

RESOLUTION

WHEREAS, the CITY OF FAIRHOPE is now in the process of expanding it's park facilities, along the Eastern Shore of Mobile Bay, and

WHEREAS, the CITY OF FAIRHOPE has been unsuccessful in it's efforts to acquire the property at the West end of Fairhope Avenue known as the CASINO and it's premises by purchase, and

WHEREAS, the acquisition of the property would be in the public interest and necessary for public use and park lands, now therefore,

BE IT RESOLVED that the CITY OF FAIRHOPE through it's right of eminent domain as set out in Title Nineteen, Section One, et seq, and Title Thirty-seven, Section 507, et seq, of the 1940 Code of Alabama as recompiled in 1958, proceed with the acquisition of the property hereinafter described to be used as park purposes which said property is more particularly described as follows:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division 1, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2, Baldwin County, Alabama.

BE IT FURTHER RESOLVED that a Petition for Order of Condemnation be filed forthwith in the Office of the Judge of Probate of Baldwin County, Alabama naming as the owners of the hereinabove described property FAIRHOPE SINGLE TAX CORPORATION, a corporation organized and existing under the laws of the State of Alabama, and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL.

BE IT FURTHER RESOLVED that the City Attorney file the said Petition for Order of Condemnation forthwith.

ADOPTED this the 27th day of February, 1967.

CITY OF FAIRHOPE

ATTEST:

Maria Moore
CITY CLERK

Quam
MAYOR

STATE OF ALABAMA

BALDWIN COUNTY

Before me, John V. Duck, a Notary Public, in and for said county in said state, personally appeared MARIE MOORE, City Clerk of the CITY OF FAIRHOPE, ALABAMA, who is known to me, and who being by me first duly sworn, doth depose and say:

That she is the City Clerk of the CITY OF FAIRHOPE, Baldwin County, Alabama, and that the foregoing Resolution is a true and correct copy adopted on the 27th day of February, 1967, and that the original is on file in the Minute Book at the City of Fairhope, Alabama.

Marie Moore
MARIE MOORE

Sworn to and subscribed before me

on this the 27th day of February, 1967.

John V. Duck
NOTARY PUBLIC

CITY OF FAIRHOPE, ALABAMA,
A Municipal Corporation,

Petitioner,

IN THE CIRCUIT COURT OF

vs.

BALDWIN COUNTY, ALABAMA

FAIRHOPE SINGLE TAX
CORPORATION, A Corporation
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

CLAIM OF FAIRHOPE SINGLE TAX
CORPORATION FOR PART OF AWARD

Comes now Fairhope Single Tax Corporation, a corporation,
by its attorneys, and files this it's claim for a distribution to
it of the award heretofore made in this cause to it and George J.
Mitchell and Barbara Vallas Mitchell and respectfully represents
and shows unto this Honorable Court as follows:

ONE:

That it is the owner in fee simple of all of the prop-
erty condemned in this proceeding and particularly described in
the Order of Condemnation heretofore entered in this cause on
September 11, 1967, subject only to the rights, if any, of George
J. Mitchell and Barbara Vallas Mitchell under and by virtue of the
terms and provisions of the lease to them by it, a copy of which
is attached hereto and by reference made a part hereof as though
particularly set forth herein.

TWO:

That at the time of the filing of the Application by the
City of Fairhope, Alabama, a municipal corporation, in the Probate
Court of Baldwin County, Alabama, to condemn the lands described
in said Application, and at the time of the taking thereof by the

City of Fairhope for the uses and purposes set forth in its Application for Condemnation in the exercise of its right of eminent domain, the lease hereinabove referred to was void and of no force and effect in that the Respondents George J. Mitchell and Barb Vallas Mitchell had defaulted in the payment of the rents due under the terms and provisions of said lease.

Wherefore, the premises considered, Fairhope Single Tax Corporation, a corporation, does hereby claim the entire amount of the award heretofore made against the Petitioner in the above styled cause and in favor of the Respondents in said cause and respectfully moves this Honorable Court to enter an order or decree in and by the terms of which the entire amount of said award shall be ordered paid by the Clerk of the Circuit Court of Baldwin County, Alabama to Fairhope Single Tax Corporation, a corporation.

Respectfully submitted,

CHASON, STONE & CHASON

By: 

Attorneys for Fairhope Single Tax Corporation

FILED


SEP 29 1967

ALICE J. DUCK CLERK
REGISTER

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 29 day

of September, 1967



City of Fairhope

JURY LIST - SEPTEMBER 11, 1967

VS
Fairhope
Surg. Int. Col.

1. Hudson, Homer, Standard Furniture Co., Bay Minette
2. Carlisle, D. C., Newport, Bay Minette
3. Helms, Kenneth B., Civil Service, Elberta
4. Hirz, Donald, Civil Service, Elberta
5. Irwin, Alvin A., Farmer, Gateswood
6. Hobbs, Tom, Farmer, Rosinton
7. Calloway, John, Fisherman, Gulf Shores
8. Bloch, John, Farmer, Elberta
9. Brantley, C. C., Contractor, Bay Minette
10. Brooks, Frank, Mechanic, Foley
11. Jerkins, Albert E., Farmer, Stapleton
12. Johnston, Jessie, Retired, Foley
13. Beasley, Wilson C., Store Owner, Bay Minette
14. King, H. W., Farmer, Stapleton
15. Bishop, George O., Merchant, Fairhope
16. Blackman, W. K., Farmer, Foley
17. Akers, Mrs. R. M., Collector, Bay Minette
18. Allegri, Angelo, Carpenter, Fairhope
19. Nelson, Durwood F., Farmer, Fairhope
20. Norworthy, John C., Clerk, Bay Minette
21. Parker, Willard, Farmer, Bon Secour
22. Peavy, Thelma, Housewife, Bon Secour
23. Presley, Guy T., Farmer, Lottie
24. Baggett, H. M., Civil Service, Stapleton
25. Faulk, Billy, Barber, Robertsdale
26. Feil, Neal J., Farmer, Lillian
27. Dyess, Roy, Farmer, Rosinton
28. Dyess, Wm. W., Farmer, Robertsdale
29. Turk, Thera W., Gateswood
30. Miller, Albert Ernest, Clerk, Bay Minette
31. Miller, David A., Contractor, Summerdale
32. Trawick, Walter, Laborer, Bay Minette
33. Rider, Charles, Woodsman, Bay Minette
34. Yarbrough, Ralph R., Filling Station, Bay Minette
35. Whitten, Lewis S., Electrician, Fairhope
36. Windham, Carl T., Paper Co., Robertsdale
37. Wharton, Mary J., Housewife, Foley
38. White, Earnest, Farmer, Robertsdale
39. Weeks, Harry J., Nurseryman, Foley
40. Crimes, Roy A., Newport, Bay Minette
41. Bauer, Hilbert, Farmer, Summerdale
42. Ruple, LeRoy, Engineer, Bay Minette
43. Keenan, Ruben A., Oil Dealer, Robertsdale
44. Fullbright, Lex J., Army-Retired, Gulf Shores
45. Fuqua, Damon L., Gov't Emp., Gulf Shores
46. Gause, Eleanor, Stockton
47. Beasley, John, Banker, Fairhope
48. Hammond, Cecil C., Truck Operator, Bay Minette
49. Jones, Chester, Western Auto., Robertsdale
50. Frank, Lawrence J., Farmer, Elberta

P XXXXX XXXXX XXXXX XXXX
D XXXXX XXXXX XXXXX XXXX

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE. NO. 7669.

LAW SIDE. NO. 7669.

1

FINAL JUDGMENT:

This cause coming on to be heard upon the claim of Fairhope Single Tax Corporation, and the claim of George J. Mitchell and Barbara Vallas Mitchell, and the testimony of the witnesses heard ore tenus in open Court, and the Court having considered the same, it is, therefore, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the said George J. Mitchell and Barbara Vallas Mitchell, shall have and recover the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00) as compensation for their leasehold interest and for the value of the improvements situated thereon.

2. That the said Fairhope Single Tax Corporation shall have and recover the sum of TEN THOUSAND DOLLARS (\$10,000.00) as and for its interest in said lands.

3. That the remaining costs of these proceedings be pro-rated between Fairhope Single Tax Corporation and the said George J. Mitchell and Barbara Vallas Mitchell on the basis of their recovery in this cause, being two-thirds to be paid by George J. Mitchell and Barbara Vallas Mitchell, and one-third to be paid by Fairhope Single Tax Corporation.

DATED at Bay Minette, Alabama, this 14th day of May
1968.

J. J. Maschere
Circuit Judge.

Filed 5-14-68
Doris J. Glick
Clerk.

THE STATE OF ALABAMA
Baldwin County - Circuit Court

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the 14th
May, 1968 ~~Monday~~, ~~1968~~, in a cer-
tain cause in said Court wherein CITY OF FAIRHOPE, ALABAMA, A Municipal Corporation
Plaintiff, and FAIRHOPE SINGLE TAX CORPORATION, A
BARBARA VALLAS MITCHELL,
Corporation and GEORGE J. MITCHELL and /Defendants a judgement was rendered ~~against said~~
in the matter of the controversy between the Defendantss as to the distribution
of the condemnation award,
to reverse which judgment, the said Fairhope Single Tax Corporation,
applied for and obtained from this office an APPEAL, returnable to the next
Term of our Supreme Court of the State of Alabama, to be held at Montgomery, on
the day of 196 next, and the necessary bond
having been given by the said Norborne C. Stone, Jr. and John Earle Chason
with ~~sureties~~

Now, You Are Hereby Commanded, without delay, to cite the said City of Fairhope,
George J. Mitchell & Barbara Vallas Mitchell
a Municipal Corporation, or John V. Duck and Owens & Patton,
attorneys to appear at the next Term of our
said Supreme Court, to defend against the said Appeal, if they think proper.
Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 21st
day of October, A. D., 196 8

Attest:

Alice J. Duck, Clerk.

CASE NO. 7669

CIRCUIT COURT
Baldwin County, Alabama

CITY OF FAIRHOPE, A Municipal Corp.,

Vs. { Citation in Appeal

FAIRHOPE SINGLE TAX CORPORATION, A CORP.,
& GEORGE J. MITCHELL & BARBARA VALLAS MITCHELL,

Issued 21st day of Oct⁹ 1968

October

I accept service for George J.
Mitchell and Barbara Vallas
Mitchell
Ramon Owens, Jr.

Received 25th day of Oct 1968
and on 5 day of Nov 1968

I served a copy of the within Citation in Appeal

By ~~James H. Williams, Sheriff~~
C. H. Williams, City Atty.

By Roy Russell, D. 2

Sheriff claims

Ten Cents per mile Total

BY TAYLOR WILLIAMS, Sheriff
Roy Russell, DEPUTY SHERIFF

Shirley

7669

| | | |
|--|---|-------------------------|
| CITY OF FAIRHOPE, a Municipal Corporation, |) | IN THE PROBATE COURT OF |
| |) | BALDWIN COUNTY, ALABAMA |
| Petitioner, |) | CASE NO. _____ |
| vs. |) | |
| FAIRHOPE SINGLE TAX CORPORATION, |) | |
| a corporation, and GEORGE J. |) | |
| MITCHELL and BARBARA VALLAS MITCHELL, |) | |
| Respondents. |) | |

BOOK 46 PAGE 561

APPLICATION FOR CONDEMNATION

TO THE HONORABLE HARRY D'OLIVE, JUDGE OF THE PROBATE COURT, BALDWIN COUNTY, ALABAMA:

Comes now THE CITY OF FAIRHOPE, ALABAMA, a Municipal Corporation, organized and existing under the laws of the State of Alabama, Petitioner in the above styled cause, and files this it's application in the Probate Court of Baldwin County, Alabama, for Order of Condemnation for park purposes of the lands hereinafter described for the use as public park purposes and as a basis for the release sought, shows unto the Court as follows:

1. Petitioner is authorized under the Constitution of Alabama 1901, and under the provisions of Title 19, Section 1, Code of Alabama, 1940 as recompiled in 1958, and Title 37, Section 507, et seq, of the 1940 Code of Alabama as recompiled in 1948, to institute and prosecute these proceedings in it's own name for the purposes of condemning for public park lands, lands located within the municipal boundaries of the City of Fairhope, a Municipal Corporation, in Baldwin County, Alabama.

2. That your Petitioner has adopted the Resolution declaring that the acquisition of the property hereinafter described is in the public interest and necessary for public use, a copy of which Resolution is attached hereto marked Petitioner's "Exhibit A", with leave herein prayed to refer to the same as often as may be necessary.

3. That the property sought to be condemned for public park purposes is located on the Western end of Fairhope Avenue and more particularly described aa follows, to-wit:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another,

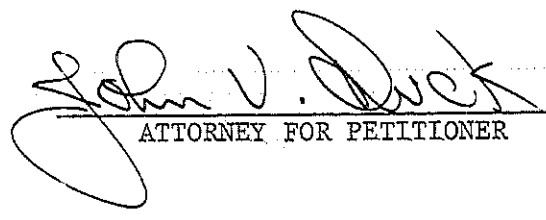
continued ...

located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division 1, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2, Baldwin County, Alabama.

4. That a diligent search has been made of the records of Baldwin County, Alabama, and diligent inquiry made to ascertain the names and addresses of the parties owning said tract of land, and according to the best of your Petitioner's information, knowledge and belief, the said lands are owned and interest in said lands are claimed by the parties named as Respondents in this cause.

WHEREFORE, the premises considered, your Petitioner respectfully prays:

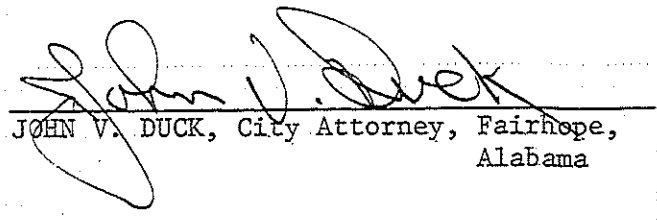
1. That an Order be made appointing a day for the hearing for this application and that notice of the filing thereof and of the day set for the hearing thereof be given to the Respondents.
2. That this Court will appoint Commissioners to ascertain and report the compensation and damages occasioned by such taking.
3. That upon a final hearing of this Petition an Order and Decree be made by this Court condemning the hereinabove described property and declaring that the acquisition of the property is in the public interest and necessary for public use, all for the uses and purposes of public park lands for the CITY OF FAIRHOPE, a Municipal Corporation in the State of Alabama.


ATTORNEY FOR PETITIONER

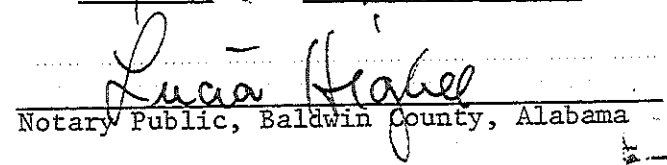
STATE OF ALABAMA

BALDWIN COUNTY

Before me, Lucia Higbee, a Notary Public, in and for said county in said state, personally appeared JOHN V. DUCK, who is known to me, and who being by me first duly sworn, doth depose and say: That he is the attorney for the CITY OF FAIRHOPE, Fairhope, Alabama, that the allegations of the foregoing Petition are true and correct according to his best knowledge, information and belief.


JOHN V. DUCK, City Attorney, Fairhope, Alabama

Sworn to and subscribed before me this 1 day of March, 1967.


Notary Public, Baldwin County, Alabama

RESOLUTION

WHEREAS, the CITY OF FAIRHOPE is now in the process of expanding it's park facilities, along the Eastern Shore of Mobile Bay, and

WHEREAS, the CITY OF FAIRHOPE has been unsuccessful in it's efforts to acquire the property at the West end of Fairhope Avenue known as the CASINO and it's premises by purchase, and

WHEREAS, the acquisition of the property would be in the public interest and necessary for public use and park lands, now therefore,

BE IT RESOLVED that the CITY OF FAIRHOPE through it's right of eminent domain as set out in Title Nineteen, Section One, et seq, and Title Thirty-seven, Section 507, et seq, of the 1940 Code of Alabama as recompiled in 1958, proceed with the acquisition of the property hereinafter described to be used as park purposes which said property is more particularly described as follows:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division 1, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2, Baldwin County, Alabama.

BE IT FURTHER RESOLVED that a Petition for Order of Condemnation be filed forthwith in the Office of the Judge of Probate of Baldwin County, Alabama naming as the owners of the hereinabove described property FAIRHOPE SINGLE TAX CORPORATION, a corporation organized and existing under the laws of the State of Alabama, and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL.

BE IT FURTHER RESOLVED that the City Attorney file the said Petition for Order of Condemnation forthwith.

ADOPTED this the 27th day of February, 1967.

CITY OF FAIRHOPE

ATTEST:

Marie Marie
CITY CLERK

Quaam
MAYOR

Exhibit "A"

STATE OF ALABAMA

BALDWIN COUNTY

Before me, John V. Duck, a Notary Public,
in and for said county in said state, personally appeared MARIE MOORE, City
Clerk of the CITY OF FAIRHOPE, ALABAMA, who is known to me, and who being by
me first duly sworn, doth depose and say:

That she is the City Clerk of the CITY OF FAIRHOPE, Baldwin
County, Alabama, and that the foregoing Resolution is a true and correct copy
adopted on the 27th day of February, 1967, and that the original is on file in
the Minute Book at the City of Fairhope, Alabama.

MARIE MOORE

Sworn to and subscribed before me
on this the 21st day of
March, 1967.

John V. Duck
NOTARY PUBLIC

CITY OF FAIRHOPE, a municipal
corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

BOOK
46 PAGE 573

NOTICE OF LIS PENDENS

Notice is hereby given that on, to-wit: the 2nd day of March, 1967, the CITY OF FAIRHOPE, a municipal corporation, filed its application in the Court of Probate of Baldwin County, Alabama against FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, seeking to condemn the hereinafter described lands belonging to said Respondents, for park purposes in the manner required by Title 19, Section 1, Code of Alabama 1940 as recompiled in 1958, (and Title 37, Section 507, et seq, of the 1940 Code of Alabama as recompiled in 1958;) and the applicant further seeks by said application to acquire the properties for the use as park purposes.

That the said properties sought to be condemned by said applicant for such uses and purposes is located in the City of Fairhope, County of Baldwin, State of Alabama, and more particularly described as follows:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division One, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2 East, Baldwin County, Alabama.

This the 6 day of March, 1967.

CITY OF FAIRHOPE

By


At it's Attorney

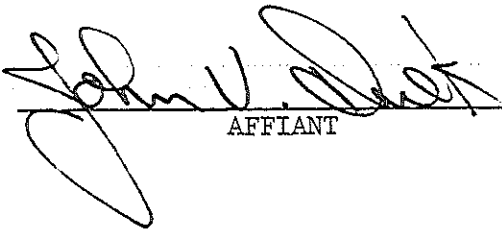
BOOK

46 PAGE 57A

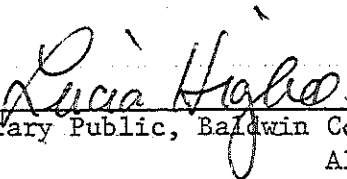
STATE OF ALABAMA

BALDWIN COUNTY

Before the undersigned authority, personally appeared JOHN V. DUCK, who, being by me first duly sworn, deposes and says that he is the attorney for the said CITY OF FAIRHOPE, a municipal corporation, and is authorized to file the foregoing Notice for and in behalf of the said CITY OF FAIRHOPE, a municipal corporation, and that he has knowledge of the statements contained therein and that such statements are true and correct.


AFFIANT

Sworn to and subscribed before me
on this the 6 day of
March, 1967.


Notary Public, Baldwin County,
Alabama.

CITY OF FAIRHOPE, a municipal corporation,
Petitioner,
vs.
FAIRHOPE SINGLE TAX CORPORATION,
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,
Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA


BOOK
46 PAGE 569

ORDER APPOINTING DATE FOR HEARING

This day came the CITY OF FAIRHOPE, a municipal corporation, and filed in this Court it's application or petition to have condemned for certain purposes therein stated, certain lands belonging to FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, a description of said property being specifically set forth in said application or petition.

It is therefore, ORDERED, ADJUDGED AND DECREED that the 21st day of March, 1967 be appointed the day to hear said application or petition, and that notice of the same, and of the day set to hear the same, be given at least ten (10) days before the day set, by personal service upon FAIRHOPE SINGLE TAX CORPORATION, a corporation, Fairhope Avenue, Fairhope, Alabama, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, who reside at 265 Woodlands Avenue, Mobile, Alabama.

DONE this the 8th day of March, 1967.


JUDGE OF PROBATE

CITY OF FAIRHOPE, a municipal corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

BOOK

46 PAGE 567

DECREE SETTING PETITION FOR HEARING
AND DIRECTING NOTICE

The CITY OF FAIRHOPE, a municipal corporation, by and through it's Attorney, filed in this Court, it's application or petition in writing, verified by it's Attorney, stating the names and residences of the various owners, and prays for the condemnation of the land and property described in said application or petition, which said property is described as follows:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division One, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2 East, Baldwin County, Alabama.

And in said application it is alleged the use or purpose for which the land is to be taken and the interest therein acquired.

It is therefore, ORDERED, ADJUDGED AND DECREED by the Court that notice of the application and the time set for hearing thereof be given to FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL who reside at 265 Woodsland Avenue, Mobile, Alabama, all residents of the State of Alabama, by personal service, notifying them of the date when said application or petition is set for hearing.

It is further, ORDERED, ADJUDGED AND DECREED by the Court that the 21st day of March, 1967 at 10:00 o'clock A.M. is set for the hearing of said application or petition at the Office of the Judge of Probate, Baldwin County, Alabama.

DONE this the 8th day of March,

1967.

Harry D'Almeida
JUDGE OF PROBATE

BOOK 46 PAGE 568

CITY OF FAIRHOPE, a municipal
corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

BOOK

46 PAGE 570

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to serve the following notice upon BARBARA VALLAS MITCHELL, 265 Woodlands Avenue, Mobile, Alabama:

You will take notice that on the 2nd day of March, 1967, an application or petition was filed in the Court by the CITY OF FAIRHOPE, a municipal corporation, setting forth its desire to condemn for certain purposes therein stated, lands belonging to FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL, a description of said land as specifically set forth in said application or petition filed in this Court and said application or petition prays that this Court will make and enter an order appointing a day for hearing of said application and for such other and further orders and procedures as may be necessary. You will take further notice that the Court has appointed the 21st day of March, 1967 at 10:00 o'clock A.M. to hear said application or petition, at which time you may appear and contest the same if you so desire to do.

WITNESS my hand this the 8th day of March, 1967.

Harry D. Olive
JUDGE OF PROBATE

2

RECEIVED

MAR 8 1967

TAYLOR WILKINS
SHERIFF

3/21
REC'D SHERIFF DEPT.
MOBILE COUNTY, ALA.

MAR 9 2 35 PM '67

BY _____

993

Received 9 Day of Mar 19 67
and on 11 Mar 19 67
by Barbara Dallas Mitchell
by Barbara Dallas Mitchell
by Barbara Dallas Mitchell

RAY D. BRIDGES, Sheriff
By H. B. W. C. D. S.

4395
3/21

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to serve the following notice upon FAIRHOPE SINGLE TAX CORPORATION, a corporation, located on Fairhope Avenue, Fairhope, Alabama:

You will take notice that on the 2nd day of March, 1967, an application or petition was filed in the Court by the CITY OF FAIRHOPE, a municipal corporation, setting forth its desire to condemn for certain purposes therein stated lands belonging to FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL, a description of said land as specifically set forth in said application or petition filed in this Court and said application or petition prays that this Court will make and enter an order appointing a day for hearing of said application and for such other and further orders and procedures as may be necessary. You will take further notice that the Court has appointed the 21st day of March, 1967 at 10:00 o'clock A.M. to hear said application or petition, at which time you may appear and contest the same if you so desire to do.

WITNESS my hand this the 8th day of March, 1967.

Harry D'Oliver
JUDGE OF PROBATE

Received 8 day of March 1967
and on 13 day of Mar. 1967

I served a copy of the within Notice
on Laurel Single Taylor.

By service on Mr. C.A. Masters

TAYLOR WILKINS, Sheriff
By Roy Randall D.S.

[Signature]

Sheriff claims 70 miles at

Ten Cents per mile Total \$ 7.00

TAYLOR WILKINS, Sheriff
By Roy Randall
DEPUTY SHERIFF

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CITY OF FAIRHOPE, a municipal
corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

BOOK


46 PAGE 572

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to serve the following notice upon GEORGE J.
MITCHELL, 265 Woodlands Avenue, Mobile, Alabama:

You will take notice that on the 2nd day of March, 1967, an appli-
cation or petition was filed in the Court by the CITY OF FAIRHOPE, a municipal
corporation, setting forth its desire to condemn for certain purposes therein
stated, lands belonging to FAIRHOPE SINGLE TAX CORPORATION, a corporation, and
GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL, a description of said
land as specifically set forth in said application or petition filed in this
Court and said application or petition prays that this Court will make and
enter an order appointing a day for hearing of said application and for such
other and further orders and procedures as may be necessary. You will take
further notice that the Court has appointed the 21st day of March, 1967 at
10:00 o'clock A.M. to hear said application or petition, at which time you may
appear and contest the same if you so desire to do.

WITNESS my hand this the 8th day of March, 1967.


JUDGE OF PROBATE

RECEIVED

MAR 8 1967

TAYLOR WILKINS
SHERIFF

TO: JAMES WILSON, JR.

MOBILE COUNTY, ALA.

REC'D SHERIFF DEPT.
MOBILE COUNTY, ALA.

MAR 9 2 35 PM '67

BY

Received

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by service on

RAY D. BRIGGS, Sheriff

By H. Busby

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CITY OF FAIRHOPE, a
municipal corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION,
a corporation, and GEORGE J.
MITCHELL and BARBARA VALLAS
MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

45 PAGE 575

This being the day regularly appointed to hear the Petition of the CITY OF FAIRHOPE, a municipal corporation, heretofore filed in this Court, praying that the Court condemn certain lands described in said Petition for the purposes set forth therein, and FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, being represented in Court by their attorneys, and it appearing unto the Court that all interested parties have had due and legal notice of the filing of said Petition and of the day set to hear the same, the Court now proceeds to hear said Petition, together with all the evidence touching same. It appears to the Court upon the evidence of R. C. MACON, as Mayor of the CITY OF FAIRHOPE, Fairhope, Alabama, and MRS. MARIE MOORE, City Clerk, of Fairhope, Alabama, taken orally before the Court, that the allegations of said Petition are true; that FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL are the owners of said lands and it is necessary that said lands be condemned for the purpose mentioned in the Petition. It appears further that no objections have been filed to the granting of said Petition and that no objections were made at the hearing.

It is therefore ORDERED AND DECREED by the Court that said Petition be, and the same is hereby granted.

DONE this the 21st day of March, 1967.


JUDGE OF PROBATE COURT, BALDWIN
COUNTY, ALABAMA

CITY OF FAIRHOPE, a
municipal corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION,
a corporation, and GEORGE J.
MITCHELL and BARBARA VALLAS
MITCHELL,

Respondents.

) IN THE PROBATE COURT OF
) BALDWIN COUNTY, ALABAMA
)
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ORDER APPOINTING COMMISSIONERS

It appearing that the Court of Probate of Baldwin County, Alabama has this day granted the petition of the CITY OF FAIRHOPE, a municipal corporation, in that cause styled, CITY OF FAIRHOPE, a municipal corporation, Petitioner, vs. FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, Respondents, and it appearing unto the Judge of Probate that Walter Lindsey, Paul Pennington and Charles J. Ebert Jr., who are citizens of this county, each possessing qualifications of jurors and each being disinterested, and therefore proper and competent persons to act as Commissioners to view the land described in said petition and to assess the damages and compensation to which the Respondents are entitled, it is therefore proper that Walter Lindsey, Paul Pennington and Charles J. Ebert Jr. be, and they are hereby appointed as such Commissioners to view the lands described in said petition and after hearing all of the evidence offered, to assess the damages or compensation to which the said Respondents are entitled and said Commissioners will report their doings hereunder in writing to the Court of Probate in Baldwin County, Alabama.

DONE this the 7th day of April, 1967.

Harry D. Oline
JUDGE OF PROBATE

CITY OF FAIRHOPE, a municipal corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION,
a corporation, and GEORGE J.
MITCHELL and BARBARA VALLAS
MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

BOOK 46 PAGE 576

NOTICE OF APPOINTMENT

TO: Walter Lindsey, Carl Pennington
and Charles J. Phert, Jr. - Soley

KNOW YE, that having full faith and confidence in your integrity and competency, you have, by the Probate Judge of Baldwin County, Alabama, been appointed and constituted Commissioners in the petition and cause hereinabove set forth with all of the power and authority and duties vested in or which may devolve on you as such Commissioners under and by virtue of the laws of Alabama relating to eminent domain.

You will be sworn as Jurors are sworn, and you, or a majority of you, shall assess the damages and compensation to which the owners of the land as described in said petition are entitled on account of any injury that may result to them by reason of the taking and condemning by the CITY OF FAIRHOPE, a municipal corporation.

You may view the lands or property to be condemned and you must receive all legal evidence offered by any party touching the amount of damages the owners of the lands will sustain, and the amount of compensation they are entitled to receive by virtue of having title to said property divested out of them and vested in the CITY OF FAIRHOPE, a municipal corporation.

You must within twenty (20) days from the date of your appointment, which was to, wit: the 7th day of April 1967, make a report in writing to the Court, stating the full reasonable market value of said lands or property, the basis of

this proceeding, ascertained and assessed by you for the owners of the lands, and file a certificate along with your award that none of you have ever been consulted, advised with or approached by any person in reference to the value of the lands, or the proceedings to condemn the same prior to your appointment.

This the 7th day of April, 1967.

Harry D'Oliver
JUDGE OF PROBATE, BALDWIN COUNTY,
ALABAMA.

Received 10 day of April 1967
and on 19 day of April 1967
I served a copy of the within Notice
on Walter Lindsey

By service on _____

TAYLOR WILKINS, Sheriff
By W. A. Folbert S. S.
on

Received 10 day of April 1967
and on 10 day of April 1967
I served a copy of the within Notice
on Earl Pennington

By service on _____

TAYLOR WILKINS, Sheriff
By Carolee R. Brown S. S.
R. H. W.

Received 10 day of April 1967
and on 10 day of April 1967
I served a copy of the within Notice
on Charles G. Ebert Jr.

By service on _____

TAYLOR WILKINS, Sheriff
By Carolee R. Brown S. S.
S. J. J.

Sheriff claims 122
Ten Cents per mile Total \$ 12.20
TAYLOR WILKINS, Sheriff
By Carolee R. Brown S. S.
DEPUTY SHERIFF

STATE OF ALABAMA

BALDWIN COUNTY

We, and each of us, do solemnly swear that we will well and truly try the cause now pending and submitted to our decision, said case being styled CITY OF FAIRHOPE, a municipal corporation, Petitioner, vs. FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, Respondents; and that we are not directly nor indirectly interested in the issue to be tried, and that we are not biased or prejudiced against either of said parties, and that we will render such compensation to the Respondents as to us shall seem just and proper in the premises. So help us God.

William Lindsey

Earl D. Remington

Charles J. Smith

Sworn to and subscribed before
me on this the 19th day of

April, 1967.

Harry D'Olive
JUDGE OF PROBATE, BALDWIN COUNTY,
ALABAMA.

CITY OF FAIRHOPE, a municipal corporation,)

Petitioner,)

vs.)

FAIRHOPE SINGLE TAX CORPORATION,)
a corporation, and GEORGE J.)
MITCHELL and BARBARA VALLAS)
MITCHELL,)

Respondents.)

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

REPORT OF COMMISSIONERS

TO THE HONORABLE HARRY D'OLIVE, JUDGE OF SAID COURT:

Now comes Walter Lindsey, Carl Pennington
and Charles Ebert, Jr., and make known unto the Court
as follows:

That they were on the 7th day of April,
1967, duly appointed by this Honorable Court as Commissioners in
the above styled cause, with all of the power, authority, and
duties which were vested in them or which devolved upon them as
such Commissioners under and by virtue of the provision of Title
19, Section 1, et seq, Code of Alabama of 1940 as recompiled in
1958; that they have been sworn as Jurors are sworn, that they
have received all legal evidence offered in behalf of the owners
of said property, and by the CITY OF FAIRHOPE, a municipal corpor-
ation, at a hearing held and conducted by them in the Court House
of Baldwin County, Alabama on the 19 day of April,
1967, after notice of the time, place and purpose of said hearing
had been given.

That on a full, fair and impartial consideration of all the
evidence in this matter, they have assessed the damages and com-
pensation to which the owner or owners of the land described in
the petition in this cause is entitled on account of any injury
that may result to them by reason of the taking and condemning of
said land by the CITY OF FAIRHOPE, a municipal corporation, at the
total sum of \$ Land, \$23,250.00
Improvements \$1500.00, and which said
property is more particularly described as follows:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division 1, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2, Baldwin County, Alabama.

That in the opinion of said Commissioners, said sum is the full reasonable market value of said lands and property and the said sum of \$ 24,750⁰⁰ is hereby ascertained and assessed by us against the said CITY OF FAIRHOPE, a municipal corporation, for the owners of said land for damages and compensation for any injury that may result to them by reason of the taking and condemning of said lands and the vesting of title thereof in the said CITY OF FAIRHOPE, a municipal corporation.

DONE this the 19th day of April, 1967.

Walter M. Lindsey

Earl L. Pennington

Charles J. Phurt Jr.
COMMISSIONERS

STATE OF ALABAMA

BALDWIN COUNTY

We, Walter Lindsey, Earl Pennington
and Charles Phurt Jr., do hereby certify that each of us possesses qualifications of a Juror, that he is entirely disinterested in this cause, and that he has never been advised with or approached by any person in reference to the value of such lands or the proceedings to condemn the same prior to his

appointment, and that he knew nothing of the same prior to his appointment.

Dated this the 19th day of April
1967.

BOOK

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- Walter Lindsey

- Earl D Pennington

- Wm. H. White

Commissioners

CITY OF FAIRHOPE, a
municipal corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION,)
a corporation, and GEORGE J.)
MITCHELL and BARBARA VALLAS)
MITCHELL,

Respondents.

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

ORDER OF CONDEMNATION
BY PROBATE COURT

BOOK
46 PAGE 582

THIS CAUSE, coming on to be heard on this day for a Decree confirming the report of Commissioners heretofore appointed in said cause, and for an Order of Condemnation in pursuance thereof as to the lands described in said report, and applicant's petition filed in said cause;

And it appearing unto the Court that on, to-wit: the 21st day of March, 1967, this Court heard the allegations of said petition and all legal evidence offered by authorities touching the same, and there being present at said hearing all parties or their respective attorneys.

And it further appearing that the Court did make an Order granting said petition for the condemnation of the property therein described, namely:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division One, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2 East, Baldwin County, Alabama,

and did also appoint

Walter Lindsey,
Carl Pennington and Charles J. Phet Jr.,

three citizens of the County of Baldwin in which the lands sought to be condemned are situated, and who were disinterested, and who possessed the qualifications of jurors in Baldwin County, Alabama

to assess the damages and compensation to which the Defendants, FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL, described in said petition, are entitled as their respective interests might appear.

And it further appearing unto the Court that notice of the appointment of said three named persons as commissioners was issued by the Court to the Sheriff of said County of Baldwin as required by law, and by said Sheriff served on said three named persons as commissioners as required by law.

And it further appearing unto the Court that said Commissioners before entering upon the discharge of their duties in the premises, were sworn as jurors are sworn, and that they did thereafter receive all legal evidence offered by the parties touching the amount of damages the owners of said lands will sustain and the amount of compensation they are entitled to receive;

And it further appearing unto the Court that the said commissioners did on, to-wit: the 19th day of April, 1967, make their report in writing to this Court stating TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY (\$24,750.00) DOLLARS to be the amount of damages and compensation ascertained and assessed by them for the Defendants whom said commissioners find to be entitled to the TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY (\$24,750.00) DOLLARS.

And it further appearing unto the Court that said commissioners did also file a certificate along with their award that none of them has ever been consulted, advised with or approached by any person in reference to the value of the lands or the proceedings to condemn the same prior to the assessment of damages, and that they knew nothing of the same prior to the assessment of damages, and that they knew nothing of the same prior to their appointment.

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED by the Court that the applicant, CITY OF FAIRHOPE, a municipal corporation, pay all costs incurred in this cause.

And it further appearing unto the Court that the damages and compensation so ascertained and assessed by said commissioners for the Defendants have been deposited in this Court.

And it further appearing unto the Court that all things necessary and required by the laws of the State of Alabama have been done and performed by the applicant.

It is further ORDERED, ADJUDGED AND DECREED and is the judgment of this Court that the property sought to be condemned by said petition be condemned, granted and awarded to the applicant, CITY OF FAIRHOPE, a municipal corporation, and that all right, title and interest prayed for in said petition, which is now condemned, granted and awarded to the applicant in and by this decree, be, and the same is hereby divested out of the said Defendants and vested in the applicant.

DONE this the 21st day of June,
1967.

Harry D. Oliver
JUDGE OF THE PROBATE COURT OF BALDWIN
COUNTY, ALABAMA.

CITY OF FAIRHOPE, a municipal
corporation,

Petitioner,

vs.

FAIRHOPE SINGLE TAX CORPORATION
and GEORGE J. MITCHELL and
BARBARA VALLAS MITCHELL,

Respondents.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

NOTICE OF APPEAL

Comes GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL,
Respondents in the above styled cause, and pursuant to the pro-
visions of Title 19, Section 17, Code of Alabama of 1940, pray
for and take an appeal to the Circuit Court of Baldwin County,
Alabama, from the order of condemnation entered in said cause on
the 20th day of June, 1967, insofar as said order of condemnation
relates to or in any manner affects all the Respondents named in
the caption of this notice of appeal, in the property described
in said order of condemnation, being particularly described as
follows:

A lot of land 92-1/2 feet, more or less, in its
Easterly and Westerly dimensions by 155 feet, more
or less, in its Northerly and Southerly demensions;
the Easterly and Westerly boundaries being parallel
to one another, and the Northerly and Southerly
boundaries being parallel to one another, located
at the shore end of the Fairhope Wharf and on the
North side thereof, being listed in the records of
the Fairhope Single Tax Corporation as "Tract A" on
Beach, Division I of the lands of the Fairhope Single
Tax Corporation, Fairhope, Baldwin County, Alabama,
lying in Fractional Section 18, Township 6 South,
Range 2 East, Baldwin County, Alabama.

George J. Mitchell and Barbara Vallas Mitchell do hereby
file in the Probate Court of Baldwin County, Alabama, the Court
entering such order of condemnation, this their written notice of
appeal and George J. Mitchell and Barbara Vallas Mitchell do here-
by demand a jury for the trial of this cause in the Circuit Court
of Baldwin County, Alabama.

DONE this 21st day of June, 1967.

OWENS AND PATTON

By:

Attorneys for Respondents, George
J. Mitchell and Barbara Vallas
Mitchell.

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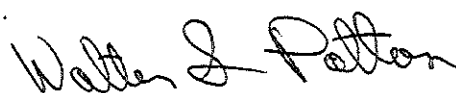
TO: CITY OF FAIRHOPE, a municipal corporation
FAIRHOPE SINGLE TAX CORPORATION

YOU ARE HEREBY NOTIFIED that the above Notice of Appeal
was filed in the Office of the Judge of Probate of Baldwin County,
Alabama, on the 21st day of June, 1967.


WITNESS my hand this 21st day of June, 1967.


Judge, Probate Court of Baldwin County,
Alabama.

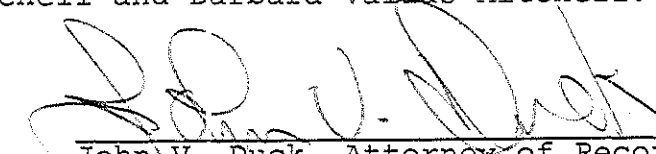
I hereby certify that a copy of the
within and foregoing appeal has been served
upon Norborne C Stone as attorney for
Fairhope Single Tax Corporation one of the
respondents in this cause.


OWENS AND PATTON
Attorneys for Respondents
George J. Mitchell and
Barbara Vallas Mitchell

I hereby accept service of the notice of appeal as filed
in the matter of City of Fairhope vs. Fairhope Single Tax Corp., et
al, by George J. Mitchell and Barbara Vallas Mitchell.


Norborne C. Stone, Attorney of Record
for Fairhope Single Tax Corporation

I hereby accept service of the notice of appeal as filed
in the matter of City of Fairhope vs. Fairhope Single Tax Corp.
et al, by George J. Mitchell and Barbara Vallas Mitchell.


John V. Duck, Attorney of Record for
City of Fairhope

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City of Fairhope

~~SUITS OF REMEDY~~

VS: George Mitchell et al

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW, CASE NO. 7469

We, the Jury, find for the landowners and assess the damages and compensation at \$25,000.00

Donion L. Taylor
Foreman.

| | | |
|---|---|-------------------------|
| CITY OF FAIRHOPE, a municipal corporation, |) | IN THE CIRCUIT COURT OF |
| |) | BALDWIN COUNTY, ALABAMA |
| Petitioner, |) | |
| |) | MC 7669 |
| vs. |) | |
| |) | |
| FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, |) | |
| |) | |
| Respondents. |) | |

JUDGMENT OF CONDEMNATION

On this the 11th day of September, 1967, comes into open Court, the applicant, the CITY OF FAIRHOPE, a municipal corporation, by it's attorney, and also came the Respondents, FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and BARBARA VALLAS MITCHELL, Respondents, by their attorneys.

Thereupon the Court proceeds to hear a stipulation by the attorneys concerning the granting of the application and it appearing unto the Court that the Defendants consent that said application be granted, it is therefore, CONSIDERED AND ORDERED by the Court and it is the judgment of the Court that the said application of the CITY OF FAIRHOPE, a municipal corporation, for the condemnation of the lands described in said petition and belonging to the Respondents be, and the same is hereby granted.

Thereupon the Court proceeds to have assessed by a jury the damages and compensation to which the Respondents, FAIRHOPE SINGLE TAX CORPORATION, a corporation, and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL, are entitled for the condemnation of the land sought to be condemned described in the petition.

Thereupon on, the 11th day of September, 1967, came a jury of good and lawful men, to-wit: Damon L. Fuqua and eleven others, who being duly impanelled and sworn, according to law upon their oath, do say: "We, the Jury, hereby assess and fix the damages and compensation to the owners of the property described in the petition for application for condemnation filed in the office of the Judge of Probate of Baldwin County, Alabama, on the 21st day of March, 1967, in this cause, at TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS".

And now comes the applicant by it's attorney, and shows unto the Court that it has heretofore deposited with the Judge of Probate of Baldwin County, Alabama, the sum of TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY (\$24,750.00) DOLLARS in money for such Respondents as damages and compensation for the condemnation of the lands described in the application for condemnation.

Now, therefore, it is ORDERED, ADJUDGED AND DECREED by the Court, that the said Respondents are entitled to have and receive of the said Clerk, the sum of TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY (\$24,750.00) DOLLARS of the said sum of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS, and that the applicant, the CITY OF FAIRHOPE, a municipal corporation, is hereby ordered to pay in to the said Clerk of the Court, the sum of TWO HUNDRED FIFTY (\$250.00) DOLLARS plus Court costs for the remaining difference of the said award.

Now, therefore, on motion of said applicant, it is ORDERED, ADJUDGED AND DECREED by the Court that the hereinafter described property sought under such application to be condemned, on the following described land of the said Respondents, namely:

A lot of land 92.5 feet, more or less, in its Easterly and Westerly dimensions, and 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another, and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of the Fairhope Wharf and on the North side thereof, being listed in the records of Fairhope Single Tax Corporation as "Tract A" on Beach, Division One, of the lands of Fairhope Single Tax Corporation, Fairhope, Baldwin County, Alabama, lying in Fractional Section 18, Township 6 South, Range 2 East, Baldwin County, Alabama,

for the purpose of park property within the municipal limits of the City of Fairhope, Fairhope, Alabama, be condemned, granted and awarded unto said applicant, the CITY OF FAIRHOPE, for it's use as sought in said application.

It is further ORDERED, ADJUDGED AND DECREED by the Court that the Respondents, FAIRHOPE SINGLE TAX CORPORATION and GEORGE J. MITCHELL and wife, BARBARA VALLAS MITCHELL, recover of the applicant, CITY OF FAIRHOPE, a municipal corporation, the cost of this case for which let execution issue.

DONE this the 11th day of September, 1967.

Frederick G. Maddux
JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

| | | |
|----------------------------------|---|-------------------------|
| CITY OF FAIRHOPE, |) | |
| A Municipal Corporation, |) | |
| |) | IN THE CIRCUIT COURT OF |
| Petitioner, |) | |
| |) | |
| vs. |) | |
| |) | BALDWIN COUNTY, ALABAMA |
| FAIRHOPE SINGLE TAX CORPORATION, |) | |
| a corporation, and GEORGE J. |) | |
| MITCHELL and BARBARA VALLAS |) | |
| MITCHELL, |) | NUMBER 7669. |
| |) | |
| Respondents. |) | |

ANSWER AND CLAIM:

Now come George J. Mitchell and Barbara Vallas Mitchell, by their attorneys, and for answer to the claim heretofore filed by Fairhope Single Tax Corporation, says as follows:

1. Parties deny the allegations of paragraph One of said claim insofar as it alleges an ownership in fee simple by Fairhope Single Tax Corporation, but admits the conveyance attached thereto.

2. Parties deny the allegations in Paragraph Two of the claim insofar as it alleges the lease was void and of no effect, but admits that rentals were due under terms of said lease, the exact amount of which are unknown, pending a pro-ration by this Court.

Now come George J. Mitchell and Barbara Vallas Mitchell, for further answer to this cause and pursuant to Alabama Code, Title 19 Section 26, et seq., by their attorneys and show unto this Honorable Court as follows:

1. That on the 11th day of September, 1967, this Honorable Court entered a judgment of condemnation of certain property in which George J. Mitchell and Barbara Vallas Mitchell had an interest, together with the Fairhope Single Tax Corporation; that the condemnation award rendered was in the amount of \$25,000.00, and said award has been paid.

2. That George J. Mitchell is interested in said property by virtue of a certain conveyance executed between him and the Fairhope Single Tax Corporation, a copy of which conveyance is attached hereto and made a part hereof by reference as if the same were specifically written herein.

3. That it affirmatively appears that said conveyance does not specify the rights that each of the parties would have in the event that the land was condemned by a third party.

4. That it affirmatively appears that paragraph 4 of said conveyance provides, in effect, that said rentals which George J. Mitchell has paid since the inception of the conveyance shall be administered as a trust fund for the equal benefit of all parties renting said lands.

5. Said George J. Mitchell and Barbara Vallas Mitchell further show unto this Honorable Court that the Fairhope Single Tax Corporation is not a "landlord" in the usual sense of the term, but that it is a non-profit corporation dedicated to the demonstration of the "Single Tax Theory", and it holds legal title to the lands, in trust, for the benefit of all renters, including George J. Mitchell; the said George J. Mitchell further shows unto this Honorable Court that he is not a "tenant" in the usual sense of word in that prior to the condemnation, he had the use, occupancy and enjoyment of the lands, subject to conditions of the conveyance, not only for the remaining period of said conveyance, but further that as Lessee, he had the right to the benefit of such monies as were paid to the Fairhope Single Tax Corporation by other Lessees of said corporation; that the taking of the property in this case was involuntary on the part of all Respondents, thus terminating of dissolving the "res" of said trust.

6. That some dispute or controversy has arisen between the Fairhope Single Tax Corporation and George J. Mitchell and Barbara Vallas Mitchell, over the respective rights of the parties of the condemnation award made in this case.

WHEREFORE, the said George J. Mitchell and Barbara Vallas Mitchell pray that this Honorable Court will set this matter for hearing in accordance with the rules of this Honorable Court and that upon the consideration of the same that this Honorable Court will order and decree as follows:

(A) That the Fairhope Single Tax Corporation held title to said property as a trustee for the benefit of George J. Mitchell and Barbara Vallas Mitchell.

(B) That the said George J. Mitchell and Barbara Vallas Mitchell are entitled to the condemnation award made in this case, less and except such rentals that might be due the said Fairhope Single Tax Corporation as of the time of the taking of the said property and such administrative expenses, including a reasonable attorney's fee, that the said Fairhope Single Tax Corporation might have incurred with respect to the defense of this cause, and that this Honorable Court will determine the said amount of rentals and administrative expenses, including a reasonable attorney's fee, due the Fairhope Single Tax Corporation in this cause, to be paid from the said award and the balance of such condemnation award shall be paid to George J. Mitchell and Barbara Vallas Mitchell.

(C) The said George J. Mitchell and Barbara Vallas Mitchell pray for such other, further and different relief as the Court may deem fit and proper in this cause.

OWENS AND PATTON

By: *J. Connor Owens, Jr.*
Attorneys for Respondents, George
J. Mitchell and Barbara Vallas
Mitchell.

I, the undersigned, one of the attorneys of record for the Respondents, George J. Mitchell and Barbara Vallas Mitchell, in the foregoing cause, do hereby certify that I have this day forwarded a copy of the foregoing answer and claim to Norborne C. Stone, one of the attorneys of record for Fairhope Single Tax Corporation, by United States Mail, properly addressed, with postage prepaid, this 12th day of October, 1967.

FILED

OCT 12 1967

ALLIE J. DUCK CLERK
REGISTER

J. Connor Owens, Jr.
J. Connor Owens, Jr.

361

LEASE

This Lease, MADE THIS 18th DAY OF April, 1958, BY AND BETWEEN
FAIRHOPE SINGLE TAX CORPORATION, OF FAIRHOPE, BALDWIN COUNTY, ALABAMA, AND
Dr. George J. Mitchell

OF Mobile, Alabama, HEREINAFTER DESIGNATED AS THE LESSEE.
WITNESSETH: THAT THE SAID FAIRHOPE SINGLE TAX CORPORATION, FOR AND IN CONSIDERATION OF THE ANNUAL RENTALS AND COVENANTS HEREINAFTER MENTIONED, HAS THIS DAY LEASED TO AND SAID LESSEE TAKEN POSSESSION OF THE FOLLOWING DESCRIBED PORTION OF LAND

TO WIT A lot of land 92½ feet, more or less, in its Easterly and Westerly dimensions by 155 feet, more or less, in its Northerly and Southerly dimensions, the Easterly and Westerly boundaries being parallel to one another and the Northerly and Southerly boundaries being parallel to one another, located at the shore end of Fairhope Wharf and on the North side thereof, being listed in the records of the Fairhope Single Tax Corporation as "Tract A" on Beach, Division one (1) of the land of lessor in the City of Fairhope, Alabama as per its plat thereof filed for record Sept. 13, 1911

Tract 10, SECTION 10, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY ALABAMA, FOR THE TERM OF NINETY-NINE YEARS FROM THIS DATE SUBJECT TO THE CONDITIONS HEREIN STATED AND THE REPRESENTATIONS AND AGREEMENTS OF THE LESSEE IN HIS APPLICATION FOR SAID LAND HERETO ATTACHED AND A PART OF THIS LEASE CONTRACT AS FULLY AS IF PRINTED HEREIN.

(1) The said Lessee, his heirs, or successors, shall pay to the said Fairhope Single Tax Corporation, its successors or assigns, in equal payments, on the first days of January and July of each year, the annual rental value of said land, exclusive of his improvements thereon, to be determined by the said Corporation through its Executive Council or Board of Directors, under its avowed principle of so fixing the rentals of its lands as to equalize the varying advantage of location and natural qualities of different tracts and convert into the treasury of the Corporation for the common benefit of its lessees, all values attaching to such lands, exclusive of improvements thereon. And the said Lessee, for himself and his heirs, hereby expressly agrees that the said annual rent shall be determined by the said Corporation upon the principle just stated, and shall be expended by said Corporation, subject to the conditions hereinafter stated.

(2) The land herein leased shall be used for such purposes only as may not be physically or morally offensive to a majority of the resident members of the Fairhope Single Tax Corporation, and the Lessee shall be subject to such reasonable sanitary regulations as may be imposed by the Executive Council or Superintendent of Public Health of said Corporation.

(3) In consideration of the agreement of said Lessee to pay the rentals herein provided for, the Fairhope Single Tax Corporation will pay all taxes upon the land leased and will accept from the Lessee on receipt of the County Tax Collector or Clerk of Town of Fairhope, for taxes paid to State, County, School District or Town, upon the improvements and personal property (money and credits excepted) held by Lessee upon the land herein leased, or shall rent due be paid, will give him a certificate in amount equal to such acceptable tax receipts remaining, receivable from better demand by the Corporation as his agent to return his property for taxation where permitted by law so to do; appoint whomever may be deemed by the Corporation to be bound to accept tax receipts on more than a fair assessed valuation of the property, on the basis required by law, or to a greater amount for any year than the rent for that year on the land on which such improvements and personal property are held.

(4) And the said Fairhope Single Tax Corporation further agrees in consideration of the covenants of the said Lessee here- with evidenced, that no part of the rents paid by him upon the land herewith leased, shall be appropriated as dividends to its members or any other persons, but that all shall be administered as a trust fund for the equal benefit of those leasing its lands.

(5) And the said Corporation still further agrees, that in the distribution of the benefits which its purpose is to secure for residents upon its lands, no distinction shall be made between individuals, whether members of the Corporation or not, but that with the exception of the right of members as participants in the government of the Corporation, all shall be treated with strict equality.

(6) It is agreed by the parties hereto, that time is of the essence of this contract. All rents not paid within ninety days of the time the same become due, shall be subject to interest at eight per cent per annum until paid; and the Lessee shall have a prior lien on all improvements upon the land herein leased, to secure the payment of the rent and for the payment of all other indebtedness of any description whatsoever, by the Lessee to the Lessor. If the land leased be improved, or in the judgment of the Corporation the improvements thereon are not sufficient to secure the payment of the rent and cost of collecting same, then, in such event, all rights under this lease shall be subject to forfeiture, without notice, after the rents shall have been due and unpaid for ninety days; and the improvements, if any, shall revert to the Lessor. Upon failure to pay the rents, or any portion thereof, for six months after the same become due, the Lessor is hereby authorized to sell at public sale the improvements on any leasehold, for satisfaction of the amount due, after first giving ten days' notice by one publication in some paper published at Fairhope, Alabama, the cost of such publication and the making of such sale to be paid with the rent out of the proceeds of such sale, and the remainder, if any, to be returned to the Lessee or such other person as may be authorized to receive the same. The Lessor, its agent or attorney, may conduct such sale; and the party so conducting the sale is authorized to make, in the name of the Lessee, proper conveyance of the property so sold. The Lessee hereby waives all rights of exemption of any property as against the collection of any debt due under this contract. The sale of the improvements under legal process shall work a forfeiture of all rights under this lease.

(7) The Fairhope Single Tax Corporation agrees that in case of its dissolution, either by voluntary act of its members or otherwise, and the division of its assets among its members, the said Lessee, if a member, shall be entitled to have the land herein described and leased, or so much of it as he may designate, included in his portion, at its actual value at the time, exclusive of improvements thereon, and if it exceed in value such portion, to purchase the excess at such valuation. If not a member, the Lessee may at such time acquire title to the land herein leased by paying to the Corporation its actual value exclusive of improvements upon it.

(8) The Fairhope Single Tax Corporation believes its title to the land herein leased to be good, and will use every proper means in its power to maintain the same; but it is distinctly understood that the Corporation, acting only with the benevolent purpose to secure land and administer it for the benefit of those who may desire its use, shall not be held liable for any losses resulting from defects in its title.

(9) The right is reserved by the Fairhope Single Tax Corporation to resume possession of all or any portion of the land herein described, for public purposes only, on payment of the appraised value of the improvements thereon.

(10) Should it become necessary to determine the value of said land, or of the improvements thereon, in compliance with the provisions of clauses 7, 8, or 9, of this lease, the same shall be determined by three disinterested persons, to be selected as follows: the Corporation and the Lessee, each choosing one of three persons named by the other and the third to be selected by the two. Should any Lessee fail to name his arbitrator within thirty days after written notice by registered mail to do so, the Corporation may name an arbitrator for him.

(11) This lease is assignable only to members of the Fairhope Single Tax Corporation, or to persons acceptable to it. The original lease must be returned to the Corporation with any proposed transfer endorsed thereon and, if approved, a new lease will be issued to the transferee.

(12) Surface rights only are hereby leased. All mineral rights are reserved by Lessor.

(13) This lease may be terminated by the Lessee after six months' notice in writing to the Corporation and the payment of all rent due to the end of such six months period. A Lessee having filed the required notice of desire to surrender, may dispose of any improvements thereon, (subject to the Corporation's lien for rent) but if not so disposed of, the land shall come to the Corporation, together with any improvements remaining thereon, without any claim of the surrendering Lessee on account of such improvements, and the Corporation may decline to accept a partial surrender of a leasehold where the portion surrendered or retained, would not, in its opinion, be desirable to other Lessees.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS IN DUPLICATE.

THIS 18th DAY OF April, 1958
BY ORDER EX. COUNCIL Mar 6 & Apr 17 1958

FAIRHOPE SINGLE TAX CORPORATION

Dr. George J. Mitchell Lessee By J. O. Gaskin President
L. A. Gaston Secretary

STATE OF ALABAMA)
BALDWIN COUNTY)

I, H. W. Rowe, a Notary Public in and for said State at Large, hereby certify that J. E. Gaston and C. A. Gaston, whose names as President and Secretary of Fairhope Single Tax Corporation, a corporation, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 22nd day of April, 1958.

H. W. Rowe

Notary Public for State at Large

H. W. Rowe, Notary Public
State of Alabama
My Commission Expires June 6, 1959

STATE OF ALABAMA, BALDWIN COUNTY
Date: 5-1-58

For the purpose of recording the following: *80-M*
Mortgage Tax *2.50*

W. K. Hunt
Judge of Probate

By *5*