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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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DEP RTT REC'D FOR UTAH DEPARTMENT
OF TRANSPORTAT

GARY D. JOSEPHSON (#5299)
Assistant Attorney General
MARK L. SHURTLEFF (#4666)
Utah Attorney General
160 East 300 South, 5th Floor
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone: (801) 366-0353
gjosephson@utah.gov
Attorneys for Plaintiff

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

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

L.E. ELLISON FAMILY COMPANY, LLC,
JON M. TITUS and GERI A. TITUS, BART
R. TATTON, TRUSTEE OF THE BART R.
TATTON TRUST DATED 01/17/2001,
CRAIG B. DAY and JUDY L. DAY,

Defendants.

**ORDER OF IMMEDIATE
OCCUPANCY**

Project No.: S-15-8-(211)332
Parcel Nos.: 37:1, 37:E1, 37:2, 37:E2, 37:3,
37:E3

Affecting Tax Id. Nos.: 10-089-0005, 10-
089-0009, 10-089-0069, 10-089-0070, *pt*
10-089-0096

Civil No. 100700348

Judge Thomas L. Kay

Plaintiff Utah Department of Transportation's Motion for an Order of Immediate
Occupancy having been submitted for decision, and the Court having considered oral arguments
and having reviewed the Memorandum in support thereof and the pleadings and papers filed
herein, and for good cause,

IT IS HEREBY ORDERED:

1. That Plaintiff Utah Department of Transportation is a public agency having the power of eminent domain and is entitled to condemn the property which is the subject of this lawsuit.

2. 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. §§ 72-5-103(1) (West 2004) and 78B-6-501 (2008).

3. 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 WORK THEREON AS MAY BE REQUIRED IN FURTHERANCE OF THE PROJECT DESCRIBED IN PLAINTIFF'S EMINENT DOMAIN COMPLAINT.

Parcel No.15-8:37

A parcel of land, in fee, for the widening of State Highway SR-126 incident to the realignment of the I-15 interchange known as Project S-15-8(211)332, being part of an entire tract of land situate in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, T4N, R1W, SLB&M, in Davis county Utah, the boundary of said parcel is described as follows:

Beginning on the southerly boundary line of said entire tract at a point 78.27 ft. radially distant southwesterly from the center line of said State Highway SR-126 at Engineer Station 119+81.06, which point is 548.02 feet S. 89°06'21" E. along the south line of said section and 141.43 feet NORTH from the Southwest corner of said Section 21; running thence S. 89°58'02" E. a distance of 4.76 feet along said Defendants southerly property line to the Defendants easterly property line; thence N. 31°09'00" W. a distance of 29.35 feet along said easterly property line to the

Defendants northerly property line; thence N. 89°59'55" W. a distance of 4.45 feet along said northerly property line; thence Southeasterly 29.19 feet along the arc of a 3606.43-foot radius curve to the right (Note: Chord bears S. 30°38'49" E. for a distance of 29.19 feet) to said southerly property line to the point of beginning.

All bearings in the above description are Highway Bearings and are based on the Utah State Plane Coordinate System, NAD 83.

The above described parcel contains 115 square feet or 0.003 acre in area.

Parcel No.15-8:37:E

A temporary easement, upon part of an entire tract of property situate in the SW1/4 SW1/4 of Section 21, T4N, R1W, SLB&M, in Davis County, Utah, for the purpose of constructing cut and/or fill slopes and appurtenant parts thereof necessary for the widening of SR-126 incident to the realignment of the I-15 interchange known as Project S-15-8(211)332.

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 Defendant(s) 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 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 part of an entire tract are described as follows:

Beginning on the southerly boundary line of said entire tract at a point 78.27 ft. radially distant southwesterly from the center line of said State Highway SR-126 at Engineer Station 119+81.06, which point is 548.02 feet S. 89°06'21" E. along the south line of said section and 141.43 feet

North from the Southwest corner of said Section 21; running thence Northwesterly 29.19 feet along the arc of 3606.43-foot radius curve to the left (Note: Chord bears N. 30°38'49" W. for a distance of 29.19 feet); thence N. 89°59'55" W. a distance of 11.66 feet along Defendant's northerly property line; thence southeasterly 29.21 feet along the arc of 3596.43-foot radius curve to the right (Note: Chord bears S. 30°44'29" E. for a distance of 29.21 feet); thence S. 89°58'02" E. a distance of 11.60 feet along Defendant's southerly property line to the point of beginning.

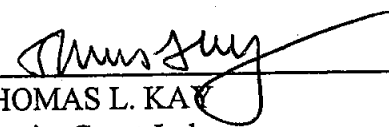
All bearings in the above description are Highway Bearings and are based on the Utah State Plane Coordinate System, NAD 83.

The above described part of an entire tract contains 292 sq. ft. or 0.007 acre in area.

4. As required, the Court notes that Plaintiff has filed with the Clerk of the Court the appraised value in the sum of \$1,825.00, for the purposes set forth in Utah Code Ann. § 78B-6-510 (West 2009).

DATED this 25th day of August, 2010.

BY THE COURT:


THOMAS L. KAY
District Court Judge

CERTIFICATE OF MAILING

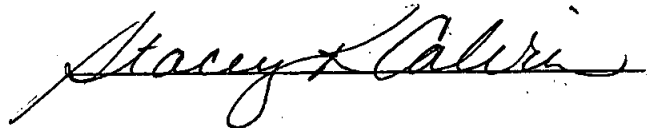
I hereby certify that a true and correct copy of the foregoing proposed **ORDER OF IMMEDIATE OCCUPANCY** was mailed, first class postage prepaid, this 25th day of August,

2010 to the following:

L.E. Ellison Company
c/o Katherine Smith, Agent
123 North Flint Street
Kaysville, Utah 84037

Bart R. Tatton
1032 West 500 South
Layton, Utah 84041

Jon M. Titus and Geri A. Titus
71 North 470 East
Smithfield, Utah 84335

A handwritten signature in cursive script, appearing to read "Stacy Kaliri". The signature is written in black ink and is positioned in the lower right quadrant of the page.