

STATE OF ALABAMA

Plaintiff

vs.

CONDEMNATION

CASE NO. L-917-76

CHARLES A. ZABEL
JEAN B. ZABEL

Defendants

On this the 24th day of November, 1976, Order on Pre-trial hearing filed.

s/ James H. Sharbutt, Circuit Judge

On this the 8th day of December, 1976, The Court hears argument of counsel on plaintiff's application for possession of this property and allows counsel 7 days to file brief.

s/ K. Ingram, 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 7th day of March, 1977, Consent settlement. Judgment to be filed by separate paper.

s/ James H. Sharbutt, Circuit Judge

On this the 8th 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 8th day of March, 1977, on appeal from the Order of Condemnation made and entered in the Probate Court of this County on the 13th day of September, 1976. 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 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 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, together with all 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 easement and right of way described in the petition, be, and the same herein is, granted and allowed, and all interests in lands sought to be acquired, be, and the same hereby are condemned for the uses and purposes set out in said application or petition for order of condemnation.

And now comes the Petitioner or Plaintiff 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 One Hundred Seventy Thousand Five Hundred and No/100 (\$170,500.00) 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 Probate of Shelby County, Alabama, to the

Certified a true and complete copy

Dan Reeves, Jr.
Register of Circuit Court

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Clerk of this Court, who has heretofore paid therefrom the sum of One Hundred Twelve Thousand Eight Hundred Fifty Seven and No/100 (\$112,857.00) Dollars to the Defendants, Charles A. Zabel and wife, Jean B. Zabel, pursuant to an order of this Court entered in this cause on the 20th day of September, 1976, and that said Clerk presently holds the remaining sum of \$57, 643.00 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 properties described in the application for order of condemnation in this cause is the sum of One Hundred Forty-Eight Thousand Five Hundred and No/100 (\$148,500.00) Dollars, and that the difference between said agreed fair market value and the amount previously withdrawn by the Defendants is the sum of Thirty-Five Thousand Six Hundred Forty Three and No/100 (\$35,643.00) Dollars, and further, that the Defendants are entitled to interest thereon in this cause in the amount of One Thousand Thirty One and 18/100 (\$1,031.18) Dollars.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED by the Court, and the Court ^{and} finds as fact, that the fair market value of the property/rights being taken in this cause is the sum of One Hundred Forty Eight Thousand Five Hundred and No/100 (\$148,500.00) Dollars, as agreed upon by the parties, and that the total amount remaining to be paid to the Defendants is the sum of One Hundred Forty Nine Thousand Five Hundred Thirty One and 18/100 (\$149,531.18) Dollars, less said amount of One Hundred Twelve Thousand Eight Hundred Fifty Seven and No/100 (\$112,857.00) Dollars, as aforesaid, or the sum of Thirty Six Thousand Six Hundred Seventy Four and 18/100 (\$36,674.18) Dollars.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the Defendants are now entitled to have and receive of the Clerk said sum of Thirty Six Thousand Six Hundred Seventy Four and 18/100 (\$36,674.18) Dollars, as damages and compensation in this cause and that said Petitioner is entitled to a refund from the Fifty Seven Thousand Six Hundred Forty Three (\$57,643.00) Dollars which the Clerk of this Court now holds in this cause plus any interest on said amount which may have accumulated while in the hands of the Clerk, less said sum of Thirty Six Thousand Six Hundred Seventy Four and 18/100 (\$36,674.18) Dollars to which the Defendants are entitled, and less costs of Court in this cause accrued, the Clerk of this Court being hereby authorized and directed to deduct said court costs therefrom and pay the remaining balance to the State of Alabama.

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

IT IS FURTHER ORDERED AND ADJUDGED by the Court that the 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 map of the State of Alabama.

IT IS FURTHER ORDERED AND DECREED that title to the property hereinafter described be and the same 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. 39, REV, together with a temporary easement, said property description and temporary easement being attached hereto as Exhibit "A" and by reference hereto being made a part hereof.

DONE AND ORDERED This 8th day of March, 1977.

s/ James H. Sharbutt, Circuit Judge

Parcel No. 1 SHELBY EXHIBIT "A"
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 588 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+50.3) 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.

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 40° 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+75, 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 south-

easterly along said southwesternmost property line, a distance of 48 feet, more or less, to the south property line; thence easterly along said southproperty 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

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