

Plaintiff

vs.

Condemnation

WILLIAM ELLIOTT and RUTH ELLIOTT
Defendants

On this the 1st day of November, 1976, Case set for pre-trial conference at 9:00 A.M. on November 11, 1976.

On this the 11th day of November, 1976, Motion for Order Compelling Plaintiff to Answer Interrogatories is granted. Plaintiff shall answer aforesaid interrogatories within 20 days.

s/ K. Ingram, Judge

On this the 11th day of November, 1976, Order on Pre-trial Hearing this day filed.

s/ James H. Sharbutt, Circuit Judge

On this the 4th day of February, 1977, Set for trial March 7, 1977 at 9:00 A.M.

s/ James H. Sharbutt, Circuit Judge

On this the 4th day of March, 1977, Motion for Default Judgment on Failure of Plaintiff to Answer Interrogatories is granted unless plaintiff answer defendant's interrogatories within 10 days from this date.

s/ James H. Sharbutt, Circuit Judge

On this the 7th day of March, 1977, Consent Settlement. Judgment to be filed by separate paper.

s/ James H. Sharbutt, Circuit Judge

On this the 24th day of March, 1977, Order and Decree of Condemnation this day filed.

s/ James H. Sharbutt, Circuit Judge

ORDER AND DECREE OF CONDEMNATION

This cause came on for trial on the 7th day of March, 1977, on appeal from the Order of Condemnation made and entered in the Probate Court of this County on the 28th day of April, 1976. The parties to this proceeding came into open Court in their own persons and by their attorneys of record, entered unqualified appearances, 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 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, and upon consideration of the Stipulation by and between the parties which is a part of the Order on Pre-Trial hearing in this cause, 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 be condemned for the uses and purposes stated in said petition, and that the application of the petitioner 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 an easement or right of way, in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth, and other obstructions situated on said lands, the right to prevent any persons 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 or thereover, be, and the same hereby is

Certified a true and complete copy

Dan Reeves, Jr.
Register of Circuit Court

Inst # 1993-04665

02/17/1993-04665

03:31 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

DOCS REC'D 11-50

granted and allowed, and the lands and all interest in the 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.

And now comes the Petitioner by its attorney and shows unto the Court that it has heretofore deposited with the Judge of Probate of Shelby County, Alabama, the sum of Twelve Thousand and No/100 (\$12,000.00) Dollars, as damages and compensation for the condemnation of the lands and interest in lands hereinafter described, which said sum has been transferred and delivered by the Judge of the Probate Court of Shelby County, Alabama, to the Clerk of this Court, who has heretofore paid therefrom the sum of Seven Thousand Four Hundred Thirty Five and No/100 (\$7,435.00) Dollars to the Defendant, William Elliott and Ruth Elliott, pursuant to an order of this Court entered in this cause on the 11th day of June, 1976, and that said Clerk presently holds the remaining sum of Four Thousand Five Hundred Sixty Five and No/100 (\$4,565.00) Dollars on deposit in this cause.

And now comes the Plaintiff and the Defendants, in their own person, and through their attorneys, and all consent and agree that the fair market value of the property as described in the application for order of condemnation in this cause is the sum of Fourteen Thousand and No/100 (\$14,000.00) Dollars and that the Defendants are entitled to interest thereon in this cause in the amount of Three Hundred Thirty Eight and 86/100 (\$338.86) Dollars, and the consequently, said Defendants are entitled to have and recover of the Plaintiff in this cause the sum of Six Thousand Nine Hundred Three and 86/100 (\$6,903.86) Dollars, said sum being the difference between said agreed fair market value plus interest and the amount previously withdrawn by said Defendants.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court, and the Court finds as fact, that the fair market value of the property and rights being taken in this cause is the sum of Fourteen Thousand and No/100 (\$14,000.00) Dollars, as agreed upon by the parties, and that the total amount remaining to be paid to the Defendants in this cause is the sum of Six Thousand Nine Hundred Three and 86/100 (\$6,903.86) Dollars, and further, the Plaintiff is ordered and directed to pay the additional sum of Two Thousand Three Hundred Thirty Eight and 86/100 (\$2,338.86) Dollars, being the difference between said sum of Six Thousand Nine Hundred Three and 86/100 (\$6,903.86) Dollars, which the Defendants are entitled to recover and said sum of Four Thousand Five Hundred Sixty Five and No/100 (\$4,565.00) Dollars which the clerk has on deposit in this cause, and further, that the costs of this proceeding be, and the same are hereby, taxed against the Petitioner.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED by the Court that the Defendants are entitled to have and receive of the Clerk of this Court said sum of Six Thousand Nine Hundred Three and 86/100 (\$6,903.86) Dollars as damages and compensation in this cause, upon payment into Court of said sum of Two Thousand Three Hundred Thirty Eight and 86/100 (\$2,338.86) Dollars by the Plaintiff.

Upon payment of the award and costs in this proceeding by the Petitioner or plaintiff in this cause, the hereinafter described lands and interest in lands are hereby condemned and awarded to the Petitioner or Plaintiff.

IT IS FURTHER ORDERED AND ADJUDGED by the Court that the Petitioner or Plaintiff, 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 for the purpose of constructing, maintaining, and repairing the public road, or highway for which said land is sought in the petition or application to the extent that said easements of access are shown to be condemned on the current right of way map 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 or Plaintiff, State of Alabama, said property being particularly described as follows:

A tract of land designated as Parcel No. 3 being attached hereto as Exhibit "A" and by reference hereto being made a part hereof.

DONE AND ORDERED this 23rd day of March, 1977.

s/ James H. Sharbutt
Circuit Judge

It is further ordered by the Court and stipulated by the parties herein that the money now held by the Clerk of this Court on certificate of deposit be paid to the defendants on maturity of said certificate of deposit, viz, on the 1st day of May, 1977.

s/ James H. Sharbutt, Judge

PARCEL NO. 3

EXHIBIT "A"

A part of Lots 1 through 5, Block 1 according to the Survey of Sunrise Subdivision, the map or plot of which is recorded in Map Book 3, Page 67 in the Office of the Judge of Probate of Shelby County, Alabama and being more fully described as follows: Commencing at the northeast corner of said Lot 1; thence westerly along the north line of said Lot 1, a distance of 332 feet, more or less, to a point that is 150 feet southeasterly of and at right angles to the centerline of Project No. F-214(13) and the point of beginning of the property herein to the conveyed; thence southerly along a curve to the left (concave easterly) having a radius of 2714.79 feet, parallel to the centerline of said project, a distance of 505 feet, more or less, to the southline of said Lot 5; thence easterly along the south line of said Lot 5, a distance of 100 feet, more or less, to the present southeast right-of-way line of U.S. Highway No. 280; thence northeasterly along said present southeast right-of-way line, a distance of 500 feet to the north line of said Lot 1; thence easterly along the north line of said lot 1, a distance of 20 feet, more or less, to the point of beginning and containing 0.65 acres, more or less.

OWNERS OF PARCEL NO: 3 ARE AS FOLLOWS:

William Elliot, Ruth Elliot

Inst # 1993-04665

02/17/1993-04665
03:31 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE

11:50
203 MCO