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6-25-92

Probate Judge
Shelby County

STATE OF ALABAMA
SHELBY COUNTY

IN THE PROBATE COURT OF SHELBY COUNTY,
ALABAMA

18-69

TO THE HONORABLE CONRAD M. FOWLER, JUDGE OF SAID COURT:

Now comes the State of Alabama, as Petitioner, and files this, its application in the Probate Court of Shelby County, Alabama, for an order of condemnation of the lands and properties hereinafter described for public roads and highway purposes, and, as a basis for the relief sought, shows unto the Court as follows:

1. Petitioner is authorized by the Constitution and Laws of the State of Alabama to institute and prosecute this proceeding in its own name for the purposes herein stated, a copy of the written order from the state of Alabama Highway Department authorizing commencement of this proceeding, being hereto attached as Exhibit "A" and by reference hereto, made a part hereof; ~~that the place of residence or post office addresses of the persons against whom this application is filed are of sound mind and who are residents of the State of Alabama, as set forth in the following:~~ ~~John A. Dorsey, Jr., of Shelby County Savings & Loan Association, Columbus, Alabama, and Carol Dorsey, Alabaster, Alabama 36007;~~ that the following persons against whom this application is filed are over the age of 21 years, are of sound mind and non-residents of the State of Alabama, residing at the addresses hereinafter shown: Annie Pearl Dorsey Lewis, 4163 Moron, Detroit, Michigan 48200; Rosie Bud Dorsey, 4163 Moron, Detroit, Michigan 48200; Solomon Dorsey, 4163 Moron, Detroit, Michigan 48200; Irene Dorsey, 634 Sholsen, Apt. 6, Cincinnati, Ohio 45200; the sole and surviving heirs at law, or devisees under the Will of Carl Dorsey, deceased, whose names, ages and addresses are unknown and cannot be ascertained after most diligent inquiry.

2. That the State of Alabama is now engaged in the planning or construction of a certain public road or highway, to-wit, leading from U. S. Highway 31 South in Alabaster to a point East of Pelham, in Shelby County, Alabama, said public road or highway to be known or designated as State of Alabama Highway Department Project No. I-65-2 (11); that said public road or highway will be a highway, and that part of the property herein sought to be condemned is the respective property-owners' rights and easements of access between the said public road or highway right of way and the said property-owners' remaining real property, if any, as is more specifically described and set out in Paragraph 3 below; that said public road or highway is, or will be, a part of the designated National System of Interstate Highways and will on

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completion be available for use by the public; that the acquisition of the lands and properties hereinafter described in Paragraph 3 below, including rights of access where applicable and where designated, is necessary to effect said public road or highway, and that said lands and properties will be used after the acquisition thereof to effect said public road or highway; that by reason of the foregoing, the acquisition of the lands and properties hereinafter described in Paragraph 3 below is in the public interest.

3. That the tracts of land necessary for use by Petitioner as a right of way for said public road or highway purposes, and which Petitioner seeks to condemn an easement or right of way in, over, upon, or across for said public road or highway purposes, together with other properties herein sought to be condemned which are necessary to effect said public road or highway as a road or highway, are more particularly described or designated as the following separate paragraphs or "Parcels", beginning with No. 1 ~~and continuing through and including Parcel No. 2;~~ and that the names and residences of the owners and other parties who claim or who hold any right, title, or interest in each separate "Parcel" are stated, where known, immediately following each said separate "Parcel", as follows, to-wit:

PARCEL NO. 1

A tract of land designated as Tract No. 3, as shown on the Alabama State Highway Department Right-Of-Way Map, Project No. I-65-2(11), July, 1958, as recorded in the Office of the Judge of Probate, of Shelby County, Alabama, being more particularly described as follows:

Commencing at the southeast corner of the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 1, Township 21 South, Range 3 West; thence northerly along the east line of said NE $\frac{1}{4}$ of SW $\frac{1}{4}$, a distance of 918 feet, more or less, to the south line of the property herein to be conveyed and the point of beginning; thence westerly along the south property line (crossing the centerline of Project No. I-65-2(11) at approximate Station 669+58) a distance of 315 feet, more or less, to a point that is 260 feet of and at right angles to the centerline of said project: thence North 28 deg. 56 min. 30 sec. East, parallel to the centerline of said project, a distance of 211 feet, more or less, to the north property line; thence easterly along said north property line, a distance of 210 feet, more or less, to the east line of said NE $\frac{1}{4}$ of SW $\frac{1}{4}$, the east property line; thence southerly along said east property line (crossing the centerline of said project at approximate Station 669+80) a distance of 175 feet, more or less, to the point of beginning. Said strip of land lying in the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 1, Township 21 South, Range 3 West and containing 1.10 acres, more or less.

Together with a controlled access facility and adjacent service road or roads to owner's remaining property in and to said controlled access facility, provided however, that there is hereby reserved the right of ingress to and egress from such remaining property/~~to and from said~~ ^{belonging to the} owners service road or roads which will be accessible to the controlled access facility only at such points as may be established by public authority.

220

33

BOOK

Also, all existing future, or potential common law or statutory rights of access between the right of way of the public way identified as Project No. I-65-2(11), County of Shelby, and all of the named owners' remaining real property consisting of all parcels contiguous one to another, whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the real property described above or are connected thereto by other parcels owned by said named owners.

Also, fee simple title to any house, building, or other structure, which may be located partly on the above described property and partly on the named owner's remaining real property together with rights of ingress and egress to the named owner's remaining real property necessary to effect the removal of any such house, building, or other structure.

OWNERS OF PARCEL NO. 1 ARE AS FOLLOWS: Annie Pearl Dorsey Lewis, Rosei Bud Dorsey, Solomon Dorsey, Irene Dorsey, the sole and surviving heirs at law, or devisees under the Will of Carl Dorsey, deceased, whose names, ages and addresses are unknown and cannot be ascertained after most diligent inquiry.

4. That Petitioner further shows that diligent search has been made of the records in the Office of the Judge of Probate of Shelby County, Alabama, and diligent inquiry has been made to ascertain the names, ages, and places of residence of the owners of the lands and properties herein sought to be condemned and of any other parties who claim or who hold any right, title, or interest therein, and according to the Petitioner's information, knowledge, and belief, the said lands and properties are owned, claimed, and held by the parties as are named Respondents in this proceeding and as set forth in Paragraph 3 above, and by no others, and that all of said parties named as Respondents are each over the age of twenty-one years and are each under no legal disability unless and except as stated specifically in said Paragraph 3; Petitioner further alleges that the lands and properties herein sought to be condemned will be devoted, when condemned, to the public road or highway purposes as set forth herein.

5. Petitioner further shows that the said rights-of-way which are sought to be condemned over each of said separate tracts of land described or designated as Parcel No. 1 of Paragraph 3 above are now located and staked out on the ground and are otherwise shown and described by a map or plat or survey made thereof by the State of Alabama Highway Department now on file in the Office of the Judge of Probate of Shelby County, Alabama, at page 58 of Right-Of-Way Map Book No. 4, said page 58 of Right-Of-Way Map Book No. 4, Office of the Judge of Probate of Shelby County, Alabama, being by reference hereto made a part hereof.

6. That Petitioner further shows that it has made bona fide efforts to agree with the owners and claimants of said lands and properties described or designated as Parcel No. 1 of Paragraph 3 above as to the damages and compensation to be allowed and paid for said lands and properties herein sought to be condemned, and that Petitioner has failed to come to any such agreement with said owners and claimants, the Respondents in this proceeding, and that Petitioner has heretofore taken all steps necessary and all proceedings required by law to initiate this proceeding.

222
38
BOOK THE PREMISES CONSIDERED, Petitioner prays that this Court will make and enter an order appointing a day for the hearing of this Petition and will cause issuance of notice to the Respondents set out in Paragraph 3 above of the filing of said Petition and of the day set for the hearing thereof, all as provided by law, and that a guardian ad litem be appointed to represent and defend the interest of any Respondent hereto who may be under legal disability, as required by law, and that, upon final hearing of this Petition, this Court will order and decree that Petitioner is entitled to acquire the lands and properties herein sought to be condemned for the public purpose as set out herein, and will appoint Commissioners to ascertain and report the damages occasioned by such taking, and the compensation to be allowed the Respondents for such taking, as provided by law; and that upon payment into Court of the compensation assessed by said Commissioners, a judgment or decree be rendered condemning for public road or highway purposes an easement or right-of-way in, over, upon or across each of said separate tracts of land described or designated as Parcel No. 1 of Paragraph 3 above, together with other properties therein specified, to effect said public road or highway, and that this Court will make and enter in this proceeding all such other and further orders and decrees as may be necessary or proper in the premises.

STATE OF ALABAMA

BY

Karl C. Harrison

Karl C. Harrison, as Special
Assistant Attorney General for the
State of Alabama

Filed this 19 day of Dec 1973
CONRAD M. FAWLER
Judge of Probate

STATE OF ALABAMA

SHELBY COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared Karl C. Harrison, who is known to me and who, being by me first duly sworn, deposes and says on oath that he is a Special Assistant Attorney General for the State of Alabama and as such is authorized to make this affidavit; that affiant has read the above Application for Order of Condemnation, and that affiant is informed and believes, and upon such information and belief says that the averments contained therein are true.

Karl C. Harrison

Karl C. Harrison

Sworn to and subscribed before me this 19th
day of February, 1973.

Martha B. Jones
Notary Public

Filed this 19 day of Feb 19 73
CONRAD M. FOWLER
Judge of Probate

223

38

BOOK

The State of Alabama does hereby acknowledge itself as security for all costs of the foregoing proceeding.

This the 19th day of February, 1973.

STATE OF ALABAMA

BY

Karl C. Harrison

Karl C. Harrison, as Special Assistant
Attorney General for the State of Alabama

Filed this 19 day of Feb 1973

Inst. # 1992-23356

CONRAD M. FOWLER
Judge of Probate

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