

STATE OF ALABAMA

vs.

LAURA ESTELLE RUTHERFORD

Plaintiff

Defendant

CONDEMNATION

CASE NO. L-919-76A

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

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 answers defendant's interrogatories within 10 days from this date.

s/ James H. Sharbutt, Circuit Judge

On this the 6th day of July, 1977, Set for trial August 8, 1977 at 9:00 A.M.

s/ James H. Sharbutt, Circuit Judge

On this the 8th day of August, 1977, Continued to August 22, 1977 at 9:00 A.M. for trial

s/ James H. Sharbutt, Circuit Judge

On this the 22nd day of August, 1977, Settled between parties for \$102,000.00 without interest to be paid by State to defendant. The final order and judgment will be by written order to follow.

s/ K. Ingram, Judge

ORDER AND DECREE OF CONDEMNATION

This cause came on for trial on the 22nd day of August, 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 person 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, 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, State of Alabama, the Plaintiff herein, 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 purposes 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 defendant remaining after the appropriation of said easement and right of way described in the petition, be, and the same hereby is, granted and allowed.

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 Seventeen Thousand Five Hundred and No/100 (\$117,500.00) 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 Clerk of this Court, who has heretofore paid therefrom the sum of Sixty Two Thousand Two Hundred Forty and No/100 (\$62,240.00) Dollars to the Defendant, Laura Estelle Rutherford, pursuant to an order of this Court entered in this cause on the 4th day of October, 1976, and that said Clerk

Certified a true and complete copy

Dan Reenew
Register of Circuit Court

Inst # 1993-08466

03/29/1993-08466

03:19 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

presently holds the remaining sum of Fifty Five Thousand Two Hundred Sixty and No/100 (\$55,260.00) Dollars on deposit in this cause.

And now come the Plaintiff and the Defendant 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 Two Thousand and No/100 (\$102,000.00) Dollars, including accrued interest to which the Defendant is entitled, and that the difference between said agreed fair market value plus accrued interest and the amount previously withdrawn by the Defendant is the sum of Thirty Nine Thousand Seven Hundred Sixty and No/100 (\$39,760.00) Dollars. The Plaintiff and the Defendant do now each in open Court respectively and with the consent of the Court, withdraw their demands for trial by jury in this cause.

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 plus accrued interest to which the Defendant is entitled is the sum of One Hundred Two Thousand and No/100 (\$102,000.00) Dollars, as agreed upon by the parties, and that the total amount remaining to be paid to the Defendant is said sum of One Hundred Two Thousand and No/100 (\$102,000.00) Dollars, less said amount of Sixty Two Thousand Two Hundred Forty and No/100 (\$62,240.00) Dollars previously paid to said Defendant, as aforesaid, or the sum of Thirty Nine thousand Seven Hundred Sixty and No/100 (\$39,760.00) Dollars.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Defendant is now entitled to have and receive of the Clerk said sum of Thirty Nine Thousand Seven Hundred Sixty and No/100 (\$39,760.00) Dollars, as damages and compensation in this cause, and that said Petitioner is entitled to a refund from the Fifty Five Thousand Two Hundred Sixty and No/100 (\$55,260.00) 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 Nine Thousand Seven Hundred Sixty and No/100 (\$39,760.00) Dollars to which the Defendant is entitled, and less court costs of the 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, the Plaintiff herein, 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 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 vested out of the Defendant 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. 48-A, REV, said property description being attached hereto as Exhibit "A" and by reference hereto being made a part hereof.

DONE AND ORDERED this 22nd day of August, 1977.

s/ Kenneth F. Ingram
Circuit Judge

PARCEL NO. 2

SHELBY

TRACT NO. 48-A, 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 northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W; thence southerly along the east line of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, the east property line, a distance of 335 feet, more or less, to the point of beginning of the property herein to be conveyed, said point of beginning being on a line, which extends from a point that is 130 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 at Station 81+19.96 to a point that is 180 feet northwesterly of and at right angles to the centerline of said road at Station 70+60; thence continuing southerly along said east property line, a distance of 117 feet, more or less, to the present northwest right-of-way line of said road; thence southwesterly along said present northwest right-of-way line, a distance of 1160 feet, more or less, to the west property line; thence northerly along said west property line, a distance of 1046 feet, more or less, to a point on a line, which extends from a point that is 250 feet southeasterly of and at right angles to the centerline of Project No. I-65-2(37) at Station 354+00 to a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38; thence southeasterly along said line, a distance of 300 feet, more or less, to said point that is 400 feet southeasterly of and at right angles to the centerline of said project at Station 350+38; thence easterly along a straight line, a distance of 478 feet, more or less, to a point that is 180 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 at Station 70+60; thence northeasterly along a straight line (which if extended would intersect a point that is 130 feet northwesterly of and at right angles to the centerline of said road at Station 81+19.96) a distance of 323 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W and containing 7.26 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 drainage ditch and being more fully described as follows: Commencing at the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 832 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of Project No. I-65-2(37); thence S 16° 00' 15" W, parallel to the centerline of said project, a distance of 110 feet more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of said project at Station 354+00; thence southeasterly along a straight line (which if extended would intersect a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38) a distance of 28 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said project at Station 353+77; thence northeasterly 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 project at Station 354+00) a distance of 29 feet, more or less, to the west line of the property herein to be conveyed and the point of beginning; thence continuing southeasterly along said line, a distance of 13 feet, more or less, to said point that is 300 feet southeasterly of and at right angles to the centerline of said project at Station 354+00; thence southeasterly along a straight line, a distance of 50 feet, more or less, to a point that is 325 feet southeasterly of and at right angles to the centerline of said project at Station 353+60; thence southwesterly along a straight line (which if extended would intersect a point that is southeasterly of and at right angles to the centerline of said project at Station 353+32) said point being on a line which extends from a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38 to a point that is 230 feet southeasterly of and at right angles to the centerline of said project at Station 354+00, a distance of 28 feet, more or less, to the west property line; thence northerly along said west property line, a distance of 54 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W and containing 0.03 acres, more or less.

THE OWNER OF PARCEL NO. 2:

Laura Estelle Rutherford

Rt. 19, Box 163

Birmingham, Alabama

LIS PENDENS BOOK 5, PAGE 362

Laura E. Rutherford
Tract No. 48-A, Rev.
April 9, 1976.

Inst # 1993-08466

03/29/1993-08466
03:19 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 MCD 11.50