

The Order of the Court is stated below:

Dated: April 25, 2018
08:46:52 AM

/s/ ROBERT FAUST
District Court Judge



Christopher G. Jessop, USB No. 8542
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Salt Lake City, Utah 84111
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I CERTIFY THAT THIS IS A TRUE COPY OF
AN ORIGINAL DOCUMENT ON FILE IN THE
THIRD DISTRICT COURT, SALT LAKE
COUNTY, STATE OF UTAH
DATE: 4/25/18
DEPUTY COURT CLERK

Attorneys for Plaintiff

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
SALT LAKE DEPARTMENT, STATE OF UTAH

REBECCA AUGER, an individual,

Plaintiff,

v.

THE ESTATE OF DON C. URE; SHERRIE
U. FORD, an individual; and JOHN DOES 1-
10;

Defendants.

AMENDED DECREE QUIETING TITLE

Civil No. 180901257

Judge Robert Faust

Discovery Tier 2

In this action The Estate of Don C. Ure and Sherrie U. Ford (the "Claimants") were regularly served with process, and, the parties, having stipulated to the entry of this Decree Quieting Title, and the Claimants, having waived their defenses to Plaintiff's Complaint and approved the following Findings and Conclusions, declaratory judgment is hereby entered as follows.

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ADAM GARDINER
RECORDER, SALT LAKE COUNTY, UTAH
TERRY JESSOP & BITNER
341 S MAIN ST STE 500
SLC UT 84111
BY: BAP, DEPUTY - WI 11 P.

FINDINGS AND CONCLUSIONS

The Court, having considered the pleadings and evidence on file, and based on all of the evidence currently before the Court, now makes the following findings and conclusions and enters the following findings of fact and conclusions of law.

1. Plaintiff Rebecca Auger claims fee ownership of two contiguous parcels of real property, located at 2028 West 2670 North, Salt Lake City, Utah 84116. The property is more particularly described as follows:

Parcel 1:

Beginning South 221.363 feet and 90.6 feet West, more or less, from the Southeast Corner of Section 9, Township 1 North, Range 1 West, Salt Lake Base & Meridian: and running thence East 117.819 feet; thence North 107 feet; thence West 117.819 feet; thence South 107 feet to the point of beginning.

Containing 0.29 acres, more or less.

Parcel I.D. No: 08-10-300-011.

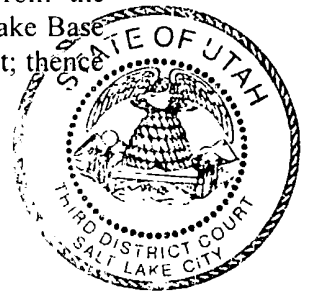
Parcel 2:

Beginning South 89°59'47" West 90.6 feet from the Northeast Corner of Section 16, Township 1 North, Range 1 West, Salt Lake Base & Meridian: and running thence North 473.796 feet; thence East 432.125 feet to the Southwest boundary of the Salt Lake Drainage Canal; thence South 45°34'00" East 28.872 feet; thence South 65°48'01" West 15.158 feet; thence South 13°18'14" West 385.600 feet; thence South 16°30'50" West 88.093 feet; thence South 89°59'47" West 207.447 feet; thence South 00°02'03" East 209 feet; thence South 89°55'47" West 117.819 feet; thence North 221.363 feet to the point of beginning.

Less and excepting:

Beginning South 221.363 feet and 90.6 feet West, more or less, from the Southeast Corner of Section 9, Township 1 North, Range 1 West, Salt Lake Base & Meridian: and running thence East 117.819 feet; thence North 107 feet; thence West 117.819 feet; thence South 107 feet to the point of beginning.

Containing 4.60 acres, more or less.



Parcel I.D. No: 08-10-300-013.

(Hereafter referred to as "Parcel 1" and "Parcel 2" respectively.) For reference purposes only, a map showing the Parcels and the Canal Property is attached to the Plaintiff's Complaint as Exhibit A.

2. Plaintiff also claims fee title to the certain canal property located at approximately 2028 W 2900 N, Salt Lake City, Utah 84116 (the "Canal Property").

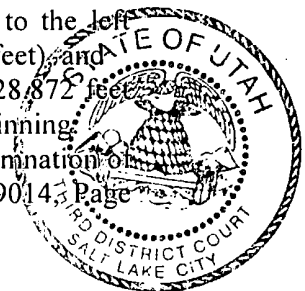
3. Salt Lake City, which is not a party to this lawsuit, is a municipal corporation which claims a right of way for the Canal Property. Historically, the Canal Property was described as follows:

Beginning at a point 410.0 feet North and 460.0 feet east from the Southwest Corner of Section 10, Township 1 North, Range 1 West, Salt Lake Base & Meridian; and running thence North 45°34' West 638.0 feet; together with 40 feet on each side of above-described center line.

More recently, the Canal Property has been described as follows:

Beginning at a point South 89°59'47" West 90.60 feet along the Section line and North 473.796 feet and East 432.125 feet from the Northeast corner of Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian and running thence North 45°34'00" West 643.198 feet along the Southwesterly line of the Salt Lake City Drainage Canal; thence South 89°51'55" East 114.548 feet along an old fence and boundary agreement line; thence South 45°34'00" East 553.875 feet along the Northeasterly line of said Drainage Canal; thence along the Westerly right of way line of the proposed I-215 Project Number SP-0067(1)0 for the following three courses:

1. South 24°11'59" East 14.690 feet to the point of a curve of a non-tangent curve to the left, from which the radius point lies South 70°11'50" East, a radial distance of 2999.790 feet,
 2. Southwesterly 66.280 feet along said 2999.790 foot radius curve to the left (delta = 01°15'57" and long chord bears South 19°10'11" West 66.278 feet), and
 3. South 65°48'01" West 15.794 feet; thence North 45°34'00" West 28.872 feet along the Southwesterly line of said Drainage Canal to the point of beginning.
- Less and excepting Parcel No. 7, as described in Final Order of Condemnation of property recorded July 16, 2004 as Entry Number 9121819, Book 9014, Page



6968 of Official Records.

(The Canal Property is shown as adjacent to the West of Parcel 3 on Exhibit A attached to Plaintiff's Complaint.)

4. Defendant Estate of Don C. Ure also claims, or may claim, an interest in the Canal Property. Don Ure first acquired an interest in the Canal Property in 1980. Mr. Ure passed away in 1999. On information and belief, and as further set forth hereafter, the sole heir of Don C. Ure is Sherrie U. Ford. On further information and belief, Mr. Ure's estate was never probated. Don C. Ure is referred to hereafter at times as the "Decedent."

5. Defendant Sherrie U. Ford claims or may claim some right, title or interest in the Canal Property has heirs of the Decedent, as set forth in the Complaint.

6. This court is vested with jurisdiction pursuant to Utah Code Ann. § 78A-5-102.

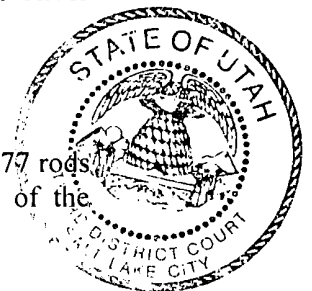
7. Venue is proper pursuant to Utah Code Ann. § 78B-3-301.

8. In November 2005, Plaintiff Rebecca Auger purchased approximately 8.3 acres of land from Harrison and Nora Justice, who are not parties to this lawsuit. The purchase included: (1) Parcels 1 and 2, with a combined acreage of 4.9 acres; (2) the Canal Property (approximately 1.144 acres); and (3) a 2.2 acre parcel which abuts the Canal Property and which is located to the northeast of Parcel 2, and is more particularly described as follows:

Beginning 82 rods East and 25.24 rods North from the Southeast corner of Section 9, Township 1 North, Range 1 West, Salt Lake Meridian, West 953 feet; 4534' West 638 feet; East 1884.765 feet to River Southwesterly along said River to Beginning. Less State Road. Less Portion deeded to Provo Jordan River Parkway Authority.

Less and Excepting:

Beginning on the original Meander Line of the Jordan River at a point 52.77 rods North and 190.41 rode East, more or less, from the Southwest corner of the



Southeast Quarter of the Southeast Quarter of Section 9, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence West 700 feet, more or less to the Easterly line of the Freeway, known as Highway Project #215-9, as conveyed by Order of Condemnation recorded in Book 2305 at Page 643 as Entry No. 2068847; thence Southwesterly along the Easterly line of said Freeway 495 feet, more or less, to a point given as being 25.24 rods North of the South line of Section 10, Township 1 North, Range 1 West, Salt Lake Base and Meridian; thence East 700 feet, more or less, to the original Meander Line of the Jordan River; thence Northeasterly 42.2 rods, more or less, along the original West Meander Line of the Jordan River to the Point of Beginning.

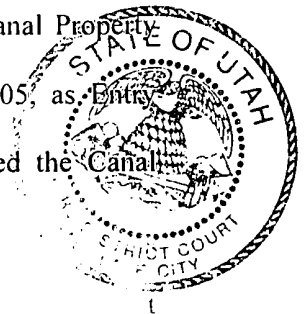
More recently, the parcel has been described as follows:

Beginning at a point South 89°59'57" West 90.60 feet along the Section line and North 473.796 feet and East 423.125 feet and North 45°34'00" West 643.198 feet and South 89°51'55" East 114.548 feet to the true point of beginning from the Northeast corner of Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian and running thence South 89°51'55" East 516.654 feet along an old fence and Boundary Agreement line; thence along the Westerly right of way of the proposed I-215 Project Number SP-0067(1)0 for the following three courses; South 20°02'53" West 326.750; South 17°35'05" West 61.470 feet; South 24°11'59" East 23.016 feet; thence North 45°34'00" West 553.875 feet along the Northeasterly line of the Salt Lake City Drainage Canal to the point of beginning.

The 2.2 acre parcel is hereafter referred to as "Parcel 3." (See Exhibit A attached to the Plaintiff's Complaint.)

9. The warranty deed pursuant to which Plaintiff purchased Parcels 1, 2 and 3 was recorded in the Salt Lake County Recorder's Office on November 28, 2005, as Entry 9565127, Book 9222, Page 6871. Plaintiff has owned and continually possessed all of Parcels 1 and 2 since that time. A true and correct copy of the deed is attached to the Plaintiff's Complaint as Exhibit B.

10. The Quit-Claim Deed pursuant to which Plaintiff purchased the Canal Property was recorded in the Salt Lake County Recorder's Office on November 28, 2005, as Entry 9565126, Book 9222, Page 6815. Plaintiff has owned and continually possessed the Canal



Property since that time, subject to Salt Lake City's right of way. For whatever reason, the Salt Lake County Recorder's Office did not abstract the deed against the Canal Property. A true and correct copy of the Quit-Claim Deed is attached to the Plaintiff's Complaint as Exhibit C.

11. A residence is located on Parcel 1. Parcel 2, which is adjacent to and immediately north of Parcel 1, contains barns and four corrals, among other things.

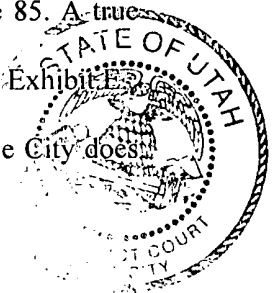
12. The Canal Property lies between Parcel 2 and Parcel 3. (See Exhibit A attached to the Plaintiff's Complaint.) The northeast corner of Parcel 2 abuts the Canal Property.

13. In December 2013, Plaintiff sold Parcel 3 to Jim Larkin, who is not a party to this lawsuit. The deed pursuant to which Plaintiff conveyed Parcel 3 to Mr. Larkin was recorded in the Salt Lake County Recorder's Office on December 17, 2013, as Entry 11777222, Book 10199, Page 9393. On information and belief, Mr. Larkin then conveyed the property to a company called Larkin Enterprises, LLC. True and correct copies of the conveyance of Parcel 3, as described in this paragraph, are attached to the Plaintiff's Complaint as Exhibit D.

14. At the time Mr. Larkin purchased Parcel 3, he was also interested in purchasing fee title to the Canal Property. However, the title company which closed the sale of Parcel 3 to Mr. Larkin would not insure the title to the Canal Property. Hence, Mr. Larkin chose to purchase Parcel 3 without the Canal Property.

15. Salt Lake City has and claims a right of way for the Canal Property, pursuant to that certain Right of Way which was executed on April 20, 1926 and recorded in the Salt Lake County Recorder's Office on November 22, 1928, as Entry 621973, Book 43, Page 85. A true and correct copy of the Canal Right of Way is attached to the Plaintiff's Complaint as Exhibit E.

16. Although Salt Lake City has a right of way for the Canal Property, the City does not



not own, and does not claim that it owns, the underlying fee title for the Canal Property.

17. Fee title to the Canal Property currently rests with the Estate of Don C. Ure.

18. Mr. Ure acquired fee title to the Canal Property, together with the rest of Parcel 3, from Margaret R. Ure pursuant to a Quit-Claim Deed which was recorded in the Salt Lake County Recorder's Office on August 4, 1980, as Entry 3460615, Book 5131, Page 552. A true and correct copy of the Quit-Claim Deed is attached to the Plaintiff's Complaint as Exhibit F.

19. In 1982, Mr. Ure conveyed Parcel 3 to Heber William Sartor, Jr., who conveyed it to Harrison and Nora Justice in 1991. True and correct copies of the deeds from Ure to Sartor, and from Sartor to the Justices are attached to the Plaintiff's Complaint as Exhibits G and H, respectively.

20. In the 1982 deed, Mr. Ure "less and excepted" the Canal Property from his conveyance to Mr. Sartor. Consequently, Mr. Ure retained fee title to the Canal Property following the 1982 conveyance to Mr. Sartor.

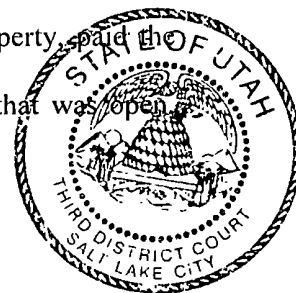
21. Mr. Sartor likewise "less and excepted" the Canal Property from his conveyance of Parcel 3 to the Justices in 1991.

22. Mr. Ure passed away in January, 1999. His estate was never probated.

23. At the time of his passing, Mr. Ure's sole heir was Sherrie U. Ford.

24. Plaintiff has paid the property taxes for the Canal Property since the time she acquired Parcels 1, 2 and 3 in 2005.

25. Since 2005, Plaintiff Rebecca Auger has occupied the Canal Property, paid the property taxes, and maintained and cultivated the Canal Property in a manner that was open, notorious and hostile to each of the named Defendants' interest in the Property.



26. Because the Decedent, Don C. Ure, is the owner of record, Plaintiff cannot use, sell or otherwise dispose of the fee title to the Canal Property until this Court issues a decree quieting title to the Canal Property.

27. In using, selling or disposing of the fee title to the Canal Property, Plaintiff has no wish to disturb the City's right of way to use the Canal Property.

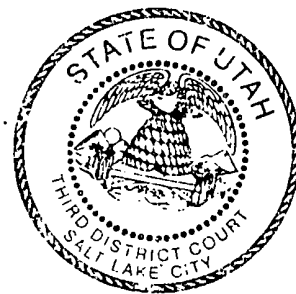
28. Plaintiff is entitled to a declaration from the Court that the Rebecca Auger adversely possessed the Property from the Decedent, effective no later than November 23, 2012.

29. The Estate of the Decedent and all parties claiming an interest in the Property through the Decedent, have been regularly served with process, or have otherwise appeared and waived their interest, and have consented to the entry of this decree

DECLARATORY JUDGMENT – DETERMINATION OF HEIRS

30. Based on the foregoing, and pursuant to Utah Code Ann. § 78B-6-401, et. seq., and pursuant to Utah Code Ann. §75-3-107, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- a. That the Court has jurisdiction of Decedent's estate, this proceeding, and subject matter.
- b. That venue is proper because at the time of death Decedent, Don C. Ure, owned real property in Salt Lake County, Utah.
- c. That the time required for notice has expired, and that all required notices have been given or waived.
- d. The Decedent died on January 2, 1999, at the age of 71 years.
- e. That the Decedent did not have a will, and died intestate.



f. That at the time of his passing, Decedent appeared to own an interest in the Canal Property.

g. That because Decedent died intestate, title to an interest in the Canal Property appears to remain vested in the Decedent's name.

h. That the name and address of the sole heir of the Decedent (referred to as "Decedent's Heir"), being of legal age, is as follows:

NAME	RELATIONSHIP
Sherrie U. Ford 1339 Phillips Ln. Salt Lake City, Utah 84123	Daughter

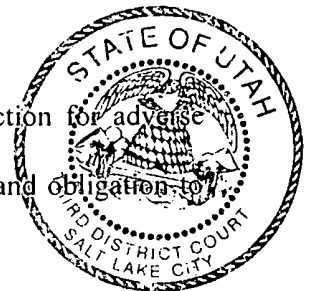
i. That no personal representative has been appointed in this state or elsewhere.

j. That Plaintiff has neither received nor is aware of any demand for notice of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere.

k. That since the subject Canal Property still appears to be titled in the name of Decedent, Plaintiff cannot use, sell or otherwise dispose of the subject Canal Property until this Court issues a decree determining the heirs and quieting title to the Canal Property.

l. That Plaintiff is entitled to a decree stating that Sherrie U. Ford is Decedent's only heir.

m. That, in the alternative to Plaintiff's cause of action for adverse possession, Sherrie U. Ford, as Decedent's Heir, has the right, ability and obligation to



convey good title to the Canal Property to Plaintiff, subject to Salt Lake City's canal right of way.

DECREE QUIETING TITLE

WHEREFORE, based on the foregoing findings and conclusions, and pursuant to Utah Code Ann. Section 78B-6-401, *et. seq.* IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

31. That Rebecca Auger adversely possessed the Canal Property from the Decedent, and/or the Decedent's Heir, effective no later than November 23, 2012.

32. Pursuant to Utah Code Ann. Section 78B-6-1301, title to the Canal Property is hereby quieted in favor of Rebecca Auger as of November 23, 2012.

33. Rebecca Auger owns the Canal Property in fee simple and is entitled to the quiet and peaceful possession of the Canal Property in its entirety, subject to Salt Lake City's right of way. Defendant Sherrie U. Ford, who is the only heir of the Decedent, and all persons claiming under her, have no estate, right, title, lien, or interest in or to said Canal Property or any part thereof.

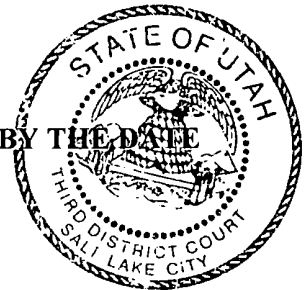
34. Defendant Sherrie U. Ford and all persons claiming under her, are hereby enjoined from asserting any adverse claim to Plaintiffs' title to said Canal Property.

35. The Salt Lake County Recorder is hereby directed to show Rebecca Auger as the sole owner of the Canal Property.

36. The parties are to bear their own fees and costs.

*****EXECUTED AND ENTERED BY THE COURT AS INDICATED BY THE DATE**

AND SEAL AT THE TOP OF THE FIRST PAGE. ***



Approved as to Form and Substance:

TERRY JESSOP & BITNER
Attorneys for Plaintiffs

/s/ Christopher G. Jessop
Christopher G. Jessop

/s/ Sherrie U. Ford
*Signed electronically by Christopher G. Jessop
with permission of Sherrie U. Ford*

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2018, a true and correct copy of the foregoing AMENDED DECREE QUIETING TITLE was served by the method indicated below to the following:

Sherrie U. Ford
1339 W Phillips Ln
Salt Lake City, Utah 84123

- Electronic Filing
- U. S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Email

/s/ Christopher G. Jessop
Christopher G. Jessop

