

CITY OF FAIRHOPE,
Plaintiff

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

-VS-

ROBERT R. NAHRGANG,
Defendant

AT LAW

1964

MOTION

Comes the CITY OF FAIRHOPE in the above styled cause and moves that the Court deny the Defendant's motion heretofore filed on the 13th day of May, 1952, and as grounds for said motion states that:


ONE: The facts set out in said motion are not well plead.

TWO: That said motion is based on the idea that it is the duty of the Court to make decisions as to the advisability of roads in the City of Fairhope.

THREE: That no facts are alleged in the motion which would authorize the Court to grant the Defendant's motion.

CITY OF FAIRHOPE

by:


E. G. Rickarby, Jr.,
Attorney for Plaintiff

I hereby certify that a copy of this motion was sent post paid to C. LeNoir Thompson, Esquire, Attorney for Robert Nahrgang, the Defendant in this cause.

Done this the 9th day of December, 1953.



1964 -

RECORDED

FILED
DEC 11 1963
ALICE J. BARK, REGISTER

Marshall & Bruce Company

PRINTING • LITHOGRAPHING • OFFICE SUPPLIES

401-411 Twelfth Avenue, South Phone 6-3661 NASHVILLE 1, TENNESSEE

Rickaby — called

City of Fairhope

vs.

Bob Naaghang

wants this case

Dismissed

Filed 9-13-54
and under

CITY OF FAIRHOPE

PLAINTIFF

VS

ROBERT R. NAHRGANG

DEFENDANT

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA.

NOTICE OF APPEAL

Comes Robert R. Nahrgang in the above entitled cause, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the order of condemnation entered in said cause on the 19th day of May, 1952, insofar as said order of condemnation relates to the lands described in said petition as set forth in the application filed in said cause.

Robert R. Nahrgang does herewith file in the Court of Probate of Baldwin County, Alabama, the court rendering such order of condemnation, this his written notice of said appeal.

This the 16th day of ^{July} June, 1952.

x Robert Nahrgang

Appellant demands a trial by jury.

E. G. Rickary

TO E. G. RICKARY, ATTORNEY FOR THE CITY OF FAIRHOPE, ALABAMA, AND T. J. KLUMPP, SR., AS AGENT OF SAID CITY OF FAIRHOPE, ALABAMA.

Your are hereby notified that the above notice of appeal was filed in the office of the Judge of the Court of Probate of Baldwin County, Alabama, on the 1st day of ^{July} June, 1952.

Witness my hand this the 1st day of ^{July} June, 1952.

W. R. Stuart
Judge of the Court of Probate of
Baldwin County, Alabama.

Copies of notice of
Appeal handed
Shriff for
Service on
Rickary & Klumpp,
7/11/52

Record
Probate Record P
Page 381

CITY OF FAIRHOPE, ALABAMA,
A Municipal Corporation,

Plaintiff

VS

ROBERT R. NAHRGANG

Defendant

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

We, Robert R. Nahrgang, as principal and the undersigned as sureties acknowledge ourselves security for the costs of appeal to the Circuit Court of Baldwin County, Alabama, of the above styled case, by Robert R. Nahrgang, the Defendant against whom a judgment was rendered in the Probate Court of Baldwin County, Alabama on the 16th day of June, 1952.

Signed and sealed this the 26 day of June, 1952.

x Robert R. Nahrgang (SEAL)

Constance Nahrgang (SEAL)

Herbert Forster (SEAL)

Taken and approved this the 27 day of June, 1952.

W. R. Stuart

Filed July 1, 1952,

W. R. Stuart,

Judge of Probate,

Bond

Recorded:
Probate Record P
page 382

CITY OF FAIRHOPE

PLAINTIFF

VS

ROBERT R. NAHRGANG

DEFENDANT

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

In the matter of application by the town of Fairhope to condemn right-of-way for a street, comes Robert R. Nahrgang, defendant in said cause, and moves the court to deny said petition for condemnation, and to the court says as follows:

1.

That said petition is frivolous.

2.

That the said property is an exclusive, residential district, and that an alternate contour street is available along the edge of said exclusive residential district whereby truck traffic can be diverted across to Perdido street, and at its intersection with Pensacola Street and Section Street, which is the Mobile highway.

3.

That the proposed contour street ^{no} will be available to the town of Fairhope for a public street at a most reasonable cost inasmuch as the heavy truck traffic will not be a nuisance thereon. Whereas the proposed condemnation would divert heavy truck traffic through the residential district thereby lowering property value not only in the area crossed by the right-of-way for which condemnation is proposed, but also would lower the value of the remaining property along Gayfer to Section Street.

4.

The proposed condemnation would also bring heavy truck traffic in the vicinity of the new school site thereby endangering children attending that school.

5.

It is further alleged by the defendant that the heavy truck traffic routed the intersection with Section Street via the proposed condemnation right-of-way would increase traffic unnecessarily in the vicinity of both the school site, and the turn-out traffic on the west side of Section Street, which carries traffic to and from Mobile.

6.

A further basis for denying said condemnation being that the Fairwood subdivision is a restricted subdivision and that said restriction would be injured to the detriment and loss of property values to the lands owner adjacent therein by opening a truck traffic street through or to such property, and that such loss would not be compensated by an award for the property taken.

7.

It is further shown to this Honorable Court that the alternate Contour Route which is available to the town of Fairhope would provide a safer entrance into Section Street and would eliminate a traffic hazard by providing an entrance into Section Street for the North bound traffic toward Mobile separate and apart from South bound traffic toward downtown Fairhope, Alabama.

8.

It is further shown unto this Honorable Court that it is customarily and proper under the State Planning Board recommendation that restricted residential area be protected from truck traffic and that such truck traffic be routed around restricted residential areas.

9.

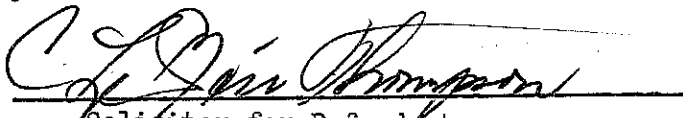
There is attached hereto and made a part of the record a map showing the proposed condemnation together with the alternate route which is offered by the defendant.

10.

It is further alleged by your defendant that the said condemnation proceeding whereby truck traffic would be routed through an exclusive, residential district would in affect rezone this restricted residential area without complying with the requirements of the code of Alabama, of 1940, within a corporated town.

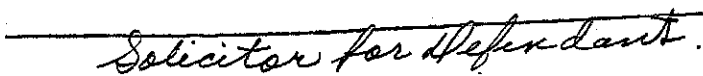
11.

Wherefore your defendant petitions this Honorable Court to deny said condemnation proceeding as petition ^{ed} by the town of Fairhope.


Solicitor for Defendant.

STATE OF ALABAMA
BALDWIN COUNTY

I hereby certify that I delivered postage paid by U. S. mail a copy of the foregoing notice to E. G. Rickarby and W. C. Beebe, Solicitors for the Plaintiff, on this the 13th day of May, 1952.


Solicitor for Defendant.

Revised:
Probate Record P
page 380

NOTES OF AGENT.

James Robert R. Harington in the above entitled cause and amends his notice of appeal made the 16th day of June, and filed with a bond as security for the costs of said appeal in above styled cause, said amendment being to correct a scrivener's error as to date of condemnation, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the order of condemnation entered in said cause on the 16th day of June, 1952, insofar as said order of condemnation relates to the lands described in said petition as set forth in the application filed in said cause.

Robert R. Meltingan, does herewith file in the Court of Probate of Baldwin County, Alaska, the court rendering such order condemnation, this his written notice of said appeal.

This the 16th day of July, 1952.

Attorney for Defendant.

Appellant demands a trial by jury.

TO E. G. RICHART, ATTORNEY FOR THE CITY OF FAIRHOPE, ALABAMA, AND T. J. KLUMPP, SR., AS AGENT OF SAID CITY OF FAIRHOPE, ALABAMA.

You are hereby notified that the above amendment of the notice of appeal was filed in the office of the Judge of the Court of Probate of Baldwin County, Alabama, on the 16 day of July, 1952., at 2:00 P.M.

Witness my hand this the 16 day of July, 1952.

Judge of the Court of Probate of
Baldwin County, Alabama.

at this
copy
Sherriff to
Service on
Rushkoff or Kumpff
7/16/52

[illegible]

Recorded!
Private Record
page #67

C. LeNOIR THOMPSON

Attorney-At-Law

BAY MINETTE, ALABAMA

May 13, 1952.

PHONES: 5941
5672

Hon. W. R. Stuart,
Judge of Probate Court,
Baldwin County,
Bay Minette, Alabama.

Dear Judge Stuart:

Request is made by me, as attorney for Robert R. Nahrgang, defendant
a condemnation proceeding set before this Honorable Court for hearing
on May 19, 1952, that this Honorable Court will order subpoena to said
hearing the following individuals:

Brad Neimeyer
Tappy Bradford
Ed Overton
Ralph Brown
Marvin Benglin
Ira Steele.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. LeNoir Thompson". The signature is written in dark ink and is positioned below the word "Sincerely,".

THE STATE OF ALABAMA

PROBATE COURT

BALDWIN COUNTY

May 15, 1952.

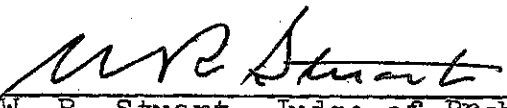
TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

You are hereby commanded to summon Brad Neimeyer, Tappy Bradford, Ed Overton, Ralph Brown, Marvin Berglin, Ira Steele of Fairhope, Alabama, to appear in and before the Probate Court of said County, on the 19th day of May, 1952, to give evidence in a certain matter now pending in said Court, wherein the City of Fairhope, Alabama, has filed a petition to condemn certain lands belonging to Robert R. Narghang, described as follows:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the North west corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

And this you shall in nowise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ at the office of the Judge of said Court.

Witness, W. R. Stuart, Judge of said Court at office, this 15 day of May, A. D., 1952.


W. R. Stuart, Judge of Probate.

Executed 5-17-52
By serving a copy of
the within on
Brad Neimeyer
Ed Overton, Marvin
Berghin, Ira Steele
not found as to
Tappy Bradford
Taylor Walburn
Sheriff
By H. F. Hall D.S.

Recorded:
Probate Minutes Book IV
Page 587

CITY OF FAIRHOPE

PLAINTIFF

VS.

ROBERT R. NARHGANG

DEFENDANT

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

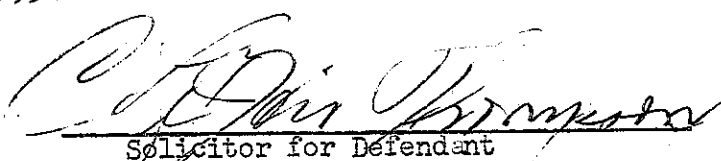
AT LAW.

TO THE CITY OF FAIRHOPE AND T. S. KLUMPP, SR, ITS AGENT, AND TO E. J. RICKAREY
AS ITS SOLICITOR.

Notice is hereby given to you to produce on the trial of this cause of
on May 19, 1952, or on any date to which the said cause may be continued,

The minutes of city council concerning the condemnation proceeding
against Robert R. Narhgang and the letters and communication of property
owners in your possession concerning said condemnation proceeding.

Dated this 13th day of May, 1952.


Solicitor for Defendant

STATE OF ALABAMA

BALDWIN COUNTY

I hereby certify that I delivered postage paid by U. S. mail a copy of
the foregoing notice to E. G. Rickarby, Solicitor for the Plaintiff, on this
the 13th day of May, 1952.


Solicitor for Defendant.

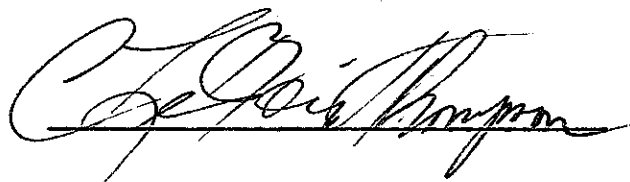
Recorded:
Prokate Record P
Page 379

CITY OF FAIRHOPE
VS
ROBERT R. NAHRGANG

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA.

The parties to the above styled cause consent
and agree that the said cause be continued by the court
to May 19; 1952.

WITNESS this the 21 day of April, 1952.


C. C. Beebe

STATE OF ALABAMA, BALDWIN COUNTY

Filed April 21, 1958 M

Recorded Probate book P page 379

W. R. Strong
Judge of Probate

N.

CITY OF FAIRHOPE

VS

ROBERT R. NAHRGANG

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA.

By agreement of the parties to this cause, the
same is continued to and set down for hearing May 19, 1952.



Judge

STATE OF ALABAMA, BALDWIN COUNTY

Filed April 21, 1952 M

Recorded Probate book P page 329

W. P. Stuart
Judge of Probate

W

STATE OF ALABAMA:
COUNTY OF BALDWIN:

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA:


LIS PENDENS NOTICE

Notice is hereby given that the CITY OF FAIRHOPE, a Municipal Corporation, is filing in the Probate Court of Baldwin County, Alabama a suit against ROBERT R. NARGHANG seeking to condemn the following described real estate for the purpose of a public road:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run South 20 degrees West, 30 feet, for a point of beginning; thence run S 20 degrees West, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' west, 515 feet, to the southeast corner of Block 13 of Volanta, per map aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South, together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

RICKARBY & RICKARBY

By:


Attorneys for City of Fairhope

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Court, at the City of Birmingham, Alabama, this 26th day of March, 1952.

W. R. Stuart
Judge of Probate

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Court, at the City of Birmingham, Alabama, this 26th day of March, 1952.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Court, at the City of Birmingham, Alabama, this 26th day of March, 1952.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Court, at the City of Birmingham, Alabama, this 26th day of March, 1952.

STATE OF ALABAMA
County of _____
Recorded March 26, 1952
Book 2 page 386
W. R. Stuart
Judge of Probate
H.

CITY OF FAIRHOPE

Plaintiff

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

-VS-

AT LAW

ROBERT R. NARGHANG,

Respondent

To THE SHERIFF OF SAID COUNTY, GREETINGS:

You are hereby commanded to notify J. E. Gooden,
Jos. S. Huffman, and Acil Pittman that by order
of the said Court of Probate, made and entered in the premises on
the 19th day of May, 1952, they were appointed Commissioners to
ascertain and report to this Court in writing within twenty days
from the date of their appointment, the amount of damages or com-
pensation to which ROBERT R. NARGHANG is entitled on the appli-
cation of The CITY OF FAIRHOPE for an order of condemnation of
the following described property, to-wit:

From the Southeast corner of Block 12 of Volanta,
according to the Map of Volanta recorded in Miscell-
aneous Book No. 1, at Page 341, Probate Records, Bald-
win County, Alabama, run N 70 degrees W, 21 feet;
thence run S 20 degrees W, 30 feet, for a point of
beginning; thence run S 20 degrees W, 20 feet; thence
run S 70 degrees E, 1108.5 feet; thence run N 87 degrees
40' E, 533.2 feet to a point 25 feet south of the North-
west corner of the Northeast Quarter of Section 17, T6S
R2E; thence run North 50 feet; thence run S 87 degrees
40' W, 515 feet, to the Southeast corner of Block 13 of
Volanta, per map aforementioned; thence run South 31.9
feet; thence run N 70 degrees W, 1119.4 feet, to the
point of beginning; the tract described consisting of a
strip of land approximately 1100 feet in length and 20
feet in width, running along the south side of the 30
foot street now known as Gayfer Street, shown by the map
of Volanta as bounding the Town of Volanta on the South
together with a strip of land 50 feet in width and 515
feet in length, extending from the end of said Gayfer
Street to the Eastern boundary of the De Ferriet Grant,
Section 37, T6S, R2E, Baldwin County, Alabama.

Now these are therefore to commission the said J. E. Gooden,
Jos. S. Huffman and Acil Pittman
so they may enter upon the discharge of their duties as such Commis-
sioners as soon as they shall have taken the oath prescribed by the
statute in such cases made and provided.

You will execute this notice within five days from the
date hereof and make due return of your action thereon.

Done this the 19 day of May, 1952.

W. B. Smith
Judge of Probate

Executed 6-2-52
By serving in full
Taylor Wilkins
Shiriff
147 Wall St. N.Y.C.

Recorded
Probate Minutes
Page 588

FILED
JUN 2 1952
CLERK OF COURT

STATE OF ALABAMA
BALDWIN COUNTY

IN THE PROBATE COURT OF
BALDWIN COUNTY ALABAMA.

To Robert R. Narghang, Fairhope, Alabama:

You will take notice that on the 26th day of March, 1952, petition was filed in this Court by the City of Fairhope, Alabama, by T. J. Klumpp, Sr., its agent and setting forth that it desires to have condemned for a right-of-way for a public road, certain lands which are specifically set forth and described in said petition as follows, to-wit:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, permap aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R 2E, Baldwin County, Alabama.

And said petitioner prays this court appoint a day for the hearing of said petition and for such orders and decrees as may be necessary and proper for the acquirement by the said petitioner of the property herein described for the purposes herein stated.

You will please take notice that the court has appointed the 21st day of April, 1952, as a suitable day upon which to hear said petition, at which time you may appear and contest the same if you choose to do so.

Done at my office this the 26th day of March, 1952.

W. R. Stuart
W. R. Stuart, Judge of Probate.

Copy

Copy of Notice
to Robert R. Narghang

STATE OF ALABAMA:
COUNTY OF BALDWIN:

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA:

LIS PENDENS NOTICE

Notice is hereby given that the CITY OF FAIRHOPE, a Municipal Corporation, is filing in the Probate Court of Baldwin County, Alabama a suit against ROBERT R. NARGHANG seeking to condemn the following described real estate for the purpose of a public road:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run South 20 degrees West, 30 feet, for a point of beginning; thence run S 20 degrees West, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' west, 515 feet, to the southeast corner of Block 13 of Volanta, per map aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South, together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

RICKARBY & RICKARBY

By:


Attorneys for City of Fairhope

*Original being photostated
in Lis pendens Record*

7/10/52

Copy

STATE OF ALABAMA, BALDWIN COUNTY

Filed March 26, 1952 M

Recorded Lia Paul book 2 page 386

W. B. Stuart
Judge of Probate

H.

4/3/52

STATE OF ALABAMA
BALDWIN COUNTY

IN THE PROBATE COURT OF
BALDWIN COUNTY ALABAMA.

To Robert R. Narghang, Fairhope, Alabama:

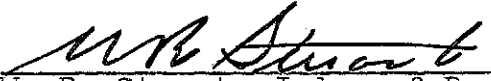
You will take notice that on the 26th day of March, 1952, petition was filed in this Court by the City of Fairhope, Alabama, by T. J. Klumpp, Sr., its agent and setting forth that it desires to have condemned for a right-of-way for a public road, certain lands which are specifically set forth and described in said petition as follows, to-wit:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, permap aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R 2E, Baldwin County, Alabama.

And said petitioner prays this court appoint a day for the hearing of said petition and for such orders and decrees as may be necessary and proper for the acquirement by the said petitioner of the property herein described for the purposes herein stated.

You will please take notice that the court has appointed the 21st day of April, 1952, as a suitable day upon which to hear said petition, at which time you may appear and contest the same if you choose to do so.

Done at my office this the 26th day of March, 1952.


W. R. Stuart, Judge of Probate.

4/3/52

Executed 4/3/52
By serving a copy
of the Within on
Robert R. Norganz

Jayla Wilbourn
Schiff
147 Hall
P. 5.

Recorded
Probate Minutes N
page 587

CITY OF FAIRHOPE,
STATE OF ALABAMA
vs
ROBERT R. NARGHANG

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

March 26, 1952.

In the matter of the application to condemn land for
right-of-way for road construction:

This day came the City of Fairhope by T. J. Klumpp, Sr.,
its agent, the Mayor of the City of Fairhope, duly elected,
qualified and authorized thereto and filed application to have con-
demned for public road purposes those lands belonging to Robert
R. Narghang of Fairhope, Alabama, to-wit:

From the Southeast corner of Block 12 of Volanta,
according to the Map of Volanta recorded in Miscell-
aneous Book N. 1, at Page 341, Probate Records, Bald-
win County, Alabama, run N 70 degrees W, 21 feet;
thence run S 20 degrees W, 30 feet, for a point of
beginning; thence run S 20 degrees W, 20 feet; thence
run S 70 degrees E, 1108.5 feet; thence run N 87 degrees
40' E, 533.2 feet to a point 25 feet south of the North-
west corner of the Northeast Quarter of Section 17, T6S,
R2E; thence run North 50 feet; thence run S 87 degrees
40' W, 515 feet, to the Southeast corner of Block 13 of
Volanta, per map aforementioned; thence run South 31.9
feet; thence run N 70 degrees W, 1119.4 feet, to the
point of beginning; the tract described consisting of a
strip of land approximately 1100 feet in length and 20
feet in width, running along the south side of the 30
foot street now known as Gayfer Street, shown by the map
of Volanta as bounding the Town of Valanta on the South
together with a strip of land 50 feet in width and 515
feet in length, extending from the end of said Gayfer
Street to the Eastern boundary of the De Ferriet Grant,
Section 37, T6S, R2E, Baldwin County, Alabama.

And in said petition the City of Fairhope alleges that it
is necessary and proper and to the interest of the City of Fairhope
that the City have and own the said lands for the purpose of a
right-of-way for a road and the petitioner desires to have said lands
condemned for and as a road for the use of the said City as a right-
of-way for a public road; and praying that this Honorable Court will
make an order appointing a day for the hearing of this petition; that
due and legal notice of the same be given to the said Robert R.
Narghang, and that such other further and general orders and decrees
be made in the premises as may be necessary and proper for the acquire-
ment by the petitioner of the property herein described for the pur-
poses herein stated.

It is therefore ordered by the Court that the 21st day of
April, 1952, be and the same is appointed for hearing said application,
and it is further ordered that notice be given to said owners of said
lands by service of the Sheriff of Baldwin County as provided by
law.


W. R. Stuart, Judge of Probate.

Recorded:
Probate Minutes ✓
page 586

THE STATE OF ALABAMA

PROBATE COURT

BALDWIN COUNTY

May 15, 1952.

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

You are hereby commanded to summon Brad Neimeyer, Tappy Bradford, Ed Overton, Ralph Brown, Marvin Berglin and Ira Steele of Fairhope, Alabama, to appear in and before the Probate Court of said County, on the 19th day of May, 1952, to give evidence in a certain matter now pending in said Court, wherein the City of Fairhope, Alabama, has filed a petition to condemn certain lands belonging to Robert R. Narghang, described as follows:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta Recorded in Miscellaneous Book No. L, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the North west corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2 E, Baldwin County, Alabama.

And this you shall in nowise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ at the office of the Judge of said Court.

Witness, W. R. Stuart, Judge of said Court at office, this 15 day of May, A. D., 1952.

W. R. Stuart, Judge of Probate.

Copy

THE STATE OF ALABAMA

PROBATE COURT

BALDWIN COUNTY

May 15, 1952.

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

You are hereby commanded to summon Brad Neimeyer, of Fairhope, Alabama, to appear in and before the Probate Court of said County, on the 19th day of May, 1952, to give evidence in a certain matter now pending in said Court, wherein the City of Fairhope, Alabama, has filed a petition to condemn certain lands belonging to Robert R. Narghang, described as follows:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the North west corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

And this you shall in nowise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ at the office of the Judge of said Court.

Witness, W. R. Stuart, Judge of said Court at office, this 15 day of May, A. D., 1952.


W. R. Stuart, Judge of Probate.

Mr. Kewyer

A
Extract from Fairhope City Council Minutes of June 11, 1951.

On motion by Councilman Steele Seconded by Councilman Bradford the following Resolution was unanimously adopted:

BE IT RESOLVED that the Mayor is hereby authorized and directed to acquire right of way for street either by gift or purchase or if necessary to file proceedings to condemn right of way connecting North Street from Greeno Road to intersect with Gayfer Street, street not to be less than 60 feet wide. The Mayor is also authorized and directed to secure right of way to widen North St. to 60 feet.

STATE OF ALABAMA
COUNTY OF BALDWIN

CITY OF FAIRHOPE

I, MARIE MOORE, Clerk of the City of Fairhope, hereby certify that the above is a true and correct copy of Resolution of the City of Fairhope concerning the condemnation proceedings against Robert R. Nahrgang as the same appears on record in Minute Book #3, of the minutes of the City of Fairhope and that I, as Clerk, am the custodian of said records.

Done this the 19th day of May, 1952.

Marie Moore
Marie Moore, Clerk of the
City of Fairhope

(SEAL)

Recorded:
Probate Record P
page 380

LAW OFFICES

RICKARBY & RICKARBY

ELLIOTT G. RICKARBY

FAIRHOPE, ALABAMA

E. G. RICKARBY, JR.

21 March 1952

Mr. W. C. Beebe
Bay Minette, Ala.

Dear Mr. Beebe:

Enclosed find petition for writ of condemnation together with Lis Pendens which we have prepared for the City of Fairhope.

Would appreciate your reading them over, joining with me in filing so that we can get this done. You have had a good deal of experience in condemnations and your criticisms would be appreciated.

We are enclosing an extra copy for you. The descriptions in this matter was taken from the survey made by Mr. Arnold.

Yours very truly,

RICKARBY & RICKARBY

By: 

EGRjr/fc
Encs.

CITY OF FAIRHOPE

PLAINTIFF

VS

ROBERT R. MAHRCANG

DEFENDANT

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA.

NOTICE OF APPEAL

Comes Robert R. Mahrcang in the above entitled cause and amends his notice of appeal made the 16th day of June, and filed with a bond as security for the costs of said appeal in above styled cause, said amendment being to correct a scrivener's error as to date of condemnation, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the order of condemnation entered in said cause on the 16th day of June, 1952, insofar as said order of condemnation relates to the lands described in said petition as set forth in the application filed in said cause.

Robert R. Mahrcang does herewith file in the Court of Probate of Baldwin County, Alabama, the court rendering such order condemnation, this his written notice of said appeal.

This the 16th day of July, 1952.

C. H. Davis Mahrcang
Attorney for Defendant.

Appellant demands a trial by jury.

C. H. Davis Mahrcang
TO E. G. RICKART, ATTORNEY FOR THE CITY OF FAIRHOPE, ALABAMA, AND T. J. KLUMPP, SR., AS AGENT OF SAID CITY OF FAIRHOPE, ALABAMA.

You are hereby notified that the above amendment of the notice of appeal was filed in the office of the Judge of the Court of Probate of Baldwin County, Alabama, on the 16 day of July, 1952.

Witness my hand this the 16 day of July, 1952.

W. R. Stewart
Judge of the Court of Probate of
Baldwin County, Alabama.

STATE OF ALABAMA, BALDWIN COUNTY

FILED July 16, 1952 M

Recorded... book... page...

W. R. Stewart
Judge of Probate

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA.

CITY OF BALDWIN

PLAINTIFF

VS

ROBERT R. HARRIS

DEFENDANT

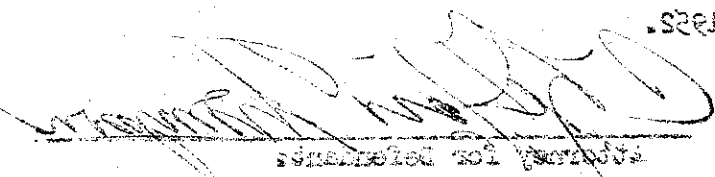
NOTICE OF APPEAL

James Robert R. Harris, in the above entitled cause and against
the order of appeal made the 10th day of July, 1952, and
said order for the costs of said appeal in said cause and
against James Robert R. Harris, do hereby certify that said
order and costs of said appeal have been paid to the clerk of
said court and taken an appeal to the circuit court of Baldwin
County, Alabama, from the order of condemnation entered on the 10th
day of June, 1952, wherein is said order of condemnation return to the
land described in said petition as set forth in the petition filed in
said cause.

Robert R. Harris does hereby file in the Court of Probate of
Baldwin County, Alabama, the said condemnation, such order of condemnation, this

his written notice of said appeal.

This the 10th day of July, 1952.



Appellant for Defendant

Appellant demands a trial by jury.



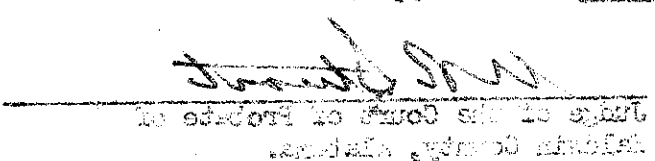
Appellant for Defendant

TO ALL WHOM THESE PRESENTS SHALL COME, I, JAMES ROBERT R. HARRIS, of the County of Baldwin, State of Alabama, do hereby certify that the above and foregoing is a true and correct copy of the original of the same as the same was filed in the office of the Court of Probate of Baldwin County, Alabama, on the 10th day of July, 1952.

Notary hereby notified that the above amendment of the notice of appeal
was filed in the office of the Court of Probate of Baldwin County,

Alabama, on the 10th day of July, 1952.

Witness my hand this the 10th day of July, 1952.



Judge of Probate of Baldwin County, Alabama.

STATE OF ALABAMA, BALDWIN COUNTY
JULY 10 1952

Notary Public
Judge of Probate

Executed July, 25, 1952
By Drawing

CITY OF FAIRHOPE

PLAINTIFF

IN THE PROBATE COURT OF

VS

BALDWIN COUNTY, ALABAMA

ROBERT R. NARHGANG

DEFENDANT

TO THE HONORABLE W. R. STUART, JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA:

The undersigned, J. E. Gooden, Jas. L. Huffman, and Rezil Pittman, who were heretofore appointed by said court as commissioners to assess the damages and compensation to which Robert R. Narghang is entitled as the owner of the following described tract or parcels of land, to-wit:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

respectfully report that pursuant to said commission we viewed said parcels of land after having been duly sworn as jurors are sworn, and thereafter we proceeded to assess the damages and compensation to which the said Robert R. Narghang is entitled by reason of taking of the lands above described as belonging to him and they, each of them separately assessed the damages and compensation to be as follows: to Robert R. Narghang, the owner of the above described land, we do hereby assess the damages and compensation at the sum of \$ 125⁰⁰.

We further certify that neither of us have been consulted, advised with or approached by any person in reference to the sale of the land or the proceedings to condemn the same, prior to the assessment of damages, and that we knew nothing of the same prior to our appointment.

IN WITNESS WHEREOF, we have hereunto set our hands this the
14th day of June, 1952.

J. E. Gooden

Paul S. Chapman

W. R. Stuart

Sworn to and subscribed before me on this the 14 day
of June, 1952.

W. R. Stuart
W. R. Stuart, Judge of Probate
Baldwin County, Alabama.

Filed
June 16, 1952
W. R. Stewart
Judge Probate

STATE OF ALABAMA

BALDWIN COUNTY

We and each of us do solemnly swear that none of us have 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 we knew nothing of the same prior to our appointment, and that we possess the qualification of jurors.

J. E. Goodwin

Jno. V. Huggins

Wm. J. Huggins

Sworn to and subscribed before me on this the 8 day of

June 1952.

L. B. Perkins
Notary Public

[Handwritten notes and signatures]

STATE OF ALABAMA, BALDWIN COUNTY

Filed June 16 1952 M

Recorded Probate Record book P page 381

W.R. Stuart

Judge of Probate

[Handwritten mark]

ELLIOTT & RICKARBY

LAW OFFICES
RICKARBY & RICKARBY
FAIRHOPE, ALABAMA

E. G. RICKARBY, JR.

14 July 1952

Hon. W. R. Stuart
Judge of Probate
Bay Minette, Ala.

Dear Judge Stuart:

Re: City of Fairhope
Vs: Robert R. Nahrgang

With this we are handing you the motion we are making to dismiss the notice of appeal filed by the Defendant in the above mentioned cause.

We are going to be in Bay Minette on the 16th and would like to dispose of this motion at that time and so ask that you notify Mr. Thompson and set the case for that day if possible.

If you can't set it for that date, please let me know when you do set it so that I can be up there and present the law in support of my motion.

Yours very truly,



E. G. Rickarby, Jr.,
Attorney for City of Fairhope.

EGRjr/fc
1244
Enc: motion

CITY OF FAIRHOPE

VS

ROBERT R. NARGHANG

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

June 16, 1952.

In the matter of the petition of The City of Fairhope, Alabama, to condemn certain lands.

On the 26th day of March, 1952, the City of Fairhope, State of Alabama, filed in this Court its petition to condemn certain lands for a public roadway over the land of the defendant, in the City of Fairhope, Alabama, and described in said petition.

Thereupon the Court appointed the 21 day of April, 1952, and on the day last named the defendants having had due notice of this proceeding said hearing was continued to the 19th day of May, 1952, as is set forth in the order of this Court made and entered on the day first named, on the 19th day of May the day to which said hearing was continued the Court did hear the petition in this case and did grant the same, and did appoint J. E. Gooden, Jno. S. Huffman and Cecil Pittman commissioners in this cause to assess the damages and compensation which the defendant is entitled to receive from the petitioner for the taking of said lands for the purpose set forth in his petition; and did issue a notice of the appointment of said commissioners, as prescribed by law, and now, on this 16th day of June, 1952, said J. E. Gooden, Jno. S. Huffman and Cecil Pittman, commissioners aforesaid, having, filed in Court their report of their action in this matter it is ordered that the same be recorded.

The said commissioners J. E. Gooden, Jno. S. Huffman and Cecil Pittman respectfully report that pursuant to said commission we viewed said parcel of land after having been duly sworn as jurors are sworn, and thereafter we proceeded to assess the damages and compensation to which the said Robert R. Narghang is entitled by reason of taking of the lands described as belonging to him.

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

and the said right-of-way and easement and privileges so prayed for in said petition, is hereby condemned to the use of petitioner, the said City of Fairhope, State of Alabama, as aforesaid, upon the payment of said sum of money so assessed by the jury, to wit: the sum of \$125.00.

It is further ordered, adjudged and decreed by the Court that the petitioner, the said City of Fairhope, Alabama, pay the costs of this proceeding, for which execution may issue.



W. R. Stuart, Judge of Probate.

Recorded in
Minutes "N",
Page 589.

THE STATE OF ALABAMA

PROBATE COURT

BALDWIN COUNTY

May 15, 1952.

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

You are hereby commanded to summon Tappy Bradford, of Fairhope, Alabama, to appear in and before the Probate Court of said County, on the 19th day of May, 1952, to give evidence in a certain matter now pending in said Court, wherein the City of Fairhope, Alabama, has filed a petition to condemn certain lands belonging to Robert R. Narghang, described as follows:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the North west corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

And this you shall in nowise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ at the office of the Judge of said Court.

Witness, W. R. Stuart, Judge of said Court at office, this 15 day of May, A. D., 1952.


W. R. Stuart, Judge of Probate.

CITY OF FAIRHOPE

VS

ROBERT R. NAHRGANG

Q

Q

Q

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA.

This cause coming on to be heard upon the motion to dismiss defendants' appeal, and the same being considered by the court.

The court is of the opinion that the same should not be granted.

It is therefore ordered, adjudged, and decreed that petitioner's motion to dismiss defendant's appeal be and the same is hereby denied.

Done this the ~~28th~~ day of ~~August~~, 1952.

30th July

W R Stuart

Probate Judge.

Recorded
Probate Minutes 0
page 45

City of Fairhope, Ala. vs. Robert R. Narkgang

IN ACCOUNT WITH

W. R. STUART

Judge of Probate, Baldwin County.

Original to E. H. Rickarby 7/16/52

#1

PLEASE RETURN BILL WITH REMITTANCE

Recording	from	to	Privilege Tax	Rec. Fee	Total
1952					
March 26	Recording Petition for Condemnation				1 75
	See Pending Notice				1 00
	Order Setting Date				1 00
	Serving notice 7 days to owner				50
April 21	1 Continuance				25
May 15	5 Subpoenas to Councilmen				2 15
15	1 Notice for City Records				50
19	Recording Order appointing Commissioners				1 00
19	Serving notices to Commissioners				1 50
June 16	Recording Report of Commissioners				2 00
16	Order of Condemnation				1 00
16	Recording order of Condemnation				1 00
	Forwarded				14 00

Paid 8-1-52

City of Fairhope, Ala. vs. Robert R. NARKGANG,

IN ACCOUNT WITH

W. R. STUART

Judge of Probate, Baldwin County

#2

PLEASE RETURN BILL WITH REMITTANCE

Recording	from	to	Privilege Tax	Rec. Fee	Total
1952					
July 1	Forwarded				14 00
1	Opposing appeal bond				1 00
1	Serving 2 notices of appeal				1 00
	Sub Total				16 00
7	Sheriff Serving notice on Defendant				1 50
	" " " 5 Councilmen				7 50
	" " " 3 Commissioners				4 50
	Commissioner: J. E. GOODEN				3 00
	" J. M. S. HUFFMAN				3 00
	" CECIL PITTMAN				3 00
	Total				38 50

Probate Office

Baldwin County
W. R. STUART, Judge
Bay Minette, Alabama

July 16, 1952

CITY OF FAIRHOPE,

A Municipal Corporation,

Plaintiff

-vs-

ROBERT R. NAHRGANG,

Defendant

IN THE PROBATE COURT


OF

BALDWIN COUNTY, ALABAMA

NOTICE TO C. LENOIR THOMPSON, ESQUIRE, ATTORNEY
FOR ROBERT R. NAHRGANG:

WHEREAS, the CITY OF FAIRHOPE, has this day filed a motion to dismiss the notice of appeal filed in this cause by ROBERT R. NAHRGANG, notice is hereby given that said motion will be heard in the Probate Court of Baldwin County, Alabama on the 30th day of July, Nineteen Hundred Fifty-two at 10:00 A. M.

Done this the 16th day of July, 1952.


W. R. STUART
Judge of Probate, Baldwin
County, Alabama.

Executed 7-16-52 By serving a copy
of the within Notice on C Lemoin
Thompson Esquire Attorney for Robert R.
Wabgon.

Lawrence Walker Sheriff

By H F Hall P. 5.

Page 15

LAW OFFICES

ELLIOTT G. RICKARBY

RICKARBY & RICKARBY
FAIRHOPE, ALABAMA

E. G. RICKARBY, JR.

1 August 1952

Hon. W. R. Stuart
Judge of Probate
Bay Minette, Ala.

Dear Judge Stuart:

Re: City of Fairhope
Vs: R. R. Nahrgang

This case comes up before you on the motion to dismiss the appeal. At the time the motion was filed the Defendant, Mr. Nahrgang, through his attorney, filed an appeal from your motion appointing the appraisers. The Defendant is now allowed to appeal from this motion and Mr. Thompson filed a new notice of appeal from your order approving your report of the Commissioners in finding the value of the property and condemning the property.

At first I thought you were supposed to make a separate order condemning the property and so I didn't withdraw my motion to dismiss. It was only on the 28th of July that the Council finally decided that they wanted to pay for this property and gave me check to deposit in Court. The case was not physically present in the Circuit Court and so naturally the money is to be paid into your Court and by you reported to the Circuit Court which sent up the appeal.

We are sorry we didn't take you when Mr. Thompson and I were in over in Court to discuss the case but ask that Mr. Thompson be given an opportunity to let me see his reply to this letter and you go ahead and decide the case. As I said the only two questions for the Court to decide are: First, that the original notice of appeal and bond Mr. Thompson filed were improper and premature and should be dismissed. Second, the money deposited in Court should be deposited with you as the case is not physically in the Circuit Court. Third, to allow the Defendant an appeal in accordance with a second notice.

Respectfully submitted,



I certify that a copy of this letter was sent to C. LeNoir Thompson, Esq., Attorney for Defendant in the above mentioned cause.



E. G. Rickarby, Jr.
Attorney for City of Fairhope

CITY OF FAIRHOPE,

a Municipal Corporation,
Plaintiff

-vs-

ROBERT R. NAHRGANG,
Defendant

IN THE PROBATE COURT

OF

BALDWIN COUNTY, ALABAMA.

MOTION

Comes the CITY OF FAIRHOPE by E. G. RICKARBY, JR. as Attorney, in the above mentioned cause and moves that the prayer and notice of appeal filed in this cause by ROBERT R. NAHRGANG be dismissed and assigns the following separate and several grounds for this motion:

FIRST: Because there are no orders made in this Honorable Court which will support an appeal.

SECOND: Because the order entered in this cause from which the attempted appeal was made was made on 19 May, 1952 and the notice of appeal was not filed until the 1st of July, 1952.

THIRD: Because the appeal only lies from the order of condemnation made in pursuance of the report of commissioners on payment of the damages so assessed and reported or the deposit of the same in the Court, which order has not been made in this case.

FOURTH: Because the attempted appeal is made from the order entered in said cause on the 19th day of May, 1952 and on the 19th day of May 1952, the only order made was the order granting the application and appointment of three citizens of the county to assess the damages and compensation in this case.

FIFTH: Because the Probate Court is without jurisdiction to grant the appeal as prayed.

CITY OF FAIRHOPE,

A Municipal Corporation

By:

E. G. Rickarby, Jr.

Attorney for City of Fairhope.

I hereby certify a
copy of the above was
served a person of P. Benoit Shapen Esq
Attorney for Robert R. Nahrang a.k.a.
16 of July 52
E. G. Rickarby, Jr.

Filed July 16, 1952, at 1:00 PM
W. E. Stuart, Jr.
Judge of Probate.

Received
By the Record P
Page 438

CITY OF FAIRHOPE

PLAINTIFF

IN THE PROBATE COURT OF

VS

BALDWIN COUNTY, ALABAMA

ROBERT R. NARGHANG

DEFENDANT

TO THE HONORABLE W. R. STUART, JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA:

The undersigned, _____, and _____, who were heretofore appointed by said court as commissioners to assess the damages and compensation to which Robert R. Narghang is entitled as the owner of the following described tract or parcels of land, to-wit:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

respectfully report that pursuant to said commission we viewed said parcels of land after having been duly sworn as jurors are sworn, and thereafter we proceeded to assess the damages and compensation to which the said Robert R. Narghang is entitled by reason of taking of the lands above described as belonging to him and they, each of them separately assessed the damages and compensation to be as follows: to Robert R. Narghang, the owner of the above described land, we do hereby assess the damages and compensation at the sum of \$_____.

We further certify that neither of us have been consulted, advised with or approached by any person in reference to the sale of the land or the proceedings to condemn the same, prior to the assessment of damages, and that we knew nothing of the same prior to our appointment.

*Filed
Copy*

IN WITNESS WHEREOF, we have hereunto set our hands this the
_____ day of _____, 1952.

Sworn to and subscribed before me on this the _____ day
of _____, 1952.

W. R. Stuart, Judge of Probate
Baldwin County, Alabama.

Copy

STATE OF ALABAMA

BALDWIN COUNTY

We and each of us do solemnly swear that none of us have 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 we knew nothing of the same prior to our appointment, and that we possess the qualification of jurors.

Sworn to and subscribed before me on this the _____ day of _____, 1952.

[Handwritten signature]

Probate Office

Baldwin County

W. R. STUART, Judge

Bay Minette, Alabama

Brad Neuniger

Ed Overton

Ralph Brown.

Marvin Berglin

City Counselman

attended hearing

STATE OF ALABAMA:
COUNTY OF BALDWIN:

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

PETITION FOR ORDER OF CONDEMNATION

To the

HONORABLE W. R. STUART, JUDGE OF PROBATE OF BALDWIN
COUNTY, ALABAMA:

Your Petitioner, the CITY OF FAIRHOPE, in the State of Alabama, by its agent, T. J. KLUMPP, SR., the Mayor of the City of Fairhope duly elected, qualified and authorized thereto, respectfully represents and shows unto the Court that it is a Municipal Corporation in Baldwin County, State of Alabama and that;

FIRST: Your Petitioner, the City of Fairhope, is charged with the duty of providing right of way of streets constructed within said city; that the said City of Fairhope has surveyed and adopted and proposes to construct a public road over and across the land hereafter described for public road purposes as a right of way for the said above designated city road; that it is necessary and proper and to the best interests of the said city that it acquire for a right of way for a public road the following described land, to-wit:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the Northwest corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence run South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

SECOND: That ROBERT R. HARGHANG, over the age of twenty one years whose post office address is Fairhope, Alabama, is owner of and in peaceful possession and control of the above described land.

THIRD: That the said City of Fairhope further alleges

Copy

that it is necessary and proper and to the interest of the City of Fairhope that this city have and own the said land for the purpose of a right of way for a road and this petitioner desires to have said land condemned for and as a road for the use of the said City as a right of way for a public road.

THE PREMISES CONSIDERED: Your Petitioner prays that this Honorable Court will make an order appointing a day for the hearing of this petition, that due and legal notice of the same be given to the said Robert R. Harghang, and that such other further and general orders and decrees be made in the premises as may be necessary and proper for the acquirement by the Petitioner of the property herein described for the purposes therein stated.

THE CITY OF FAIRHOPE

By:

T. J. Klumpp, Sr.
T. J. Klumpp, Sr.,
Its Agent

STATE OF ALABAMA:
COUNTY OF BALDWIN:

Personally appeared before me, E. G. Rickarby, Jr., a Notary Public of Baldwin County, Alabama, T. J. Klumpp, Sr., who being first duly sworn upon oath and says that he is the Mayor of the City of Fairhope and its agent for bringing this condemnation proceeding and he has carefully read and understands the facts alleged in the foregoing petition and knows that the facts therein are true to the best of his knowledge and belief.

Subscribed and sworn to before me this the 12th day of March, 1952.

E. G. Rickarby, Jr.
Notary Public, Baldwin County, Alabama.

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PETITION FOR CONDEMNATION

STATE OF ALABAMA, BALDWIN COUNTY
Filed *March 26, 1952* M
Recorded _____ book _____ page _____
W. R. Stuart
Judge of Probate
SV

RICKARBY & RICKARBY
LAWYERS
Fairhope, Alabama

CITY OF FAIRHOPE

Plaintiff

-VS-

ROBERT R. NARGHANG,

Respondent

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

TO THE SHERIFF OF SAID COUNTY, GREETINGS:

You are hereby commanded to notify J. C. Gooden,
Jos. S. Huffman and Cecil Pittman that by order
of the said Court of Probate, made and entered in the premises on
the 19th day of May, 1952, they were appointed Commissioners to
ascertain and report to this Court in writing within twenty days
from the date of their appointment, the amount of damages or com-
pensation to which ROBERT R. NARGHANG is entitled on the appli-
cation of the CITY OF FAIRHOPE for an order of condemnation of
the following described property, to-wit:

From the Southeast corner of Block 12 of Volanta,
according to the Map of Volanta recorded in Miscell-
aneous Book No. 1, at Page 341, Probate Records, Bald-
win County, Alabama, run N 70 degrees W, 21 feet;
thence run S 20 degrees W, 30 feet, for a point of
beginning; thence run S 20 degrees W, 20 feet; thence
run S 70 degrees E, 1108.5 feet; thence run W 87 degrees
40' E, 533.2 feet to a point 25 feet south of the North-
west corner of the Northeast Quarter of Section 17, T6S
R2E; thence run North 50 feet; thence run S 87 degrees
40' W, 515 feet, to the Southeast corner of Block 13 of
Volanta, per map aforementioned; thence run South 31.9
feet; thence run N 70 degrees W, 1119.4 feet, to the
point of beginning; the tract described consisting of a
strip of land approximately 1100 feet in length and 20
feet in width, running along the south side of the 30
foot street now known as Gayfer Street, shown by the map
of Volanta as bounding the Town of Volanta on the South
together with a strip of land 50 feet in width and 515
feet in length, extending from the end of said Gayfer
Street to the Eastern boundary of the De Ferret Grant,
Section 37, T6S, R2E, Baldwin County, Alabama.

Now these are therefore to commission the said J. C. Gooden,
Jos. S. Huffman and Cecil Pittman
so they may enter upon the discharge of their duties as such Commis-
sioners as soon as they shall have taken the oath prescribed by the
statute in such cases made and provided.

You will execute this notice within five days from the
date hereof and make due return of your action thereon.

Done this the 19 day of May, 1952.

W. B. Stewart
Judge of Probate

Copy

CITY OF FAIRHOPE

Plaintiff

-vs-

ROBERT R. NARGHANG

Defendant

IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

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 in that cause styled CITY OF FAIRHOPE -vs- ROBERT R. NARGHANG, and it appearing to the Judge of Probate that three people who are citizens of this County, each possessing the qualifications of jurors and each being disinterested, and therefore proper and competent persons to act as Commissions to view the lands described in said petition and to assess the damages to which the respondent is entitled, it is therefore proper that J. E. Gooden Jno. S. Haffner and Cecil Pettman 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 said Respondent is entitled and said Commissioners will report their doings hereunder in writing to the Court of Probate, Baldwin County, Alabama.

Done this the 19th day of May, Nineteen Hundred Fifty-two.

W. R. Street
Judge of Probate

Recorded
Probate Minutes N
page 588

Probate Office

Baldwin County

W. R. STUART, Judge

Bay Minette, Alabama

Notice to Commissioners of Appointment
and report given to Sheriff 5/28/02
for serving.

CITY OF FAIRHOPE

Plaintiff

-VS-

ROBERT R. NARGHANG

Defendant

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

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 in that cause styled CITY OF FAIRHOPE -vs- ROBERT R. NARGHANG, and it appearing to the Judge of Probate that three people who are citizens of this County, each possessing the qualifications of jurors and each being disinterested, and therefore proper and competent persons to act as Commissions to view the lands described in said petition and to assess the damages to which the respondent is entitled, it is therefore proper that J. E. Gordon, Jas S. Hoffman and Paul Pittman 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 said Respondent is entitled and said Commissioners will report their doings hereunder in writing to the Court of Probate, Baldwin County, Alabama.

Done this the 19th day of May, Nineteen Hundred Fifty-two.

W R Stuart
Judge of Probate

Copy

THE STATE OF ALABAMA

PROBATE COURT

BALDWIN COUNTY

May 15, 1952

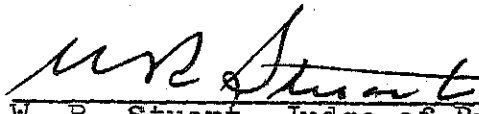
TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

You are hereby commanded to summon Ralph Brown, of Fairhope, Alabama, to appear in and before the Probate Court of said County, on the 19th day of May, 1952, to give evidence in a certain matter now pending in said Court, wherein the City of Fairhope, Alabama, has filed a petition to condemn certain lands belonging to Robert R. Marghang, described as follows:

From the Southeast corner of Block 12 of Volanta, according to the Map of Volanta recorded in Miscellaneous Book No. 1, at Page 341, Probate Records, Baldwin County, Alabama, run N 70 degrees W, 21 feet; thence run S 20 degrees W, 30 feet, for a point of beginning; thence run S 20 degrees W, 20 feet; thence run S 70 degrees E, 1108.5 feet; thence run N 87 degrees 40' E, 533.2 feet to a point 25 feet south of the North west corner of the Northeast Quarter of Section 17, T6S, R2E; thence run North 50 feet; thence run S 87 degrees 40' W, 515 feet, to the Southeast corner of Block 13 of Volanta, per map aforementioned; thence South 31.9 feet; thence run N 70 degrees W, 1119.4 feet, to the point of beginning; the tract described consisting of a strip of land approximately 1100 feet in length and 20 feet in width, running along the south side of the 30 foot street now known as Gayfer Street, shown by the map of Volanta as bounding the Town of Volanta on the South together with a strip of land 50 feet in width and 515 feet in length, extending from the end of said Gayfer Street to the Eastern boundary of the De Ferriet Grant, Section 37, T6S, R2E, Baldwin County, Alabama.

And this you shall in nowise omit, under the penalty prescribed by law. Herein fail not, and have you then and there this writ at the office of the Judge of said Court.

Witness, W. R. Stuart, Judge of said Court at office, this 15 day of May, A. D., 1952.


W. R. Stuart, Judge of Probate.

C. LENOIR THOMPSON

Attorney-At-Law

BAY MINETTE, ALABAMA

July 16, 1952.

PHONES: 5941
5672

Hon. W. B. Stuart,
Judge of Probate,
Baldwin County,

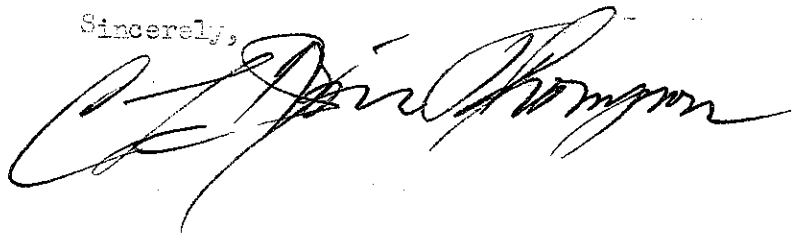
Re: City of Fairhope
Vs: Robert R. Mahrung
Condemnation Proceeding
File No. 3046

My Dear Judge Stuart:

As in my discussion of the papers in this cause with the Honorable E. G. Rickarby, Jr., I agreed that if I had erred in filing the notice of appeal I would correct said notice by withdrawal or amendment.

After examining the file I find that your order of condemnation was signed on June 16, 1952 as shown by the date thereon, and since I have 30 days from that date, and the said 30 days does not begin to run until the day following the decree, I am within the 30 days allowing in which to perfect and appeal. I therefore file in the Court this day an amended notice of appeal, which to correct the date appealed for and ask that this Honorable Court same, so filed.

Sincerely,



CLT/alm

CC: Hon. E. G. Rickarby
Attorney At Law
Fairhope, Alabama.

1964