

6/62

STATE OF ALABAMA,

Condemnor-Appellant,

VS.

HUGH R. GLASS

Condemnee-appellee.

)
)
) IN THE
)
) CIRCUIT COURT OF BALDWIN
)
) COUNTY, ALABAMA.
)
) AT LAW.
)
) NO 5203

Comes now the Condemnee-appellee,
in the above styled cause and demurrers to the application for
condemnation heretofore filed in this cause and assigns the
following separate and several grounds in support thereof:

1. That said application seeks to condemn property or
interests in property which the Petitioner is not entitled by
law to condemn.

2. That said petitioner seeks to condemn a temporary
easement to a strip of land necessary for the disposal of
mulk, and the petitioner is not entitled by law to condemn
a temporary easement for such purpose.

3. That this proceeding is instituted under the
provisions of Title 19, Section 1, et seq Code of Alabama, 1940,
and the Petitioner is not authorized by said statutory
provision to condemn a temporary easement for mulk disposal.

4. That said petitioner in this proceeding can only
condemn permanent easement, and the petition shows on its
face that the petitioner seeks to condemn a temporary easement
for mulk disposal over and across lands belonging to this
condemnee-appellee, which are more particularly described as

parcel No. 34 in said application.

Respectfully submitted,


Attorney for Condemnee-appellee.

FILED

SEP 23 1964

ALICE L. DUCK, CLERK
REGISTER

STATE OF ALABAMA,)	
Petitioner,)	IN THE CIRCUIT COURT OF
vs.)	
)	BALDWIN COUNTY, ALABAMA
HUGH R. GLASS, CENTRAL)	
BALDWIN BANK OR ROBERTSDALE,)	
a corporation, as to TRACT)	CASE NUMBER 6162.
NUMBER 34, Parcels 1 and 2,)	
Respondents.)	

STIPULATION:

It is hereby stipulated by and between the Petitioner (appellant), and Hugh R. Glass, et al., (appellees), parties to the above styled cause, through their respective attorneys of record, each acting with full authority as follows:

1. That the petitioner is authorized to institute and prosecute this proceeding to acquire the property or interest for order of condemnation filed in the Probate Court of Baldwin County, Alabama, on the 28th day of April, 1964, for the public purposes stated in said application or petition.

2. That all proceedings in the Probate Court of Baldwin County, Alabama, in this cause were regular, and an appeal has been duly and properly perfected within the time allowed and entered in said Probate Court in this cause on the 24th day of July, 1964, in this Court and trial by jury on the issue of valuation has been properly demanded.

3. That the application or petition for order of condemnation correctly sets out the uses and purposes for which the property and rights herein sought is to be devoted, used or applied and the petitioner has the right to obtain said property in this proceeding for the purposes stated.

4. That the respondents herein are the only parties known to either petitioner or respondents who have or assert any right, title or interest in or to the lands or interest therein sought to be acquired.

5. That the respondents have had due notice of this trial and all proceedings herein and expressly enter their appearance in this court.

6. That the only issue in this proceeding is the damages and compensation, if any, to which the respondents are entitled for the lands and interest in lands sought to be acquired by the petitioner for the uses and purposes stated.

7. That the time of taking in this proceeding is the date on which the application for order of condemnation was filed in the Probate Court, to-wit, April 28, 1964, and the valuation of said property was constant between that date and the date on which the order of condemnation was entered, to-wit, July 23, 1964.

John A. Washburn
Attorney for Petitioner.

E. E. Thason
Attorney for Respondents.

FILED

SEP 23 1964

ALICE J. DUCK, CLERK
REGISTER

STATE OF ALABAMA,)	
)	
Petitioner,)	IN THE CIRCUIT COURT OF
)	
vs.)	
)	BALDWIN COUNTY, ALABAMA
HUGH R. GLASS, CENTRAL)	
BALDWIN BANK OF ROBERTSDALE,)	
a corporation, AS TO TRACT)	CASE NUMBER 6162.
NUMBER 34, PARCELS 1 and 2,)	
)	
Defendants.)	

DECREE OF CONDEMNATION:

This cause came on for trial on the 23rd day of September, 1964, on appeal from the order of condemnation made and entered in the Probate Court of this County, on the 23rd day of July, 1964, the parties to this proceeding came into open Court in their own person and by their attorneys of record, entered an unqualified appearance and the Court is of the opinion and finds that it has jurisdiction of the cause, and of the parties; and the parties, acting by and through their attorneys of record, having announced in open Court that they had entered into an agreement as follows:

That the Court does have jurisdiction of the parties and the lands in this cause; that the parties have agreed and consented that the demand for a jury trial in this cause be withdrawn; that it is necessary that the property hereinafter described be condemned for the uses and purposes stated in said petition; that the said application of the Petitioner for order of condemnation should be granted by this Court; and that the Petitioner, State of Alabama, should pay to the Defendant landowners, Hugh R. Glass, Central Baldwin Bank of Robertsdale, a corporation, the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as a fair and just amount for compensation and damages for lands so taken; all of which being considered by the Court and the Court being of the opinion that said agreement is fair and just, both to the State of Alabama and to the Defendant landowners;

And the Court having considered all of the above is of the opinion and judgment that an order of condemnation should be here

entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the Defendant landowners of the amount agreed upon; it is, therefore

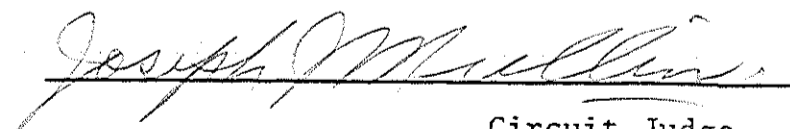
ORDERED, ADJUDGED AND DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

1. That the application of the State of Alabama for the condemnation of the lands hereinafter described be, and the same is hereby granted, and that the property described in Exhibit "A" attached hereto, and by reference made a part hereof as though fully set forth herein, be, and the same is hereby condemned for the use by the State of Alabama as a right of way for a public road of limited access as set forth in the application aforesaid, and the rights therein are hereby divested out of the landowners and into the State of Alabama, upon the payment by the State of Alabama of the amount agreed upon by the parties hereto.

2. That the Clerk of this Court be, and she is hereby authorized and directed to pay to the Defendants, Hugh R. Glass and Central Baldwin Bank of Robertsdale, the sum of Seven Thousand Five Hundred Dollars (\$7,500.00), which is the amount of the agreed settlement in this cause, and that upon the payment of said amount by the State of Alabama, to said landowners the condemnation of the lands hereinabove described shall be, and become effective.

3. That the State of Alabama pay the costs of this proceeding.

DATED this 23rd day of September, 1964.


Circuit Judge.

FILED

OCT 5 1964

ALICE J. DUCK, CLERK
REGISTER

EXHIBIT "A"

TRACT NUMBER 34

And as shown by the Right of Way Map of Project No. I-10-1 (11) 44 as recorded in the Office of the Judge of Probate of Baldwin County.

Parcel No. 1

Commencing at the NW corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 7, T 5 S, R 5 E; thence southerly along the West boundary line of said $\frac{1}{4}$ of $\frac{1}{4}$ section, a distance of 490 feet more or less to point of beginning at Sta. 981+48 on the center line of the Right Lane of Project No. I-10-1 (11) 44; thence southerly along said West boundary line, the West property line, a distance of 130 feet, more or less, to a point that is 125 feet southwesterly of and at right angles to the centerline of said Right Lane; thence southeasterly, parallel to the centerline of said Right Lane, along a curve to the right (concave southwesterly) having a radius of 11,334.15 feet, a distance of 1290 feet, more or less, to a point; thence S $42^{\circ} - 54' - 34''$ E a distance of 150 feet, to a point on the East boundary of said $\frac{1}{4}$ of $\frac{1}{4}$ section, the East property line; thence northerly, along said East property line, a distance of 620 feet, more or less, to a point that is 125 feet northerly of and at right angles to the centerline of the Left Lane of said project; thence westerly, along a curve to the left (concave southerly) having a radius of 5854.58 feet, a distance of 895 feet, more or less, to a point that is 125 feet northerly of and at right angles to the centerline of said Left Lane at P. C. Sta. 985 + 88.91; thence N $84^{\circ} - 54' - 20''$ West, parallel to the centerline of said Left Lane, a distance of 348 feet, more or less, to a point on the West property line at this point; thence southerly along said West property line a distance of 58 feet, more or less, to a point on the North property line at this point; thence westerly along said North property line a distance of 120 feet, more or less, to a point on the West property line at this point; thence southerly along said West property line a distance of 185 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 7, T 5 S, R 5 E, and containing 14.50 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-10-1 (11) 44, County of Baldwin, and all of the grantors remaining real property consisting of all parcels contiguous one to another whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the real property conveyed by this instrument or are connected thereto by other parcels owned by grantors.

Parcel No. 2

Commencing at the NE corner of the SE $\frac{1}{4}$ of Section 7, T 5 S, R 5 E; thence southerly along the East boundary of said $\frac{1}{4}$ section, the East property line, a distance of 710 feet to the point of beginning at Sta. 1024 + 65 on the centerline of the Right Lane of Project No. I-10-1 (11) 44; thence southerly along said East property line a distance of 185 feet, more or less, to a point that is 160 feet southwesterly of and at right angles to the centerline of said Right Lane; thence N 60°-54'-20" W, parallel to the centerline of said right lane, a distance of 720 feet, more or less, to a point that is 160 feet southwesterly of and at right angles to the centerline of said Right Lane at P.T. Sta. 1018 + 30.13; thence S 89°-05'-40" W a distance of 80 feet, more or less, to a point that is 200 feet southwesterly of and at right angles to the centerline of said Right Lane; thence northwesterly, parallel to the centerline of said Right Lane, along a curve to the left (concave southwesterly) having a radius of 11,259.15 feet, a distance of 1255 feet, more or less, to a point on the North boundary of said $\frac{1}{4}$ section, the North property line; thence easterly along said North property line a distance of 1250 feet, more or less, to a point that is 125 feet northwesterly of and at right angles to the centerline of the Left Lane of said project and at right angles to the centerline of the Left Lane of said project; thence S 60°-54'-20" E, parallel to the centerline of said Left Lane, a distance of 675 feet, more or less, to a point on said East property line; thence southerly along said East property line a distance of 380 feet, more or less, to the point of beginning.

Said strip of land lying in the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 7, T 5 S, R 5 E, and containing 16.50 acres more or less.

As a part of the consideration herein above 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-10-1 (11) 44; County of Baldwin, and all of the grantors remaining real property consisting of all parcels contiguous one to another whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the real property conveyed by this instrument or are connected thereto by other parcels owned by grantors.

Easement for Muck Disposal: the herein described property, a strip of land 150 feet in width and 600 feet in length, to be used for the purpose of a Muck Disposal Area, extending 150 feet southwesterly of and at right angles to the SW boundary line of right of way for Project No. I-10-1 (11) 44 from Sta. 1011 + 00 to Sta. 1017 + 00 on the Right Lane.

Said strip of land lying in the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 7, T 5 S, R 5 E, and containing 2.07 acres, more or less.

Easement for Muck Disposal: the herein described property, a strip of land 150 feet in width and 500 feet in length, to be used for the purpose of a Muck Disposal Area, extending 150 feet north-easterly of and at right angles to the NE boundary line of right of way for Project No. I-10-1 (11) 44 from the North boundary line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 7, T 5 S, R 5 E, to the East boundary line of said $\frac{1}{4}$ of $\frac{1}{4}$ section.

Said strip of land lying in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 7, T 5 S, R 5 E, and containing 1.72 acres, more or less.