

STATE OF ALABAMA
Plaintiff

vs.

CONDEMNATION

CASE NO. L-652-75

ROBERT A. HODGES and HELEN
VIAR HODGES
Defendants

On this the 5th day of January, 1976, continued to allow counsel to file briefs on subject with Court. s/ K. Ingram.

On this the 1st day of June, 1976, motion to Amend Petition is overruled.
s/ Kenneth F. Ingram, Judge.

On this the 1st day of June, 1976, motion to disallow amendment to Petition of Condemnation and to Strike Amendment is Granted.
s/ Kenneth F. Ingram, Judge.

On this the 7th day of June, 1976, case set for pre-trial conference at 1:30 P. M. on June 23, 1976. s/ James H. Sharbutt, Circuit Judge.

On this the 14th day of June, 1976, pre-trial conference re-set for hearing at 11:00 A. M. on June 21, 1976. s/James H. Sharbutt, Circuit Judge.

On this the 21st day of June, 1976, the Court's order disallowing State's amendment to its petition of condemnation and to Strike Amendment is hereby set aside and overruled and held for naught. s/ K. Ingram.

On this the 21st day of June, 1976, this matter is set for hearing on pending motions to amend and for pretrial conference on July 13, 1976, at 9:00 A. M. s/ K. Ingram.

On this the 23rd day of June, 1976, Pre-trial Order to be filed within 10 days. Set for trial at 9:00 A. M. on August 2, 1976. s/ James H. Sharbutt, Circuit Judge.

On this the 25th day of June, 1976, set for trial August 2, 1976, at 9:00 A. M.
s/ James H. Sharbutt, Circuit Judge.

On this the 13th day of July, 1976, Defendants withdraw their objection to State's amendment pursuant to agreement of parties; therefore said amendment is allowed.
s/ K. Ingram.

On this the 13th day of July, 1976, Pre-trial order this day filed. s/ K. Ingram.

On this the 3rd day of August, 1976, judgment by consent in favor of the defendants and against the State of Alabama for the sum of \$60,000.00 and legal interest from October 31, 1975, to August 3, 1976, together with costs of court. To be further recited in a formal order to be filed.
s/ James H. Sharbutt, Judge.

On this the 23rd day of August, 1976, Final Judgment of Condemnation this date filed.
s/ James H. Sharbutt, Circuit Judge.

FINAL JUDGMENT OF CONDEMNATION

This cause coming on for trial on this the 2nd day of August, 1976, on appeal from the Order of Condemnation made and entered in the Probate Court of this County on the 31st day of October, 1975. The parties to this proceeding came into open Court in their own persons and by their attorneys of record, entered an unqualified appearance and all parties announced ready for trial. The Court is of the opinion and finds that it has jurisdiction of the cause and the parties.

THEREUPON, the State of Alabama and all of the Defendants, in open Court, withdrew their demand for a trial by jury in this cause.

THEREUPON, the Court proceeded to hear the allegations of the application or petition for Order of Condemnation, and upon consideration of said application and the testimony introduced in support thereof, it is the opinion and judgment of the Court that the allegations of the said petition are true and that it is necessary that the property hereinafter described by condemned for the uses and purposes stated in said petition and that the said application of the Plaintiff for Order of Condemnation should be granted.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED by the Court, and it is the judgment of the Court, that the application or petition for the condemnation of the following described parcels of property, for public road or highway purposes, with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands, the right to prevent any person from placing or maintaining any obstruction on said lands, and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public improvements constructed or installed thereon, thereover, or thereunder, together with all

Certified a true and complete copy

Dan Reeves, sb
Register of Circuit Court

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existing future and potential easements of access between the right of way of the public way described in said petition and all the real property of the Defendants remaining after the appropriation of said property described in the petition to the extent shown on current survey and right of way map of said property prepared by the State of Alabama, be and the same hereby is granted and allowed, and the lands and all interest in lands sought to be acquired be and the same hereby are condemned for the uses and purposes set out in said petition or application for Order of Condemnation.

WHEREAS, the Plaintiff, by its attorney, showed unto the Court that it heretofore deposited with the Judge of Probate of Shelby County, Alabama, the sum of Seventy One Thousand Eight Hundred (\$71,800.00) Dollars, as damages and compensation for the condemnation of the lands and interest in lands hereinafter described which said sum was transferred and delivered to the Clerk of this Court, who now has possession of said fund, and

WHEREAS, all of the parties, in open Court, did consent and agree that the fair market value of the properties described in the application for order of condemnation in this cause is the sum of Sixty Thousand and No/100 (\$60,000.00) Dollars, and

WHEREAS, the Court finds that the fair market value of the property and the rights being taken is the sum of Sixty Thousand and No/100 (\$60,000.00) Dollars, and

WHEREAS, the Court finds that the sum of Forty Eight Thousand and No/100 (\$48,000.00) Dollars was previously paid to the Defendants, Robert A. Hodges and wife, Helen V. Hodges, by the Clerk of the Court for the lands taken and condemned in this cause, and

WHEREAS, the Court finds that the difference between the agreed fair market value, as herein set out, and the amount previously withdrawn by the Defendants, as herein set out, is the sum of Twelve Thousand and No/100 (\$12,000.00) Dollars, and

WHEREAS, the Court finds that the Defendants are entitled to interest in the sum of Five Hundred Forty Six and 41/100 (\$546.41) Dollars, and

WHEREAS, the Court finds that the total amount remaining to be paid to the Defendants in the sum of Twelve Thousand Five Hundred Forty Six and 41/100 (\$12,546.41) Dollars.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED by the Court that Plaintiff pay to the Clerk of this Court the sum of Twelve Thousand Five Hundred Forty Six and 41/100 (\$12,546.41) Dollars and all cost of Court which are hereby taxed to Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the Clerk of this Court is hereby authorized and directed to pay to the Defendants, Robert A. Hodges and wife, Helen V. Hodges, the sum of Twelve Thousand Five Hundred Forty Six and 41/100 (\$12,546.41) Dollars, which is the amount of the award in this cause, plus interest, less the amount previously withdrawn by the Defendants, and after payment of costs, to refund to State of Alabama the remaining sum of \$11,228.59.

Upon payment of the award and costs in this proceeding by the Plaintiff in this cause, the following described lands and interests in lands are hereby condemned and awarded to the Plaintiff.

IT IS FURTHER ORDERED AND ADJUDGED by the Court that the Plaintiff or Petitioner, State of Alabama, be and hereby is given and awarded the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands and the right to prevent any persons from placing or maintaining any obstructions on or upon said lands and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public road, or highway for which said land is sought in the petition or application, together with all existing, future and potential easements of access between the said property hereinafter described and all of the real property of the Defendants

remaining after appropriation of said property to the extent that said easements of access are shown to be condemned on the current right of way of the State of Alabama.

IT IS FURTHER ORDERED AND DECREED that title to the property hereinafter described be and the same hereby is divested out of the Defendants and hereby is vested in the Petitioner, State of Alabama, said property being particularly described as follows:

A tract of land designated as Tract No. 8-REV. (Parcel No. 1 and Parcel No. 2) as shown on the Alabama State Highway Department 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:

PARCEL NO. 1: Commencing at the northeast corner of Section 24, T-20-S, R-3-W; thence westerly along the north line of said Section 24 a distance of 1148 feet, more or less, to the centerline of the right lane of Project No. I-65-2(37); thence southwesterly along a curve to the left (concave southeasterly) having a radius of 5729.58 feet along the centerline of said lane a distance of 457 feet, more or less, to the northwest line of the property herein to be conveyed and the point of beginning; thence northeasterly along the northwest property line a distance of 315 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of said right lane; thence southwesterly along a curve to the left (concave southeasterly) having a radius of 5604.38 feet, parallel to the centerline of said right lane a distance of 220 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of said right lane at Station 71+00; thence southeasterly along a straight line, a distance of 140 feet, more or less, to a point that is 225 feet southeasterly of and at right angles to the centerline of said right lane at Station 70+00; thence southeasterly along a straight line (which if extended would intersect a point that is 300 feet southeasterly of and at right angles to the centerline of said right lane at Station 65+40) a distance of 142 feet, more or less, to the south property line; thence westerly along said south property line (crossing the centerline of said right lane at approximate Station 68+31) a distance of 316 feet, more or less, to the west line of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, said Section 24; thence northerly along the west line of said NE $\frac{1}{4}$ of NE $\frac{1}{4}$ a distance of 67 feet, more or less, to the northwest property line; thence northeasterly along said northwest property line a distance of 170 feet, more or less, to the point of beginning.

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 owner'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 condemned or are connected thereto by other parcels owned by the grantor.

PARCEL NO. 2: Commencing at the southeast corner of Section 13, T-20-S, R-3-W; thence westerly along the south line of said Section 13 a distance of 1022 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of the right lane of Project No. I-65-2(37) and the point of beginning of the property herein to be conveyed; thence continuing westerly along the south line of said Section 13 (crossing the centerline of said right lane at approximate Station 75+01 and the centerline of the left lane of said project at approximate Station 75+10) a distance of 338 feet, more or less, to the northwest property line; thence northeasterly along said northwest property line (crossing the centerline of said left lane at approximate Station 75+61) a distance of 315 feet, more or less, to the north property line; thence easterly along said north property line (crossing the centerline of said right lane at approximate Station 77+38) a distance of 259 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of said right lane; thence southwesterly along a curve to the left (concave southeasterly) having a radius of 5604.58 feet, parallel to the centerline of said right lane a distance of 283 feet, more or less, to the point of beginning.

Said strip of land lying in the S $\frac{1}{2}$ of the SE $\frac{1}{4}$, Section 13, T-20-S, R-3-W, and containing 2.25 acres, more or less.

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 owner'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 condemned or are connected thereto by other parcels owned by the grantor.

The above-described area includes a present 30 feet wide easement granted to the Alabama Power Company, lying southeasterly of the right lane of Project No. I-65-2(37) and extends from the south line of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 13, T-20-S, R-3-W to the north property line.

DONE AND ORDERED this 23rd day of August, 1976.

s/ James H. Sharbutt
Judge of Circuit Court of Shelby
County, Alabama

Filed in Office This the 23rd day
of August, 1976.
Kyle Lansford
Clerk of Circuit Court
Shelby County, Alabama

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