundary line of said Lot 43; thence

S.89°26'37"W. 76.92 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 parcel of land contains 4,121 square feet in area or 0.095 acres.

Parcel No. S-R199:238B:RE

All rights, title and interest granted to Farmington City, in and to that certain Conservation Easement executed the 7th day of January 2009, by Rainey Development, INC., a Utah corporation; said Conservation Easement was recorded as Entry No. 2417505 in Book No. 4697 at Page No. 345 in the Office of the Davis County Recorder, Utah; said Conservation Easement is over and upon the following described tract of land in Davis County, State of Utah, to-wit:

A part of the above referenced Conservation Easement, being part of an entire tract of property, situate in Parcel A, Tuscan Village P.U.D., according to the official plat thereof, recorded January 22, 2009 as Entry No. 2417499 in Book 4697 at Page 262, situate in the SW1/4 NW1/4 of Section 31, Township 3 North, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the Southwest corner of said Parcel A; and running thence N.00°10'51"E. 92.64 feet along the westerly boundary line to the Northwest corner of said Parcel A; thence East 76.62 feet along the northerly boundary line of said Parcel A; thence S.01°39'44"W. 89.54 feet to the southerly boundary line of said Parcel A; thence S.87°35'00"W. 74.38 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 parcel of land contains 6,871 square feet in area or 0.158 acre.

(Note: Rotate above bearings 00°20'34" clockwise to equal Highway bearings)

8. 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 the Defendant shall be considered to be an abandonment by the 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 Defendant is greater than the amount finally awarded, the court shall enter judgment against the Defendant for the amount of the excess.

9. This Order is entered without prejudice to the right of the Defendant to contest the amount of just compensation to be paid to the Defendant for the Subject Property Interests 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 Defendant for the acquisition of the Subject Property Interests 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 May 3, 2021 a true and correct copy of the foregoing *proposed ORDER OF OCCUPANCY* was served upon the following persons in the manner as indicated below:

Todd J. Godfrey
Jayme L. Blakesley
HAYES GODFREY BELL, P.C.
2118 East 3900 South, Suite 300
Holladay, Utah 84124
tjgodrey@hgblaw.net
jblakesley@hgblaw.net

- Via U.S. Mail
- Via Hand Delivery
- Via e-mail transmission (w. docs.)
- E- Filing
- Other:

3386330
BK 7769 PG 1336

/s/ William H. Christensen