

Third Judicial District

APR 25 1997

SALT LAKE COUNTY

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05/16/97 11:41 AM**NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
UTAH ST-DEPT OF TRANSPORTATION
4501 S 2700 W
SLC, UT 84119-5998
REC BY: E FROGGET DEPUTY - WI

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

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

JOHNSON ENTERPRISES, LTD., a
Limited Partnership; SALT LAKE
COUNTY SEWERAGE
IMPROVEMENT DISTRICT NO. 1,

Defendants.

ORDER OF
OCCUPANCY

SP-15-7(115)296
17: A, 17: E, 17: 2 E
17: 3 E, 17: 4 E, 17: 5 E

Case No. 970902358 CD

Judge Homer F. Wilkinson

Plaintiff Utah Department of Transportation's Motion for an Order of Occupancy has been submitted to the Court for decision, together with a Memorandum and an Affidavit in support thereof.

BK 7668 PG 1406

Based upon the Motion for Occupancy filed by the Plaintiff in the above-captioned matter, the Memorandum and Affidavit in support thereof, and for good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff Utah Department of Transportation is granted occupancy of the property UDOT seeks to condemn (parcels numbered 17:A, 17:E, 17:2E, 17:3E, 17:4E, 17:5E located at approximately 400 West 10600 South, South Jordan, Utah) by the above-captioned action as described in Exhibit A to Plaintiff's Complaint on file herein ("subject property") for the public uses and purposes set forth in the Complaint, and shall strictly follow the boundaries of the subject property (See Exhibit A attached hereto). Plaintiff shall have occupancy of the subject property no later than May 1, 1997.

IT IS FURTHER ORDERED that pending further hearing or trial and subject to the conditions herein referenced, the defendant, and any others who claim an interest in or to the subject property, are restrained and enjoined from hindering or interfering with Plaintiff in the occupation of the subject property, or in doing such work thereon as may be required for the purpose for which the property is sought.

IT IS FURTHER ORDERED that this Order shall not be effective until the Plaintiff herein has deposited with the Clerk of the Court, for the use and benefit of the defendants who claim an interest in or to the subject property, the amount of \$497,100.00 which is the amount of the Plaintiff's approved appraisal of the subject property.

The Defendants may file a motion for the withdrawal of the aforesaid funds from the Clerk of the Court, which motion shall be granted without further notice or hearing, and the Clerk of this Court shall immediately remit said funds payable to the defendants.

Such withdrawal of funds from the Clerk of the Court shall be without prejudice to the right of the defendants to challenge the amount of just compensation to which they are entitled for the taking of the subject property by condemnation.

BY THE COURT:

April 25, 1977

Homer F. Wilkinson

Judge Homer F. Wilkinson

CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ORIGINAL DOCUMENT FILED IN THE THIRD DISTRICT COURT IN LAKE COUNTY, STATE OF ILLINOIS.
DATE *May 9, 1977*



CO*296*17:A,17:E,17:2E,
17:3E,17:4E,17:5E

CONDEMNATION RESOLUTION
HIGHWAY PROJECT NO. SP-15-7(115)296
RR Grade Separations 9000 South Street

RESOLVED, by the Utah Department of Transportation, hereinafter referred to as the Department, that it finds and determines and hereby declares that:

The public interest and necessity required the acquisition, construction and completion by the State of Utah acting through the Department, of a public improvement, namely a State Highway. The public interest and necessity require the acquisition and immediate occupancy, for said public improvement, of the real property, or interest in real property, hereinafter described.

Said proposed state highway is planned and located in a manner which will be most compatible with the greatest public good and the least private injury as provided by Title 27, Chapter 12, Section 96, Utah Code Annotated 1953 as amended, and has been heretofore designated as a limited-access facility as provided by Title 27, Chapter 12, Section 114, Utah Code Annotated 1953 as amended.

BE IT FURTHER RESOLVED by said Department that the Attorney General of Utah shall be requested, on behalf of said Department:

To acquire, in the name of the Department, the said hereinafter described real property, or interests in real property, by condemnation in accordance with the provisions of the Statutes and of the Constitution of Utah relating to eminent domain;

To prepare and prosecute such proceeding or proceedings in the proper court having jurisdiction thereof as are necessary for such acquisition;

To obtain, from said court, an order permitting said Department to take immediate possession and use of said real property, or interests in real property, for highway purposes, or purposes incidental thereto.

BE IT FURTHER RESOLVED that the State Finance Director shall be requested, on behalf of said Department:

To prepare State Warrant in the amount of the approved appraisal of each parcel of real property, or interest in real property set forth and described herein; payee to be the Clerk of the District Court of the County wherein the real property is located, for the use and benefit of the landowners and/or lien holder as described herein;

That a tender to the landowners of a sum equal to the fair market value of the property to be acquired for rights of way herein shall be made prior to issuance of Order of Immediate Occupancy.

The real property, or interest in real property, which the Department is by this resolution authorized to acquire for said public use, is situate in the County of Salt Lake, State of Utah, Highway Project No. SP-15-7(115)296, and is described as follows:

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HIGHWAY PROJECT NO. SP-15-7(115)296

RECORDED OWNER: Johnson Enterprises, Ltd., a Limited Partnership

ADDRESS: 9896 South 1730 East
Sandy, Utah 84092

PARTY OF INTEREST: Salt Lake County Sewerage Improvement District
No. 1

ADDRESS: 874 East 124000 South
Draper, Utah 84020

LIEN HOLDER: None of record

APPROVED APPRAISAL: \$497,100.00

Parcel No. 15-7:17:1A

A parcel of land in fee for the reconstruction of 10600 South Street incident to the reconstruction of a freeway known as Project No. 15-7, being part of an entire tract of property situate in the NEXSW¼ of Section 13, T.3S, R.1W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at a point in the north boundary line of said entire tract which is 431.268 meters east from the West Quarter Corner of said Section 13; and running thence East 265.590 meters along said north boundary line to the Northeast corner of said entire tract; thence S. 23°01'16" E. 10.660 meters along the easterly boundary line of said entire tract to a point which is 22.250 meters radially distant southerly from the centerline of 10600 South Street of said project at Engineer Station 39+268.908; thence concentric and parallel with said centerline the following four (4) courses and distances: (1) Westerly 26.270 meters along the arc of a 1977.750-meter radius curve to the left (Note: Chord to said curve bears S. 86°52'33" W. for a distance of 26.270 meters) to a point of tangency opposite Engineer Station 38+242.343; thence (2) S. 86°29'43" W. 8.086 meters to a point of curvature with a 2022.25-meter radius curve to the right; thence (3) Westerly 95.202 meters along the arc of said curve (Note: Chord to said curve bears S. 87°50'38" W. for a distance of 95.194 meters) to a point of tangency opposite Engineer Station 38+140.102; thence (4) S. 89°11'34" W. 140.102 meters; thence N. 00°48'26" W. 17.294 meters to the point of beginning. The above described parcel of land contains 3956.3 square meters, of which 855.7 square meters is now occupied by the existing highway. Balance 3100.6 square meters.

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HIGHWAY PROJECT NO. SP-15-7(115)296

(Note: Rotate above bearings 00°01'50" clockwise to equal highway bearings.)

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above areas by 10.7639 to obtain square feet.)

To enable the Utah Department of Transportation to construct and maintain a public highway, as contemplated by Title 27, Chapter 12, Section 96, Utah Code Annotated, 1953, as amended, the Owner of said entire tract of property hereby releases and relinquishes to said Utah Department of Transportation any and all rights appurtenant to the remaining property of said Owner by reason of the location thereof with reference to said highway, including, without limiting the foregoing, all rights of ingress to or egress from said Owner's remaining property contiguous to the lands hereby conveyed to or from said highway; EXCEPTING and reserving to said Owner, the successors or assigns, the right of access to the nearest roadway of said highway over and across the southerly right of way line of said project for one 32.309 meter section for a public street, which section centers at a point directly opposite Highway Engineer Station 38+202.988 and one 11 meter section for a commercial driveway, which said section centers at a point directly opposite Highway Engineer Station 38+116.

Parcel No. 15-7:17:1E

A temporary easement upon part of an entire tract of property, situate in the NEXSWX of Section 13, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah, to facilitate reconstruction of a railroad mainline and appurtenant parts thereof incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning in the easterly boundary line of said entire tract at a point 15.240 meters perpendicularly distant westerly from the centerline of the Southern Pacific Railroad Mainline of said project at Engineer Station 30+664.106, said point being 759.958 meters (by deed, but 758.546 meters by measurement) east (highway bearing S. 89°58'10" E.) along the Section line and 118.743 meters S. 05°16' W. (highway bearing S. 05°34'24" W.) from the West Quarter Corner of said Section 13, and running thence S. 05°16' W. (highway bearing S. 05°34'24" W.) 174.242 meters (by deed but 158.780 meters by measurement) along said easterly boundary line parallel to said centerline to the Southeast corner of said entire tract; thence West (highway bearing S. 88°54'04" W.) 3.020 meters; thence N. 05°34'24" E.

HIGHWAY PROJECT NO. SP-15-7(115)296

164.642 meters to the northeasterly boundary line of said entire tract; thence S. 23°01'16"E. (highway bearing S. 22°59'26" E.) 6.274 meters along said northeasterly boundary line to the point of beginning. The above described part of an entire tract of property contains 485.1 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

This easement shall expire upon the completion of the construction of said project or 5 years after the date of the execution of the within instrument, whichever first occurs.

Parcel No. 15-7:17:2E

A temporary easement upon part of an entire tract of property, situate in the NEXSW¼ of Section 13, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah, for the purpose of constructing thereon cut and/or fill slopes and appurtenant parts thereof incident to the widening and grading of the roadway of the existing 10600 South Street, incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning at a point 22.250 meters perpendicularly distant southerly from the centerline of 10600 South Street of said project at Engineer Station 38+218.226, which point is 650.543 meters east and 12.663 meters south from the West Quarter Corner of said Section 13; and running thence concentric and parallel with said centerline the following three (3) courses and distances: (1) Easterly 16.209 meters along the arc of a 2022.250-meter radius curve to the left (Note: Chord to said curve bears N. 86°43'30" E. for a distance of 16.209 meters) to a point of tangency opposite Engineer Station 38+234.257; thence (2) N. 86°29'43" E. 8.086 meters to a point of curvature with a 1977.750-meter radius curve to the right; thence (3) Easterly 26.270 meters along the arc of said curve (Note: Chord to said curve bears N. 86°52'33" E. for a distance of 26.270 meters) to the easterly boundary line of said entire tract at a point which is 22.250 meters radially distant southerly from said centerline at Engineer Station 38+268.908; thence S. 23°01'16" E. 17.018 meters along said easterly boundary line; thence S. 83°55'57" W. 57.245 meters to the easterly right of way line of Crescent Drive of said project; thence N. 00°39'05" W 18.863 meters along said easterly right of way line to the point of beginning. The above described part of an entire tract of property contains 943.9 square meters.

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(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

(Note: Rotate above bearings 00°01'50" clockwise to equal highway bearings.)

Parcel No. 15-7:17:3E

A temporary easement upon part of an entire tract of property, situate in the NE~~X~~SW~~X~~ of Section 13, T.2S., R.1W., S.L.B.&M., in Salt Lake County, Utah, for the purpose of constructing thereon cut and/or fill slopes and appurtenant parts thereof incident to the widening and grading of the roadway of the existing 10600 South Street, incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning at a point 22.250 meters perpendicularly distant southerly from the centerline of 10600 South Street of said project at Engineer Station 38+000.000, which point is 431.268 meters east and 17.294 meters S. 00°48'26" E. from the West Quarter Corner of said Section 13; and running thence parallel and concentric with said centerline the following two (2) courses and distances: (1) N. 89°11'34" E. 140.102 meters to a point of curvature with a 2022.250-meter radius curve to the left; thence (2) Easterly 46.666 meters along the arc of said curve (Note: Chord to said curve bears N. 88°31'54" E. for a distance of 46.665 meters) to the westerly right of way of Crescent Drive of said project at a point which is 22.250 meters perpendicularly distant southerly from said centerline opposite Engineer Station 38+186.254; thence S. 00°39'05" E. 6.288 meters along said westerly right of way line; thence S. 89°11'34" W. 86.746 meters; thence S. 00°48'26" E. 8.000 meters; thence N. 85°05'48" W. 60.299 meters; thence N. 79°50'32" W. 40.744 meters to the point of beginning. The above described part of an entire tract of property contains 1307.2 square meters.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

(Note: Rotate above bearings 00°01'50" clockwise to equal highway bearings.)

After said cut and/or fill slopes are constructed on the above described part of an entire tract at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or

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demand for costs, damages or maintenance charges which may accrue against said cut and/or fill slopes and appurtenant parts thereof.

This easement shall expire upon the completion of the construction of said project or 5 years after the date of the execution of the within instrument, whichever first occurs.

Parcel No. 15-7:17:4E

A temporary easement upon part of an entire tract of property, situate in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah, for the purpose of constructing thereon cut and/or fill slopes and appurtenant parts thereof incident to the construction of a roadway known as Crescent Drive, incident to the reconstruction of a freeway known as Project No. 15-7.

Said part of an entire tract is a strip of land 9.000 meters wide adjoining westerly the following described portion of the westerly right of way line of said roadway:

Beginning at a point 16.154 meters perpendicularly distant westerly from the centerline of Crescent Drive of said project at Engineer Station 10+027.797, which point is 618.320 meters east and 20.410 meters south from the West Quarter Corner of said Section 13; and running thence parallel and concentric with said centerline the following three (3) courses and distances: (1) S. 00°39'05" E. 113.045 meters to a point of curvature with a 283.850-meter radius curve to the right; thence (2) Southerly 66.851 meters along the arc of said curve (Note: Chord to said curve bears S. 06°05'44" W. for a distance of 66.696 meters) to a point of tangency opposite Engineer Station 10+211.497; thence (3) S. 12°50'34" W. 81.196 meters more or less to the southerly boundary line of said entire tract. The above described strip of land contains 2349.4 square meters, more or less.

(Note: Rotate above bearings 00°01'50" clockwise to equal highway bearings.)

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

After said cut and/or fill slopes are constructed on the above described part of an entire tract at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue

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against said cut and/or fill slopes and appurtenant parts thereof.

This easement shall expire upon the completion of the construction of said project or 5 years after the date of the execution of the within instrument, whichever first occurs.

Parcel No. 15-7:17:5E

A temporary easement upon part of an entire tract of property, situate in the NE~~X~~SW~~X~~ of Section 13, T.3S., R.1W., S.L.B.&M., in Salt Lake County, Utah, for the purpose of constructing thereon cut and/or fill slopes and appurtenant parts thereof incident to the construction of a roadway known as Crescent Drive, incident to the reconstruction of a freeway known as Project No. 15-7. The boundaries of said part of an entire tract are described as follows:

Beginning at a point 16.154 meters perpendicularly distant Easterly from the centerline of Crescent Drive of said project at Engineer Station 10+039.279, which point is 650.757 meters east and 31.525 meters south from the West Quarter Corner of said Section 13; and running thence parallel and concentric with said centerline the following three (3) courses and distances: (1) S. 00°39'05" E. 101.563 meters to a point of curvature with a 316.158-meter radius curve to the right; thence (2) Southerly 74.461 meters along the arc of said curve (Note: Chord to said curve bears S. 06°05'44" W. for a distance of 74.289 meters) to a point of tangency opposite Engineer Station 10+211.498; thence (3) S. 12°50'34" W. 73.156 meters more or less to the southerly boundary line of said entire tract; thence East 8.205 meters along said southerly boundary line; thence N. 12°50'34" E. 71.332 meters, more or less, to a point which is 24.155 meters perpendicularly distant easterly from said centerline at Engineer Station 10+211.497; thence S. 77°09'26" E 6.000 meters; thence Northerly 77.758 meters along the arc of a 330.158-meter radius curve to the left (Note: Chord to said curve bears N. 06°05'44" E. for a distance of 77.579 meters); thence N. 89°20'55" E. 6.000 meters; thence N. 00°39'05" W 103.459 meters; thence S. 83°55'57" W. 20.090 meters to the point of beginning. The above described part of an entire tract of property contains 3692.7 square meters, more or less.

(Note: To obtain distance in feet, divide above distances by 0.3048. Multiply above area by 10.7639 to obtain square feet)

(Note: Rotate above bearings 00°01'50" clockwise to equal highway bearings.)

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After said cut and/or fill slopes are constructed on the above described part of an entire tract at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said cut and/or fill slopes and appurtenant parts thereof.

This easement shall expire upon the completion of the construction of said project or 5 years after the date of the execution of the within instrument, whichever first occurs