

STATE OF ALABAMA

Plaintiff,

vs.

CHARLES A. ZABEL,
ET AL

Defendants.

(Tract No. 39) Parcel No. 1
Charles A. Zabel
Rt. 1, Cahaba Valley Road
Helena, Alabama

Jean B. Zabel
Rt. 1, Cahaba Valley Road
Helena, Alabama

Fay Quick, Tax Collector
Shelby County Courthouse
Columbiana, Alabama

Tommy Snowden, Tax Assessor
Shelby County Courthouse
Columbiana, Alabama

IN THE PROBATE COURT

OF SHELBY COUNTY,

ALABAMA

CASE NO: 19-258

PROJECT NO: I-65-2(37)

Tract No: 39

1993-03742

Inst

02/08/1993-03742

03:04 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

009 MCD 26.50

APPLICATION FOR ORDER OF CONDEMNATION

I certify this to be a true and
correct copy Thomas H. Snowden
Probate Judge 6-25-92
Shelby County

Filed this 18 day of May 1976
CONRAD M. FOWLER
Judge of Probate

BOOK 41 PAGE 659

TO THE HONORABLE CONRAD M. FOWLER, JUDGE OF PROBATE COURT OF SHELBY
COUNTY, ALABAMA

Now comes the State of Alabama, as Plaintiff, and files this, it's 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 Honorable Court as follows:

1. Petitioner is authorized by the Constitution and Laws of the State of Alabama to institute and prosecute this proceeding in it's own name for the purposes herein stated: That the places of residence or post office addresses of the person or entities against whom this application is filed each reside at the address set opposite his or her name, and are of sound mind and who are residents of the State of Alabama. Petitioner avers that the lands set out and described herein are owned by the defendant set out underneath the description of said lands, and avers that each of the individual defendants are over the age of 19 years, and under no legal disability, unless otherwise specifically recited. Petitioner further avers that the corporate defendants named are incorporated or qualified to do business in the State of Alabama, unless otherwise indicated.

2. That the State of Alabama is now engaged in the planning or construction of a certain public road or highway, said public road or highway to be known or designated as State of Alabama Highway Department Project No: I-65-2(37); 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 owner's 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; 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 tract 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 "Parcel" , being Parcel No. 1, and that the names and residence of the owners and other parties who claim or who hold any right, title or interest in said Parcel, are stated, where known, immediately following each said separate "Parcel" as follows, to-wit:

See your letter to Bureau 3-7-71

PARCEL NO. 1

SHELBY

TRACT NO. 39, REV.

Shelby

and as shown on the right-of-way map of Project No. I-65-2(37) as recorded in the Office of the Judge of Probate of Shelby County, Alabama:

Commencing at the southwest corner of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 31, T-19-S, R-2-W; thence northerly along the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 309 feet, more or less, to the present southeast right-of-way line of Alabama Highway No. 119; thence northeasterly along said present southeast right-of-way line, a distance of 756 feet, more or less, to the southwest line of the property herein to be conveyed and the point of beginning; thence continuing northeasterly along said present southeast right-of-way line (crossing the centerline of Project No. I-65-2(37) at approximate Station 270+53) a distance of 568 feet, more or less, to the northeast property line; thence southeasterly along said northeast property line, a distance of 275 feet, more or less, to a point on a line which extends from a point that is 170 feet southeasterly of and at right angles to the centerline of said highway at Station 53+00 to a point that is 270 feet northeasterly of and at right angles to the centerline of said project at Station 263+90; thence southwesterly along said line, a distance of 526 feet, more or less, to said point that is 270 feet northeasterly of and at right angles to the centerline of said project at Station 263+90; thence southeasterly along a straight line (which if extended would intersect a point that is 200 feet northeasterly of and at right angles to the centerline of the right lane of said project at Station 258+60.3) a distance of 242 feet, more or less, to the southwest property line; thence northwesterly along said southwest property line (crossing the centerline of said project at approximate Station 264+43) a distance of 966 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 31, T-19-S, R-2-W and containing 7.87 acres, more or less.

BOOK 41 PAGE 662

As a part of the consideration hereinabove stated there is also bargained, sold, conveyed and relinquished to the grantee 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(37), County of Shelby, and all of the grantor's remaining property consisting of all parcels contiguous one to another, whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the property conveyed by this instrument or are connected thereto by other parcels owned by the grantor.

Also an easement to a strip of land necessary for the construction and maintenance of a channel change and being more fully described as follows: Commencing at the southwest corner of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 31, T-19-S, R-2-W; thence easterly along the south line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 1092 feet, more or less, to the centerline of Project No. I-65-2(37); thence N 4° 43' 15" W along the centerline of said project, a distance of 112 feet, more or less, to Station 262+50; thence turn an angle of 90° 00' to the right and run a distance of 445 feet to the point of beginning of the property herein to be conveyed; thence southwesterly along a straight line, a distance of 202 feet, more or less, to a point that is northeasterly of and at right angles to the centerline of said project at Station 261+73, said point being on a line which extends from a point that is 270 feet northeasterly of and at right angles to the centerline of said project at Station 263+90 to a point that is 200 feet northeasterly of and at right angles to the centerline of the right lane of said project at Station 258+60.3; thence southeasterly along said line (which if extended would intersect said point that is 200 feet northeasterly of and at right angles to the centerline of the right lane of said project at Station 258+60.3) a distance of 29 feet, more or less, to the southwesternmost property line; thence southeasterly along said southwesternmost property line, a distance of 48 feet, more or less, to the south property line; thence easterly along said south property line, a distance of 27 feet, more or less, to the east line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the east property line; thence northerly along said east property line, a distance of 40 feet, more or less, to the southwest property line; thence southeasterly along said southwest property line, a distance of 115 feet, more or less, to the southeast property line; thence northeasterly along said southeast property line, a distance of 67 feet, more or less, to a point on a line which extends from a point that is 500 feet northeasterly of and at right angles to the centerline of said project at Station 261+12 to a point that is 445 feet northeasterly of and at right angles to the centerline of said project at Station 262+50; thence northwesterly along said line, a distance of 107 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 31, and the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 32, T-19-S, R-2-W and containing 0.42 acres, more or less.

THE OWNERS OF PARCEL NO. 1 ARE AS FOLLOWS:
Charles A. Zabel and wife Jean B. Zabel

BOOK 41 PAGE 664

Charles A. Zabel
Tract No. 39, REV.
April 30, 1976

4. That Petitioner further shows that diligent search has been made of the records in the Office of the Judge of Probate, 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 defendants in this proceeding and as set forth in Paragraph 3 above, and by no others, and that all of said parties named as defendants are each over the age of 19 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 tracts of land described or designated as Parcel No. 1, same being now located and staked out on the ground and as 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.

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, as to the damage 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 defendants in this proceeding, and that Petitioner has heretofore taken all steps necessary and all proceedings required by Law to initiate this proceeding.

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 defendants set out in Paragraph 3 above and 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 defendant hereto who may be under legal disability, as required by Law, and that, upon a 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 defendants for such taking, as provided by Law, and that upon payment into the 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 and across the said tract of land described or designated as Parcel No. 1, to effect said public road or highway, and that this Court will make and enter in this proceeding all such other and further ordered and decrees as may be necessary or proper in the premises.

STATE OF ALABAMA


BY: 

RALPH E. COLEMAN

Special Assistant Attorney General
State of Alabama

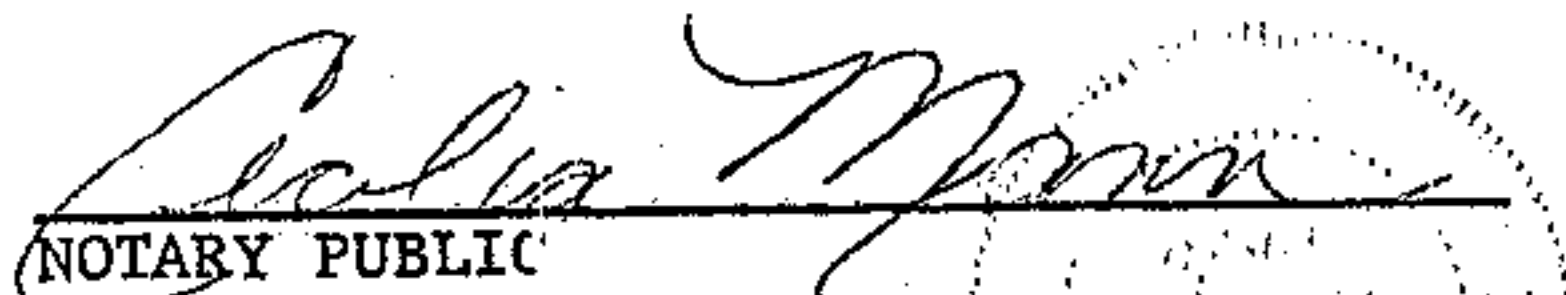
STATE OF ALABAMA
SHELBY COUNTY

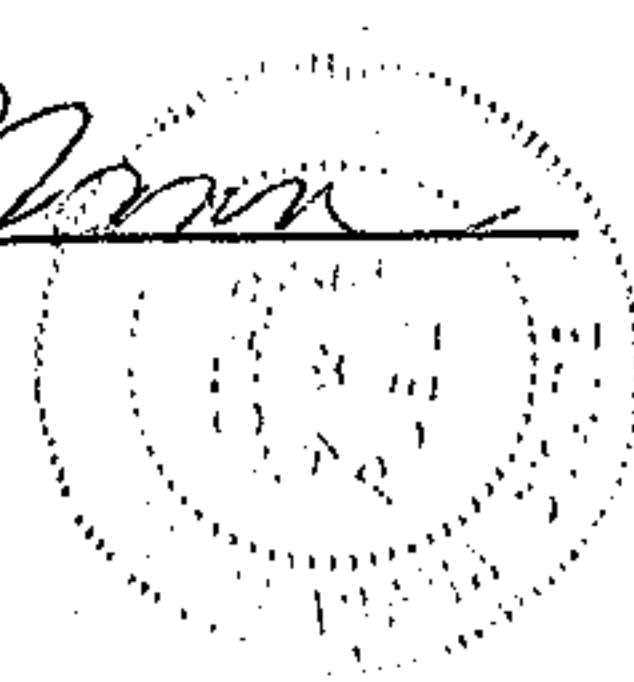
Before me, the undersigned authority in and for said County, in said State, personally appeared RALPH E. COLEMAN, who is known to me and who, being by me first duly sworn, deposes and says on oath that he is a Special Assistant Attorney General for the State of Alabama, and as such, is authorized to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


RALPH E. COLEMAN

Subscribed to and sworn to before me, this the 18th day of

May, 1976.


NOTARY PUBLIC



Inst # 1993-03742

02/08/1993-03742
03:04 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
009 MCB 26.50

BOOK 41 PAGE 667