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6-25-92

Probate Judge  
Shelby County

STATE OF ALABAMA,

PETITIONER

VS.

LIZZIE SMITH, et als,

RESPONDENTS

IN THE PROBATE COURT

OF

SHELBY COUNTY, ALABAMA

D E C R E E

This cause coming on to be heard on this day for a decree confirming the Report of Commissioners heretofore appointed by the Court in this said cause and for an order of condemnation in pursuance thereof as to the lands and properties described or designated in said Report of Commissioners and in Petitioner's Application for Order of Condemnation, as amended, heretofore filed in this said cause;

And it appearing to the satisfaction of the Court that, in pursuance of a former Decree of this Court rendered on, to wit, the 31st day of October, 1963, appointing E. B. Bowdoin, B. B. Curry, and E. M. Mullen, Commissioners in this said cause, to assess and appraise the damages and compensation to which the owners and claimants of the said properties described in said Application for Order of Condemnation, as amended, are entitled, written notice to said persons of their appointment as such Commissioners and copies of the written commissions issued to said persons were duly served on each of said persons by the Sheriff of Shelby County, Alabama, within five days after receipt thereof by said Sheriff, as required by law;

And it further appearing to the satisfaction of the Court that said Commissioners, and each of them, before entering upon the discharge of their duties in the premises, were sworn as jurors are sworn and did make oath that they, and neither of them, were not directly nor indirectly interested in the issue to be tried and had not been consulted, advised with, or approached by any person in reference to the value of the lands and properties described more particularly in the Application for Order of Condemnation, as amended, <sup>or</sup> the proceedings to condemn the same prior to the assessment of damages and knew nothing of the same prior to their appointment as Commissioners and were not biased nor prejudiced against either or any of the parties to this cause and did make further oath that they, and each of them, would render such compensation to the Respondents as to them shall seem just and proper in the premises;

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And it further appearing to the satisfaction of the Court that said Commissioners, E. B. Bowdoin, B. B. Garry and E. M. Mullen, undertook to act and did act as Commissioners under appointment and decree hereinabove specified and did receive all legal evidence offered by any and all parties touching the amount of damages the owners of the lands and properties and other parties interested therein will sustain and the amount of compensation they are entitled to receive;

And it further appearing to the satisfaction of the Court that said Commissioners did, on, to wit, the 12th day of November, 1963, make their report in writing to this Court setting forth the amounts of damages and compensations ascertained and assessed by said Commissioners for the owners of each separate tract or parcel of land and other properties sought to be condemned, or for the persons injured and other parties interested herein, and to which said owners and other parties are entitled by reason of the taking and condemnation in this said cause, as follows, the owners or claimants of each separate tract or parcel and the particular description of each separate tract or parcel being contained under the corresponding Paragraph or "Parcel" designation in Paragraph 3 of the Application for Order of Condemnation, as amended, viz.:

PARCEL NO.	DAMAGES AND COMPENSATIONS ASCERTAINED AND ASSESSED BY COMMISSIONERS
30-X C . . . . .	\$ 325.00;
31-X D . . . . .	<u>210.00;</u>
TOTAL . . . . .	\$ 535.00,

the sum of all of the damages and compensations ascertained and assessed by said Commissioners being the sum of \$535.00 dollars, as set forth in said written report of Commissioners;

And it further appearing to the satisfaction of the Court that said Commissioners did also file a certificate along with their award that they, and each of them, possess the qualifications of jurors; that they, and each of them, are entirely disinterested in this cause; that they, and neither of them, had ever been consulted, advised with, or approached by any person in reference to the value of the lands and properties, or the proceedings to condemn the same prior to the assessment of damages or prior to their appointment as Commissioners in this said cause; that they, and neither of them, knew nothing of the same prior to their appointment;

And it further appearing to the satisfaction of the Court that the Petitioner in this said cause has on, to wit, the \_\_\_\_\_ day of \_\_\_\_\_, 1963, paid and deposited into this Court the total sum of all of the damages and compensations ascertained and assessed by said Commissioners, being the sum of \$535.00 dollars, as set forth in said written report of Commissioners, and that the Petitioner has further done and performed all things necessary and required by the laws of the State of Alabama;

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED by the Court that the said written report of the Commissioners heretofore filed in this said cause on, to wit, the 12th day of November, 1963, be and the same is hereby confirmed and adopted by the Court, the copy of said written report of Commissioners being by reference hereto made a part of this decree.

It is further considered, ordered, adjudged and decreed by the Court that the following separate tracts or parcels of land and other properties sought to be condemned in said Application for Order of Condemnation, as amended--i.e.; the lands and properties described or designated as Parcel No. C of Paragraph 3 of said Application, the particular description of said Parcel No. C of Paragraph 3 of said Application being by reference hereto made a part hereof; and the lands and properties described or designated as Parcel No. D of Paragraph 3 of said Application, the particular description of said Parcel No. D of Paragraph 3 of said Application being by reference hereto made a part hereof--be, and the same are hereby separately and severally condemned, granted and awarded to Petitioner herein, the State of Alabama, each said separate tract or parcel of land and other properties, now condemned, herein and hereby being separately and severally divested out of the owners of each said separate tract or parcel, as designated in Paragraph 3 of said Application, Respondents to this said cause, and vested in the Petitioner for the uses and purposes stated in said Application for Order of Condemnation, as amended, and for no other uses or purposes;

It is further considered, ordered, adjudged and decreed by the Court that the \$535.00 dollars which was, on, to wit, the 9<sup>th</sup> day of December, 1963, paid and deposited in this Court, be held by the Court for distribution or apportionment of the separate awards of damages and compensations ascertained and assessed by Commissioners for each separate tract of land and other properties, as set forth in said written report of Commissioners, to the rightful owners of each said separate tract or parcel or to

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the persons injured and other parties interested therein, as designated in Paragraph 3 of said Application, in accordance with the laws of the State of Alabama;

It is further considered, ordered, adjudged and decreed by the Court that the costs in this proceeding—including a fee of Fifteen and No/100's (\$15.00) Dollars to be paid to the guardian ad litem for his services in this cause, which said amount of Fifteen and No/100's (\$15.00) Dollars is considered by the Court to be a reasonable fee for said guardian ad litem for said services; and also including compensation to E. B. Bowdoin in the amount of Forty and No/100's (\$40.00) Dollars plus Six and No/100's (\$6.00) Dollars mileage, and to B. B. Curry in the amount of Forty and No/100's (\$40.00) Dollars plus Two and 80/100's (\$2.80) Dollars mileage, and to E. M. Mullen in the amount of Twenty and No/100's (\$20.00) Dollars plus One and 80/100's (\$1.80) Dollars mileage, which said amounts are considered by the Court to be reasonable compensation to be paid to said E. B. Bowdoin, B. B. Curry and E. M. Mullen for their services as Commissioners in this cause—be, and the same are hereby taxed against the Petitioner, State of Alabama, and it appearing to the satisfaction of the Court that the Petitioner has, on, to wit, the 9 day of Dec 1963, paid and deposited into this Court the total sum of all costs in this proceeding, being the sum of \$213.05 Dollars, and that this order of condemnation is now due to be granted unto the Petitioner;

It is further considered, ordered, adjudged and decreed by the Court that the said written report of Commissioners, together with said Application for Order of Condemnation and all amendments, orders, and decrees made in this said cause and the pleadings filed therein, including this said decree, be, and the same are hereby ordered to be recorded, in accordance with the laws of the State of Alabama.

Done this 9 day of Dec, 1963.

*Conrad M. Fowler*  
Judge of Probate of Shelby  
County, Alabama

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