

EXHIBIT "G"

Extract from the proceedings entitled:

THE HOUSING AUTHORITY OF THE CITY OF BAY MINETTE,

Plaintiff,

VS.

PRINCE GRIFFIN, AS EXECUTOR, ET AL.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,

AT LAW NO. 9170

THE COURT: Will you Lawyers come up here and let me be sure I have this thing straight before I start charging the jury.

Which lot is the small lot with the Cypress house on it?

MR. WILTERS: 12-4.

MR. OWEN: There is an over-lap (sic) on it; I think what they are going to have to do is arrive at a value of the improvements - the value of the real property - all of the real property and then the three improvements.

THE COURT: This house here, indicating on plat, was the three room house?

MR. WILTERS: Yes sir.

THE COURT: That is the one the land-owner (sic) didn't have a Lawyer?

MR. OWEN: Yes, and Mr. Bell testified that was \$3300.00.

THE COURT: The 50 foot lot that Mr. McCarthy owns is down here, indicating, and the Church owns the rest?

MR. WILTERS: There is an over-lap (sic).

MR. OWEN: What we think is that they will have to arrive at a value -

THE COURT: I have one here for the whole thing -
We, the jury assess the value of the Church at so much
We, the jury assess the value of the cypress house at so much, and
We, the jury assess the house and lot at so much and
We, the jury, assess the value of the 50 foot lot at so much

MR. OWEN: That gets Mr. Griffin with the Cypress house - that gets him in there and that gets Mamie Kelly in there and that gets us in there.

THE HOUSING AUTHORITY OF THE CITY OF
BAY MINETTE,
Plaintiff,
VS.
PRINCE GRIFFIN, AS EXECUTOR, ET AL.

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,
AT LAW. NO. 9170

TRIED AT THE JUNE SESSION, 1970, CIRCUIT COURT.

A P P E A R A N C E

FOR THE HOUSING AUTHORITY:

HON. HARRY J. WILTERS,
Wilters & Brantley,
Bay Minette, Alabama.

FOR THE DEFENDANTS:

HON. JAMES R. OWEN
HON. C. LENOIR THOMPSON
Bay Minette, Alabama.

HON. TELEAIR J. MASHBURN, JUDGE OF THE
28th Judicial Circuit of Alabama,

LOUISE DUSENBURY, COURT REPORTER

BAY MINETTE, ALABAMA.

THE COURT: Let the record show that it is stipulated by and between the respective parties, acting by and through their Attorneys of record, that the RAY MINETTE HOUSING AUTHORITY had full authority to condemn the lands involved in this matter; that the condemnation was regularly had and made in the Probate Court; that there is no question here about the right of condemnation; that the appeal was regularly taken; that the matter is here to be tried by a jury for the sole and only purpose of determining the amount of damages and/or compensation to be awarded the respective parties for their lands taken for public use.

Let the record further show that it is stipulated and agreed by and between the parties, particularly the land owners, acting by and through their Attorneys, that while the jury shall make one award for the lands and improvements insofar as the Housing Authority is concerned, that in addition the jury shall determine the amount that the land owners shall receive and the amount that the owners of the improvements shall receive or the value of the improvements and the value of the land separately.

THE COURT: How many of you are serving on the jury for the first time?

REPORTER'S NOTE: Several jurors hold up hand.

THE COURT: Let the record show: - - Let me give you some instructions; usually I instruct the jury after you get the evidence, but I want to tell you, this is a case known as a condemnation case, and condemnation is a means whereby under the Constitution and Laws of this State private property can be acquired for the use of the public as a whole. As you heard me dictate to the Court Reporter just now, there is no question before this jury of the right to condemn the land and the buildings involved; that has been determined by the Court that the Housing authority does have the right to condemn that; in otherwords, they have acquired this land for public use; there is just one question here for you to decide today, and that is the amount of compensation that should be paid to the owners for the taking of their private property for the use of the public as a whole. You will listen to the witnesses, observe them as they testify from this stand, observe their demeanor, take into account the opportunity - opportunities they have had to see and know the facts about which they testify and where they give an opinion, the opportunities that they had to see and learn the facts on which that opinion was

based and give to the testimony of each witness the weight that you feel it is entitled to received. Don't make up your mind about how you are going to decide the case until you have heard all of the evidence. Don't discuss the case among yourselves when you have a recess period or go to lunch, if we are not through before lunch. If two of you eat together, don't talk about this case; don't consider it at all as far as discussing how you feel until all of the evidence is in and you have heard the argument of the Lawyers, and you have heard the Court's charge, and then when you retire to the jury room that will be the time to do your deliberating on how you will decide the case. Don't make up your mind that you are going to decide the case on one person's testimony; decide the case on all of the testimony and the Charge of the Court.

M. D. BELL, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS; AS A WITNESS
FOR THE PLAINTIFF

Examination by Mr. Wilters.

Q. State your name, please?

A. M. D. Bell, Jr.

Q. Mr. Bell, where are you from?

A. Mobile.

Q. What is your business?

A. Real Estate appraiser.

Q. How long have you been a real estate appraiser?

A. 11 years.

Q. What have you done to prepare yourself for this appraisal work?

A. Well, I have taken various courses and met the qualifications of certification in the appraisal field, and primarily worked at it over this period of time.

Q. During this 12 years of appraising lands in - - Have you appraised lands in Baldwin County?

A. Yes sir.

Q. Both open and improved lands?

A. Yes sir.

Q. Did you have occasion to appraise the lands involved in this condemnation proceeding?

A. Yes sir.

Q. Would you describe the dimensions of it?

A. Yes sir; the land involved is a site with 177 feet on Hurrican

Road and Old Hurrican Road, and a depth on the west line of 152.2113

and on the east line 143.74 feet.

Q. Are there any improvements on this land?

A. Yes sir, three structures; two single family dwellings and a Church.

Q. You notice the map back of you?

A. Yes sir.

Q. Would you point out approximately where these structures are?
Is it all right if he writes on there?

MR. OWEN: Yes. Let's introduce that in evidence by agreement as Housing Authority's Exhibit No. 1.

REPORTER'S NOTE: Witness draws structures on map.

PLAINTIFF'S EXHIBIT 1.

It is impractical, due to the size of this map or Plat which was offered in evidence, to attach the same as a page of the transcript, and under Rule 41 (47) Supreme Court of Alabama, This Exhibit is duly identified and delivered to the Clerk of the Circuit Court to be transmitted, along with her certificate, together with the Transcript of record in said case, to the Supreme Court.

WITNESS: Do you want me to put the dimensions on here?

MR. WILTERS: Yes. This is the dimensions made by Coleman Engineering, Inc. in December.

REPORTER'S NOTE: Witness writes dimensions on the various lots on said Plat.

Q. Mr. Bell, will you mark on this map, in your best judgment, approximately where these structures are?

A. Yes sir. The Church generally sits in here.

REPORTER'S NOTE: Witness draws Church and writes the word "Church" to identify its location.

WITNESS CONTINUES: The larger of the two dwellings is in this area, indicating.

Q. Mr. Bell, do you know the dimensions of the Church?

A. Yes sir I have a sketch of the building. The Church primarily is 36½ by 25 with two stories - - the second story, that is 29 x 24.5

Q. Would you describe the structure of this Church?

A. Yes sir. It has a slab foundation with blocks in the rear, brick and concrete block exterior with composition roof and interior has some pine flooring and some concrete with pannelled walls and

and coastal ceiling - celotex - There are two rest rooms in the front of the Church and there is a bath in the rear part of the Church - in the little building attached to the rear.

Q. What condition is the building in?

A. It was in good condition at the time I looked at it - it had not quite all been finished, but it was in good condition what was there.

Q. The house located on 12-4, what are the dimensions of that?

A. $14\frac{1}{2}$ feet by $31\frac{1}{2}$ feet.

Q. What was the composition of this house?

A. A three room house that had no plumbing; it was a frame house built on block piers and had a metal roof and pine ceiled interior floors, walls and ceiling.

Q. What was the condition of this residence?

A. It was in relatively poor condition.

Q. Was it painted?

A. No sir.

Q. Did you observe whether the porch was on or off?

A. Wasn't any porch on it - - steps.

Q. The third house, over there, indicating. What was the dimensions of that house?

A. $22\frac{1}{2}$ feet by $45\frac{1}{2}$ feet and had a front and rear porch on it; it had six rooms and a bath; it was a frame house with composition roof, brick piers and asbestos siding - - pardon me - composition roof and interior was pine and three fixture bath room with no hot water heater and radiant heat.

Q. What was the condition of this building?

A. Poor condition; not too well maintained.

Q. I assume you have seen this land on several occasions?

A. Yes sir.

Q. When was the last time you observed it?

A. January, of this year.

Q. Did you make any photographs of this property?

A. Yes, I have photographs of the property.

Q. May I see them?

A. Yes sir. This is the larger house and this is the Church and these are the two houses.

Q. Mr. Bell, did you take these pictures yourself?

A. Either I did or my father did; we were working together on this.

Q. Were you present at the time they were taken?

A. Yes sir.

MR. WILTERS: I introduce this as Housing Authority's Exhibit 2.

MR. OWEN: We have no objections to the Church photograph.

PLAINTIFF'S EXHIBIT 2
Housing Authority

REPORTER'S NOTE: It is impractical to reproduce this exhibit here and the original exhibit is hereto attached.

MR. WILTERS: And we introduce these two as Housing Authority Exhibits 3 and 4.

PLAINTIFF'S EXHIBIT 3
Housing Authority

PLAINTIFF'S EXHIBIT 4
Housing Authority

Q. Mr. Bell, from your observation and experience of this property, and I'm referring to the property as a whole - the 177 x 152 - did you form an opinion as to the reasonable market value of this property as of the date of the condemnation? - - I believe this was January 27, 1970?

A. Yes sir.

Q. What, in your opinion, sir, was the reasonable market value of the whole property, including the Church, the two houses and the land?

A. \$42,900.00.

Q. What value did you place as to the real estate?

A. The land, I placed a value of \$20.00 a front foot on 177 feet or \$3550.00.

Q. On the Church, what value did you place on the Church?

A. I put a depreciated value of \$34,900.00.

Q. All right, the the two houses there - take the small one first?

A. \$1100.00.

Q. The other house, the larger house?

A. \$3350.00

Q. Now does these figures include the land or is it separate from the land?

A. The total figure, includes the land, the two dwellings and the church - the figures I just gave you was for improvements only.

ON CROSS : EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Thompson.

Q. Mr. Bell, did you take into consideration the small house was built

with cypress lumber?

A. No sir, I took it for pine.

Q. You didn't realize it was cypress?

A. No sir.

Q. Assuming it was built of cypress lumber instead of pine, would that make - would that change your opinion?

A. It might possibly be worth a little more - cypress lasts^a/long time.

Q. Now in arriving at \$20.00 a front foot, you are aware that those lots front on both streets?

A. Yes sir.

Q. Is that \$20.00 a front foot on each street?

A. No sir, I just gave one frontage due to the depth.

Q. That you could use both streets as far as a whole lot -

A. I think that I have one depth for one lot there.

Q. Then the fact that it fronts on both streets, in your opinion does not add to the value?

A. Not necessarily - no.

Q. Normally it does?

A. According to what use it has.

Q. For the highest and best use which would be commercial, wouldn't it?

A. I consider residential.

Q. Even though there is commercial all around there?

A. Yes sir, but I consider it residential.

Q. Assuming the highest and best use is commercial, what change would that make in your valuation?

A. Well sir, if you were going to use the property for commercial, you would have a higher land value, but you could not give any value on the buildings.

Q. What increas would that make on the land?

A. Mr. Thompson, I have not considered it for commercial use.

ON FURTHER CROSS EXAMINATION OF THIS WITNESS:

Examination by Mr. Owen.

Q. I show you a couple of rather poor photographs of this Church made by me. Look at the front one first. Is that an accurate protrayal of the Church?

A. As I remember it.

Q. The bottom one, is that an accurate portrayal of the rear view of the Church as you recall it to be?

A. Yes sir.

MR. OWEN: We ask that this Photograph be introduced and Marked as Condemnee, Church, Exhibit 1.

CONDEMNEE, CHURCH EXHIBIT 1

REPORTER'S NOTE: It is impractical to reproduce this Exhibit and the original exhibit is hereto attached

MR. OWEN: We ask that this photograph be introduced and marked as Condemnee - Church Exhibit 2, and with the Court's permission I will place these two photographs on the map here

CONDEMNEE-CHURCH EXHIBIT 2

It is impractical to reproduce this exhibit and the original exhibit is hereto attached.

Q. Mr. Bell, how many bath rooms are in this Church building?

A. I have two rest rooms in the front, right on either side of the entrance there.

Q. There is also one in the rear?

A. One in the rear.

Q. What we call the old part?

A. Yes sir.

Q. That-there is an old part and a new part- - the two story part is some years older than the brick part up front, is it not?

A. I am not sure about that; it was hard for me to determine.

Q. Could you recognize the type brick the front part is built of if you saw it?

A. No sir, I can't.

Q. You don't know about that?

A. No sir.

Q. Your value of the Church building - just the Church itself was \$34,900.00?

A. That is correct, yes sir.

ON RE-DIRECT EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Wilters.

Q. \$34,900.00 - - Did that include the land the Church was on or just the building?

A. Just the Church itself.

Q. Mr. Thompson was asking you about valueing this as Commercial property and I believe you said if you value it as commercial property it increases the value of the land, but get no value for the building?

A. If you are going to change the use - the houses or the Church would be lost, if you are going to change the use of the land.

MR. WILTERS: THE PLAINTIFF, THE HOUSING
AUTHORITY REST

PAT PAGE, A WITNESS FOR THE CONDEMNEDS BEING FIRST DULY SWORN, TESTIFIED
AS FOLLOWS:

Examination by Mr. Thompson.

Q. State your name, please?

A. Glenn Page, or Pat Page -

Q. Mr. Page, what is your occupation?

A. I am a Real Estate Appraiser and real estate broker.

Q. How long have you been such?

A. 17 years.

Q. Directing your attention towards your appraisal experience, what companies or what governmental agencies have you appraised for?

A. I have made a good many appraisals for the United States Government cities, life insurance companies, etc, and individuals for estate tax.

Q. And you live here in Bay Minette?

A. Yes sir.

Q. Your appraisals - many of them - have been here in Bay Minette?

A. Most of them, yes.

Q. Now directing your attention, Mr. Page, to the map behind you showing three lots drawn vertically on which two pictures are placed on one lot - in regard to - - well, we will take the area that Mr. J. G. McCarthy owns, which is 50 x 50 - can you point to the lot drawn there as to where that 50 foot square would be?

A. This was what I was asked to appraise here, indicating on plat. The Church is to the left of it standing on Hurricane road. You are looking directly at the church from the Hurricane road, and the lot would be side of it.

Q. Side of the Church?

A. The way I see it.

Q. Did you, on examination of that lot, did you arrive at an opinion as to the reasonable market value of that lot?

A. Yes sir.

Q. For a willing seller and a willing buyer?

A. Yes sir.

Q. What, in your opinion - -

MR. OWEN: You are just talking about the land itself?

WITNESS: Yes.

MR. OWEN: No improvements.

WITNESS: Just the land it is on without considering the Church building.

A. \$2,000.00

Q. All right, sir, now directing your attention to the next lot that goes from the Hurricane Road to the Old Hurricane Road, 50 foot frontage, and 150 foot from the street there to the street here - that is Number 12-4 -

A. Yes sir.

Q. Did you have occasion to appraise that lot?

A. Yes I did.

Q. After examining the lot and considering the facts that you consider

that you considered - What, in your opinion, is the reasonable market value for the land?

A. 50 feet by 150 - - I believe it is 149 or 148 - I put an appraisal of \$4,000. on that lot.

Q. This lot - -

A. You're talking about the lot that fronts on both streets?

Q. Yes?

A. That is correct.

Q. The appraiser for the Housing Authority placed a value of \$1100.00 on that small home on that lot, considering it to be a pine construction rather than cypress construction, would you tell the jury whether or not you have an opinion as to a value on that property?

A. Yes sir, I did come to an opinion.

Q. Is it based on the fact it is cypress - of cypress construction?

A. That was only a factor.

Q. One of the factors?

A. Yes sir.

Q. What was your opinion as to the value of that house?

A. \$800.00.

Q. Then, in your opinion, the total for that Lot 12-4 would be \$4800.00?

A. Yes, total.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Wilters.

Q. Is this the small house located next to the Church?

A. Yes sir.

Q. How old is this residence?

A. Right at 20 years old.

Q. Has it ever been painted that you know of?

A. It has been painted a long time ago - part of it.

Q. Does it have in-door facilities?

A. No.

Q. What kind of shape is it in?

A. It is sub - - it is just fair - - just fair condition.

Q. How many rooms?

A. Three rooms and two porches.

Q. In your appraisal of the first lot that you mentioned, 50 x 50 you gave a figure of \$2,000.00. How did you arrive at this figure?

A. I arrived at this figure by taking comparables in this neighborhood

near this property in the Douglasville section of Bay Minette.

Q. 50 x 50 is a pretty small lot, isn't it?

A. Yes sir.

Q. How much did you give a front foot?

A. I didn't figure it by the front foot; I figured it by lots and comparing lots of such size.

Q. Are the lots that you compared, how much frontage did they have, and were they on the highways or back roads?

A. Some were on residential and some commercial.

Q. Where were they located?

A. One of the lots would be - the owner was John Wallace Wilson over on Pecan Street, which was 50 x 150 .

Q. 50 x 150 feet?

A. Yes sir.

Q. How much did it sell for?

A. The lot sold for - - I had a total, house and lot was \$4,000.00.

Q. There was a house on that?

A. Yes sir.

Q. House and lot, \$4,000.00, and the lot was 50 x 150?

A. Yes sir.

Q. And you gave \$2,000.00 for a 50 x 50 foot lot without a house on it?

A. That is right; this lot is superior, as far as residential, but I didn't classify the lot 50 x 50 as residential, but I had to get a comparable - comparison - -

Q. On the one that you made the comparison on, how much value did you put on the house?

A. \$2800.00.

Q. Then you were giving the real estate \$1200.00 for 50 x 150?

A. That is right.

Q. I believe you said the 50 x 50, the best use is residential?

A. No sir.

Q. What do you give as the best use?

A. The highest and best use of that is commercial, definitely.

Q. Well now your figure is based on commercial, \$2,000.00, isn't it?

A. Yes sir.

Q. But you gave your comparable as residential lot?

A. I have some other comparables.

Q. Where are they at?

A. One would be sold in June of 1966 by J. L. Mothershed to D. L. Slay.

Q. That is located where? - - Isn't that on 31?

A. At the time he sold it it wasn't on 31; it was on a street - I can't remember the City street, partially - -

Q. But is it on 31 now?

A. Yes sir.

Q. It had access to 31 didn't it?

A. Yes sir.

Q. It would make a considerable amount of difference - - access to 31 and access to Hurricane Road, wouldn't it?

A. Yes it would.

Q. And this small house we are talking about, you placed a value of \$800.00 on it?

A. Yes sir.

EXAMINATION OF THIS WITNESS BY MR. OWEN, ATTORNEY FOR THE CHURCH

Examination by Mr. Owen.

Q. Mr. Page, will you refer to the map behind you, please sir, where it says 12-3, 12-4 and 12-5. When you went out you looked at all of the lots?

A. Yes sir.

Q. You said you saw 12-3 and 12-4?

A. Yes sir.

Q. And the one where the pictures are?

A. Yes sir.

Q. All of that land is of the same general type, is not not level land?

A. Yes sir.

Q. Served by City water?

A. Yes sir.

Q. And electricity?

A. Yes sir.

Q. And City Gas?

A. Yes sir.

Q. And one lot, as far as dimensions are concerned, one lot would be worth the same as the other - - I mean if there were no improvements or anything on it, one piece of land is of equal value to the other?

A. It would be very close to it, not necessarily exactly.

Q. But is there any difference at all in the character of the land there?

- - -Of the three lots?

A. Very little.

ANDREW T. McGEE, A WITNESS FOR THE CHURCH, BEING FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

Examination by Mr. Owen.

Q. Will you state your name to the jury, please?

A. Andrew Thomas McGee.

Q. Are you the pastor of the McGee Temple Church down here that we have been talking about today?

A. I am.

Q. How long have you been Pastor of that Church?

A. 20 years.

Q. You are also a Trustee?

A. Yes sir.

Q. The other folks here are Trustees?

A. Yes sir.

Q. It is a Corporation, is it not?

A. That is right.

Q. When did you first construct any improvements, or the first part of this Church on this property out there?

A. About 1953.

Q. And what part of the Church did you build in 1953, or what part did you start constructing at that time?

A. Well I built the small building there 24 x 43 and we called it our Church at that time.

Q. Is that the two story building?

A. It is now, but not at that time.

Q. When did you construct what we call the new part of the Church?

A. We started on it about four years ago.

Q. You have heard Mr. Maurice Bell testify as to the dimensions of the Church, is that correct?

A. Yes sir.

Q. Do you know what kind of material the new part of the Church is built of?

A. Built by 3x8x12 creek brick.

Q. Is this one of the brick that is the type - - That is just one left over, is it not?

A. That is one of the brick - - that looks like one of them.

Q. That is the same type and same kind?

A. Yes sir.

A. Yes sir.

Q. Did you purchase that yourself and know that is correct?

A. Yes sir.

MR. OWEN: At this time I introduce as Condemnee CHURCH'S Exhibit 3, this brick.

CONDEMNEE-CHURCH EXHIBIT 3

REPORTER'S NOTE: It is impracticable, and impossible to reproduce this exhibit here, or attach the same to this transcript, and the same is properly identified and filed with the Clerk of this Court along with the transcript, as Provided by Rule 41 (47) Supreme Court.

Q. How many bath rooms are in this Church?

A. There are two in the front new part and one up-stairs in the rear.

Q. What other rooms are in the Church building itself?

A. We have two 12 x 12 sleeping quarters up stairs and a 12 x 24 room that we call our prayer room.

Q. Did you help construct this Church?

A. Yes sir.

Q. Did you sorter supervise and over-see it?

A. I did.

Q. Did you buy the materials in the Church?

A. I did.

Q. And you did testify that you are the Pastor and one of the Trustees of the Corporation?

A. Yes sir.

Q. Do you have an opinion as to the reasonable value of this Church Building itself?

MR. WILTERS: I object; I don't know that he is qualified

THE COURT: I am going to take the position that he is the owner - It is named for him and I overrule the objection.

MR. WILTERS: We except.

Q. Do you have an opinion as to the reasonable value of just the Church building itself. Just answer "yes" or "no" Do you have an opinion?

A. Well, thinking in terms of building it back, my opinion, it would be \$48,000.00 to \$50,000.

NO CROSS EXAMINATION OF THIS WITNESS:

ALLEN MASON, A WITNESS FOR THE CONDEMNEE, CHURCH, BEING FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

Examination by Mr. Owen.

Q. Is this Allen Mason?

A. Yes sir.

Q. Where do you live?

A. 906 McGee Avenue.

Q. Bay Minette, Alabama?

A. Yes sir.

Q. How long have you lived there?

A. About Nine years.

Q. Are you one of the Trustees of the Church, whose property is involved here today?

A. Yes sir.

Q. Are you familiar with the construction of the Church Building on this property?

A. Yes sir.

Q. Do you own property here in Bay Minette?

A. Yes sir.

Q. Do you own real property in Bay Minette?

A. Yes sir, I am buying it.

Q. You have bought and sold real property in Bay Minette in the vicinity of where this is, and when I say "vicinity" I mean Douglasville or down in there?

A. Yes sir.

Q. Do you have an opinion as to the reasonable market value of the McGee Temple Church out there? - - Not the land just the Church building itself?

MR. WILTERS: I object; I don't believe he is qualified.

Mr. Owens asked him did he buy and sell real estate. I would like to take him on voir dire.

MR. OWENS: All right, go ahead.

EXAMINATION BY MR. WILTERS:

Q. How much real estate have you bought and - -

A. One lot I bought.

Q. How much have you sold?

A. One next to the one I bought; I didn't completely pay for it, but I sold it back to the man.

Q. You bought it and sold it back to him?

A. Yes sir.

Q. Just one lot involved?

A. Yes sir.

MR. WILTERS: May it please the Court, I don't think he is qualified and I Object.

REPORTER'S NOTE: No ruling.

MR. OWEN CONTINUES WITH DIRECT EXAMINATION

Q. Are you familiar with values of improvements such as this Church in the vicinity where it is situated?

A. Yes sir.

Q. Now do you have an opinion as to the market value of this Church Building?

A. -

MR. WILTERS: I object on the same grounds as before.

THE COURT: He is one of the Trustees?

MR. OWEN: Yes.

THE COURT: Overrule the objection.

MR. WILTERS: Except.

Q. Do you have an opinion?

A. Yes sir.

Q. Will you tell the jury what, in your opinion the value of the - just the Church Building is, not the land?

A. I feel like about \$50,000.00.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED AS FOLLOWS:

Examination by Mr. Wilters.

Q. As a Trustee, did you enter into any negotiations to sell this property? - - - The Church property?

A. Did I enter into negotiations to sell it?

Q. Yes?

A. To Urban Renewal - -

MR. OWEN: Object to that; that is irrelevant, incompetent and immaterial - some negotiations they had; I don't think that would be fair.

MR. WILTERS: I was thinking they came to them with a much lower price.

THE COURT: I can't let you go into that; they didn't have to pay Lawyer's fees may be then.

MR. WILTERS: He ain't worked \$10,000.00 worth - - I will withdraw the question.

BESSIE PLEASANT, A WITNESS FOR THE CONDEMNED, CHURCH, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

Examination by Mr. Owen.

Q. Is this Bessie Pleasant?

A. Right.

Q. Where do you live?

A. In Douglasville.

Q. How long have you lived here?

A. I have lived here since 1936.

Q. Are you a Trustee of the McGee Temple Church, a party to this suit today?

A. Yes sir.

Q. How long have you been such Trustee?

A. Since we laid the corner-stone.

Q. When was that?

A. When was it, Rev. McGee?

Q. Was it some 18 or 20 years ago?

A. No sir, about three years ago.

Q. How long have you been a member of the Church?

A. Since 1950.

Q. You have been a member of the Church ever since the construction of the Church started, is that true?

A. Yes sir.

Q. Do you and your husband own real property in Douglasville?

A. Yes sir.

Q. How much?

A. About six acres.

Q. Does it have any houses or improvements on it?

A. Yes, two houses.

Q. Have you and your husband bought and sold real property in Douglasville?

A. Just bought, haven't sold.

Q. Are you familiar with the value of improvements on real property in this vicinity? - - What I'm talking about is, buildings. Are you familiar with that?

A. Of this Church building?

Q. Right?

A. Yes sir.

Q. Do you have an opinion as to the reasonable market value of this Church building?

MR. WILTERS: Object; she is not properly qualified to testify to the value of real estate.

THE COURT: Overrule the objection.

VOL 113 PAGE 605

MR. WILTERS: Except.

Q. Do you have an opinion as to the value?

A. Yes sir.

Q. What, in your opinion, is the value of the Church building itself?

MR. WILTERS: Object on the same grounds.

THE COURT: Overrule the objection.

MR. WILTERS: We except.

A. I would say \$50,000.00.

NO CROSS EXAMINATION OF THIS WITNESS.

JOHNNY TAYLOR, A WITNESS FOR THE CONDEMNEE, CHURCH, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

Examination by Mr. Owen.

Q. Is this Johnnie Taylor?

A. That is right.

Q. Where do you live?

A. White House Forks.

Q. How far is that from McGee Temple Church?

A. Two or three miles.

Q. And how long have you lived there?

A. 10 years.

Q. Where do you work?

A. Standard Furniture.

Q. Here in Bay Minette?

A. Yes sir.

Q. Did you have anything to do with the building of the McGee Temple Church?

A. Yes sir.

Q. Did you actually do some of the labor yourself?

A. Yes sir.

Q. Do you know what kind of material the Church is built of?

A. Yes sir.

Q. Have you bought and sold real property around Douglasville or White House Forks?

A. I bought in White House, and I started buying in the Pecan Orchard at one time and I let it back, but I am buying in White House.

Q. Are you familiar with the value of real property improvements in and around Douglasville vicinity?

A. Yes sir.

Q. Do you have an opinion as to the value of this Church Building, the McGee Temple Church?

A. Yes sir.

MR. WILTERS: I would like to object; he is not properly qualified; it is not shown that he has bought and sold real estate in this particular area.

Q. Did I ask you if you are a Trustee of the Church?

A. No.

Q. Are you a Trustee?

A. Yes sir.

THE COURT: Overrule the objection.

MR. WILTERS: Except

Q. In your opinion, what is the reasonable market value of just the Church Building, not the land?

MR. WILTERS: Object on the same grounds.

THE COURT: Overrule the objection.

MR. WILTERS: We except.

A. \$50,000.00.

ON CROSS EXAMINATION OF THIS WITNESS, HE TESTIFIED:

Examination by Mr. Wilters.

Q. What is your name?

A/ Johnnie Taylor.

Q. Johnnie, you all had a meeting on this proceeding?

A. Yes sir.

Q. You all got together and talked about this together, didn't you?

- - - The trustees?

A. Building the Church?

Q. Yes?

A. Yes sir.

Q. You talked about coming up here and testifying, didn't you?

A. I didn't see any of the Trustees on yesterday, only they called me and told me they - that I had to be here today.

Q. Who did you talk to about the value of this building?

A. I believe Sister Pleasant.

Q. All of you agreed to have it around \$50,000.00?

A. That is what I agreed; I don't have nothing to do with the other fellow.

THE CONDEMNEE, CHURCH REST

MR. THOMPSON: We rest

(V)

113 PAGE 807

WHILE MR. THOMPSON WAS Arguing the case to the jury the following happened

MR. WILTERS: There is nothing in this record as to what the property is going to be used for; he is trying to say what we are going to use the property for.

MR. THOMPSON: To improve the rental sub-division - -

THE COURT: That has nothing to do with it.

MR. THOMPSON: But you are talking all of it.

MR. WILTERS: That is right.

THE COURT: Will you Lawyers come up here and let me be sure I have this thing straight before I start charging the jury.

Which lot is the small lot with the Cypress house on it?

MR. WILTERS: 12-4.

MR. OWEN: There is an over-lap on it; I think what they are going to have to do is arrive at a value of the improvements - the value of the real property - all of the real property and then the three improvements.

THE COURT: This house here, indicating on plat, was the three room house?

MR. WILTERS: Yes sir.

THE COURT: That is the one the land-owner didn't have a Lawyer?

MR. OWEN: Yes, and Mr. Bell testified that was \$3300.00.

THE COURT: The 50 foot lot that Mr. McCarthy owns is down here, indicating, and the Church owns the rest?

MR. WILTERS: There is an over-lap.

MR. OWEN: What we think is that they will have to arrive at a value -

THE COURT: I have one here for the whole thing -
We, the jury assess the value of the Church at so much
We, the jury assess the value of the cypress house at so much, and

We, the jury assess the house and lot at so much and
We, the jury, assess the value of the 50 foot lot at so much

MR. OWEN: That gets Mr. Griffin with the Cypress house - that gets him in there and that gets Mamie Kelly in there and that gets us in there.

COURT'S ORAL CHARGE TO THE JURY

LADIES AND GENTLEMEN OF THE JURY: As I told you in my preliminary statement to you, this is what is known as a condemnation case. Condemnation is the term applied to the process whereby a public authority, whether it be the State or the City or the County or the Federal Government can acquire property belonging to an individual for the use of the public generally. Under our Constitution and Laws the various governmental bodies do have that authority and as I told you in the beginning, you have no question to decide concerning the right of the Housing Authority to take this land; that is a legal matter and that is decided by the Court - by the Judge, and it has already been decided that the Housing Authority has the authority and the right to take these lands and these buildings, so don't go back there and waste your time worrying about that; that is not for you to consider. The constitution also says that where private property is taken for the benefit of the public, then the owner is entitled just and fair and reasonable compensation for his property. You have heard during the course of this trial the term "reasonable market value" and legally reasonable market value is defined in this way: The reasonable market value of a piece of property is that amount in dollars which that property would bring assuming that it is put up for sale by an owner who is under no compulsion to sell; he does not have to have the money; he doesn't have a mortgage past due and the government is not after him for income tax; he just owns some property and if a man comes along and offers him a price that appeals to his fancy he will sell; he is not wanting to sell and not anxious to sell. You also assume you have a purchaser that has ample money and he can buy any piece of property that strikes his fancy as long as he gets what he considers a bargain. When you get those two people together and the purchaser knows what the property can be used for, he doesn't have to buy it, but if he considers it a good buy he can buy it and you get that seller and that buyer together, then the price that those two get together on is what constitutes reasonable market value. We are fortunate in this case; in many cases we are taking just a part of the property and we have to determine the value before and then the value of the part left, and the difference is what the land owner is entitled to. Today they are taking all - the land owners there - the whole group of them - will have nothing left because all of these buildings and - - the buildings will be torn down and

the property used for whatever purposes the Housing Authority is taking the property and that has nothing to do with the case.

Now you are the sole judges of the evidence; the law says that the jury should observe each witness as he testified to you from this stand; you should take into account his demeanor while he was testifying; did he apparently, or did he give the appearance of a person trying to tell the truth? What opportunity did he have to see and know the facts about which he testified? Where he gave an opinion, and most of the witnesses who testified gave you their opinion as to the reasonable market value of this property, and these improvements, and where a person gives his opinion the law says a jury should consider what facts and what opportunity did he have to get the proper facts on which to base that opinion. After all my opinion on a subject is no better than the facts on which I base that opinion and that is a matter that you, as jurors have to determine.

The law says that it is the duty of the jury to reconcile the testimony of every witness that testified; he swore to tell the truth and the law presumes that ^{he} is attempting to tell the truth and the law says the jury should take all of the evidence and attempt to reconcile it; if you can not reconcile it - that is the reason we have juries, it is your duty and your burden to take that part that you feel worthy of belief or that you feel is the best evidence and disregard that part that you feel unworthy of belief, or unable to reconcile with the rest of the testimony, then having given the weight that you feel each bit of testimony is entitled to receive, then to arrive at your verdict as to what was ^{the} reasonable amount that should be paid to the land owners and property owners here in damages for the taking of their property and their buildings.

Ordinarily, people that give you an opinion have to be experts; you heard the lawyers when they put an appraiser on the stand and asked him about his training; naturally the better training or the more experience usually the better his opinion would be, but the law says in considering his opinion you have a right to consider it in the light of your own common, every day horse sense - your own business experience, and your own knowledge of what values lands and buildings are worth; you don't substitute your opinion for his, but you consider his opinion along with your every day horse sense and you give to the opinion evidence that weight that you feel it is entitled to receive.

Now the law says that a land-owner has a right to get up here and tell you what he thinks his land or property is worth, even if

he has never bought anything except the one piece, and that is the reason I let the trustees testify as to what they thought the value of the church is, because I put them in the same position as land owners. They are not experts, but the law says, as a land owner when you take my property I have a right to get up here and tell you what I consider it is worth, and the law says that you are not to just completely disregard any testimony by reason of the fact I am a land owner, but at the same time you do have the right to consider my testimony in the light that I am the owner and I stand to profit or lose by the verdict of the jury in this case.

(Now after considering all of the testimony in this case, when you have arrived at a verdict as to what is the reasonable value of all of this property - - you start off as I told you in the beginning, assign a value to all of that property across there - I believe the testimony is 177 feet on Old Hurricane road and about the same on Hurrican Road and you remember the dimensions on each side and remember it had the Church building on it, and had the little cypress house and had a three room house. First of all, arrive at a value for the whole thing; that is what will be awarded to the whole group, and then to help you and help me, because this will be my burden if you didn't help me with it. I have also put a place here for the jury to assess the value of the Church - whatever amount you give for the Church Building itself fill that in, and when I say the Church Building, put the land itself on and the value of the 50 foot lot you have heard part of the Church is on - there is some mistake, but we are not concerned on that; some how they built the Church on somebody else's land and that man wants pay for that, and, this is: We, the jury assess the value of the 50 foot lot for so many dollars, and we, the jury assess the value of the cypress house for so many dollars - you can use that in arriving at the amount, and then, we, the jury assess the value of the three room house at such and such amount. The main one is the first one - the total amount - that is what the Housing Authority will have to pay, and they are not concerned on how it is divided, but I, and all of the rest of these people are sure concerned with how it is to be divided up, and if you will do that it will help me - After you have done that, fill in the amount and let one of your number sign it as foreman.

THE COURT: Are there any objections?

REPORTER'S NOTE: There are no objections.

THE COURT: You may retire to make up your verdict.

C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript of the testimony, exhibits and oral charges of the Court in this case of The Housing Authority vs. Prince Griffin, et Al., which was tried in the Circuit Court of Baldwin County, Alabama, at law, June Session 1970.

I further certify that I have this day filed the original and three copies of said transcript with Mrs. Alice J. Duck, as Clerk of the Circuit Court of Baldwin County, Alabama, and that I have notified Hon. James R. Owen, Attorney for the Condemnee, The Church, Hon. C. LeNoir Thompson, Attorney for other Condemnees, including McCartha, and Hon. Harry J. Wilters, Jr. Attorney, for the Condemnor, The Housing Authority.

I further certify that I am not a relative, counsel, or Attorney for either party or otherwise interested in the outcome of this Action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal at Bay Minette, Alabama, on this the ____ day of _____, 1970.

Official Court Reporter, 28th
Judicial Circuit of Alabama

THE HOUSING AUTHORITY OF THE)
CITY OF BAY MINETTE, BALDWIN)
COUNTY, ALABAMA,) IN THE CIRCUIT COURT OF

Condemnor,) BALDWIN COUNTY, ALABAMA

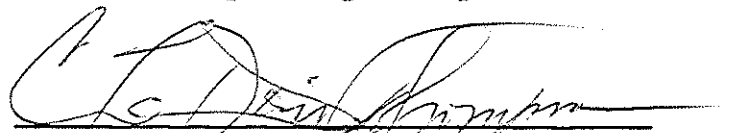
- vs -) AT LAW

PRINCE GRIFFIN, ET AL,) CASE NO. 9170

Condemnees)

TO THE HOUSING AUTHORITY OF THE CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA:

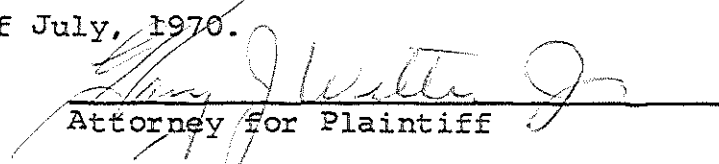
You will please take notice that the foregoing petition
will be called to the attention of the Honorable Telfair J.
Mashburn, Judge of said court, at his office in the Courthouse
of Baldwin County, at Bay Minette, Alabama on August 12, 1970
at 11:00 A.M., at which time and place you may attend
if you so desire.


Attorney for Defendant

ACCEPTANCE OF SERVICE AND WAIVER

I, Ray J. Walters Jr., attorney of record for plaintiff
in the above styled cause, hereby accept service of a copy of
the foregoing petition and notice and do hereby waive all other
and further service of notice of same, and do consent and agree
that the same be heard and determined by the court on Aug. 12 1970
at 11:00 o'clock, A.M.


This 28 day of July, 1970.


Attorney for Plaintiff

ORDER OF COURT ON PRESENTATION

The foregoing motion having been this day presented to
me, the same is ordered filed in the court and set down for
hearing before me on August 12, at 11:00 A.M.

Dated this 28 day of July, 1970


Circuit Judge

FILED

AUG 4 1970

9170

[illegible][illegible]

THE HOUSING AUTHORITY OF THE	X	IN THE CIRCUIT COURT OF
CITY OF BAY MINETTE, BALDWIN		
COUNTY, ALABAMA,	X	BALDWIN COUNTY, ALABAMA
Condemnor,	X	
vs.	X	AT LAW
PRINCE GRIFFIN, ET AL,	X	CASE NO. 9170
Condemnees	X	

This being the day regularly set for the hearing of the motion of Mamie Kelly to set aside the Final Decree of the above styled cause, and there appeared for the movant, C. LeNoir Thompson, and for The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, Harry J. Wilters, Jr., and after hearing the arguments of the Council, and reviewing the records of the proceeding, the Court is of the opinion that the motion is without merit. It is, therefore,

ORDERED, ADJUDGED and DECREED that the Motion for New Trial, be and the same is hereby denied.

Done this the 12th day of August, 1970.

Telfair J. Masburn
Telfair J. Masburn, Circuit Judge

FILED

AUG 12 1970

ALICE J. DUCK CLERK
REGISTER

8-30-83

FILED

AUG 12 1970

ALICE J. DUK
CLERK
REGISTER

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

Condemnor,

vs.

PRINCE GRIFFIN, ET AL,

Condemnees.

X

X

X

X

X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9170

DECREE

This cause having been appealed, in the manner provided by law, from the Probate Court of Baldwin County, Alabama, came on to be heard, by trial de novo, in this Court on this day; and on this date, came the parties to this cause by their attorneys; and the Court having heard and considered the same, is of the opinion that the petition of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, the Plaintiff in this cause, for the condemnation of the property described in Paragraph 3 of said petition should be granted and that The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation has the legal right to condemn said property for the purposes and uses stated in said petition.

It is, therefore, ORDERED and ADJUDGED by the Court and it is the judgment of the Court, that The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, has the legal right to condemn the following described property for use as an Urban Renewal Development, to-wit:

A parcel of land lying in the North half of Section 21, Township 2 South, Range 3 East, described as follows: Beginning at a point on the North right-of-way line of the New Hurricane Road, which point is 140 feet East of the Southeast corner of Lot 8, Block 1 as shown on a plat of Douglasville, recorded in Map Book 1, page 334 in the office of the Judge of Probate of Baldwin County, Alabama, from said point of beginning, run thence North 152.20 feet to a point on the South line of the Old Hurricane Road, thence run East along the said South line 177 feet to a point, thence run South 143.47 feet to a point on the North line of New Hurricane Road, thence West along the said North line 177 feet to the point or place of beginning.

It is further ORDERED and ADJUDGED by the Court, and it is the judgment of the Court, that the application and petition of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, in this cause for the condemnation of the land and property hereinabove described shall be, and is hereby granted; and said property and land hereinabove described is hereby condemned for the uses and purposes hereinabove stated, upon the payment into the Court of the compensation and damages assessed by the jury in this cause in the amount of FORTY EIGHT THOUSAND NINE HUNDRED FORTY DOLLARS (\$48,940.00), and the costs of this cause, which is taxed against the Plaintiff, The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation.

And a jury having been demanded for the trial of this cause, the Court did thereupon proceed to have assessed by a jury the damages and compensation to which the Defendant is entitled for the condemnation of the above described lands and property for the uses and purposes hereinabove described.

Thereupon, on this the 16th day of June, 1970, came a jury of good and lawful men, to-wit: Harry J. Weeks, and eleven others, and having been impaneled and sworn according to law, upon their oaths do say: "We the jury find in favor of the land-owners, and assess the damages at \$48,940.00. We the jury assess the value of the Church at \$41,150.00. We the jury assess the value of the 50 foot lot at \$1,000.00. We the jury assess the value of the Cypress house at \$800.00. We the jury assess the value of the 6 room house at \$3,350.00."

It is therefore, ORDERED and ADJUDGED by the Court and it is the judgment of the Court, that the Defendant have and recover of the Plaintiff, The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, the sum of FORTY EIGHT THOUSAND NINE HUNDRED FORTY DOLLARS (\$48,940.00), the damages and compensation assessed as aforesaid, together with the costs in this

behalf expended, for which execution may issue. The Court further finds that the value of the lands condemned belonging to the Church; Prince Griffin, et al; and Mamie Kelly, is assessed at \$880.00 each. It is, therefore, ORDERED, ADJUDGED and DECREED that the Clerk pay to McGhee Temple Church of God in Christ and C. H. Gahan, Mortgagee \$42,030.00; Prince Griffin, as Executor of the Estate of H. M. Parsons, Deceased, Annie P. Moorner, Vada P. Potts and Golda P. Griffin \$1,680.00; J. M. McCartha and Irma McCartha \$1,000.00 and Mamie Kelly \$4,230.00, LESS the claim filed by William Hall in the Probate Court against the estate of Lillie Bush in the amount of \$444.04, to be paid to William Hall by the Clerk.

It is further ORDERED and ADJUDGED and it is the judgment of the Court, that when the damages and compensation assessed by the jury, judgment for which is hereinabove entered, is paid into the hands of the Clerk of this Court, or collected by execution or otherwise, the Clerk shall retain said funds in her hands, subject to the terms and provisions of Section 26, Title 19, 1940 Alabama Code.

It is further ORDERED and ADJUDGED, and it is the judgment of the Court, that this order and judgment of condemnation upon the payment of the sum ascertained and assessed by the verdict of the jury in this cause into the hands of the Clerk of this Court, and the costs of this cause, shall vest the title to be acquired for the uses and purposes stated in the application of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama a body corporation, and for no other use and purpose, as is provided by law.

It is further Ordered and Adjudged, and it is the judgment of the Court, that the Clerk shall record this judgment and decree in the Office of the Judge of Probate of Baldwin County, Alabama,

in the deed records thereof, and the costs thereof be taxed as part of the costs of this cause.

Done this the 16th day of June, 1970.

Telfair J. Mashburn
Telfair J. Mashburn, Circuit Judge

JURY LIST - JUNE TERM - JUNE 8th, 1970

1. Arnette, Roy, Carpenter, Perdido
2. Beaty, Raymond, Laborer, Fairhope
3. Brabner, Martin J., Jr., South Central Bell, Bay Minette
4. Bryars, C. H., Jr., Farmer, Bay Minette
5. Bryars, Miss Dollie M., Newport, Bay Minette
6. Calloway, John, Fisherman, Gulf Shores
7. Chastang, James, Paper Mill, Bay Minette
8. Day, Bernice, Stockton
9. Demko, Lula D., Operator, Perdido
10. Fackler, Charles, Mech., Loxley
11. Fackler, Paul W., Mechanic, Loxley
12. Eriel, W. E., Retired, Bay Minette
13. Gibson, John D., Mechanic, Robertsdale
14. Gilbert, Annie Ree, Housewife, Bay Minette
15. Hasting, Evelyn, Housewife, Bay Minette
16. Heidelberg, Joe., Jr., Farmer, Robertsdale
17. Heller, Boyd O., Contractor, Foley
18. Hudson, Ethel, Maid, Bay Minette
19. Larson, Arthur, Farmer, Rosinton
20. Lazzari, John, Farmer, Belforest
21. Long, Grady, Jr., L & N R.R., Perdido
22. Malone, T. E., Merchant, Fairhope
23. McNeil, Vadin, Farmer, Gateswood
24. Mikkelson, Roy, Farmer, Summerdale
25. Myrick, T. C., Fairhope
26. Oswell, Charles, Timber & Oil, Spanish Fort-Daphne
27. Rider, Charles, Woodsman, Bay Minette
28. Sawyer, Mr. Lenora, Fairhope
29. Smith, Columbus, Retired, Stockton
30. Stevenson, Leona, Maid, Bay Minette
31. Strickland, Marvin, Laborer, Bay Minette
32. Swor, Mrs. Gertrude, Real Estate, Fairhope
33. Therrell, E. L. Doris, Housewife, Daphne
34. Trawick, Emma D., Stapleton
35. Ward, John, International Paper, Spanish Fort
36. Weeks, Harry J., Nurseryman, Foley
37. Whitten, Lewis S., Electrician, Fairhope
38. Windham, Carl T., Paper Co., Robertsdale
39. Wolf, Burnette K., Stockton
40. Wrenn, Walter P., Retired, Bay Minette
41. Wrenn, Mrs. Wynona, Housewife, Bay Minette
42. Keifer, Mrs. Marion, Housewife, Lillian

City
P XXXXX XXXXX XXXXX
D XXXXX XXXXX XXXXX

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THE HOUSING AUTHORITY OF BAY MINETTE

IN THE CIRCUIT COURT OF

VS:

BALDWIN COUNTY, ALABAMA

PRINCE GRIFFIN, As Executor, et al

AT LAW, CASE NO. 9170

We the Jury find in favor of the landowners, and assess the damages at
\$ 48940.00

We the Jury assess the value of the Church for: \$ 41,150.00

We the Jury assess the value of the 50 foot lot for : \$ 1000.00

We the Jury assess the value of the Cypress house for: \$ 800.00

We the jury assess the value of the ^{3-ROOM} house ~~and lot~~ for: \$ 3350.00


Foreman

THE HOUSING AUTHORITY OF THE)
 CITY OF BAY MINETTE, BALDWIN)
 COUNTY, ALABAMA,) IN THE CIRCUIT COURT OF
 Condemnor,) BALDWIN COUNTY, ALABAMA
 -vs-) AT LAW
 PRINCE GRIFFIN, ET AL,) CASE NO. 9170
 Condemnees.)

TO THE HONORABLE TELFAIR J. MASHBURN, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA:

Now comes Mamie Kelly, a defendant in the above styled cause, and files her petition verified by oath showing unto this Honorable Court, as follows:

(1) That heretofore on to-wit, the 16th day of June, 1970, a decree was rendered in the above cause in this Honorable Court in favor the said defendant in the sum of \$3,350.00 for a house described in the testimony and in the charge of this Honorable Court, as a three-room house.

(2) That your said petitioner did not file an appeal in said cause and further no party to said cause served your said petitioner with a notice of an appeal being taken in said cause, and your petitioner had no knowledge of any proceeding in this court.

(3) That your said petitioner was prevented from presenting the true and accurate evidence as to the six-room house with complete bath, as the facts in this cause were by surprise, accident or mistake without fault on her part.

(4) That the said plaintiff had offered the said defendant the sum of \$5,000.00 for the said house, and that your said defendant has been denied due process of law in the taking of this said property by a decree of the Circuit Court in that no service of appeal was obtained as to your said defendant by any process provided by the Code of Alabama of 1940, as amended.

(5) That your petitioner had no knowledge that she was a party in said appeal because she had no notice of said appeal, and accordingly made no appearance or defense.

(6) That this petition is filed not for the purpose of hindering or delaying the plaintiff's cause of action, but in order that your said defendant may bring to this Honorable Court her said defense and her said evidence in this cause of action.

(7) That this petition is brought under and by virtue of the Code Title 7, Section 279.

Mamie Kelly
Mamie Kelly

Before me the undersigned authority personally appeared Mamie Kelly, who being informed of the contents of the foregoing petition says under oath:

The facts contained therein are true and correct.

Mamie Kelly
Mamie Kelly

Sworn to and subscribed before me on this 25 day of July, 1970.

C. L. Davis Thompson
NOTARY PUBLIC, BALDWIN COUNTY, ALABAMA

Service accepted July 30, 1970
by Ally J. Williams, atty for
the Housing authority of the
City of Bay Minette, Ala
Ally J. Williams

FILED

AUG 4 1970

ALICE J. DUCK CLERK
REGISTER

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

Condemnor,

VS.

PRINCE GRIFFIN, ET AL,

Condemnees.

IN THE CIRCUIT COURT OF


BALDWIN COUNTY, ALABAMA

AT LAW

NO. 9170

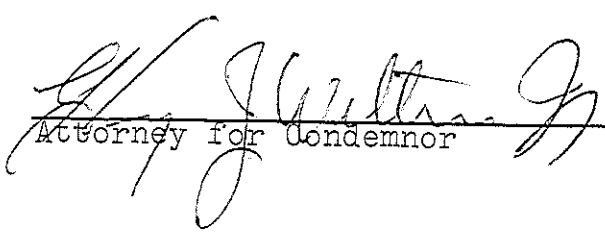
Now comes McGhee Temple Church of God in Christ, Inc.,
a corporation, C. H. Gahan, Johnny Taylor, Ida McCall, Bessie
Pleasant, Allen Mason and A. T. McGhee, Trustees of the McGhee
Temple Church of God in Christ, Inc., a corporation, some of the
condemnees in the above styled cause, and hereby join in the appeal
from the final order of condemnation heretofore made and entered
in this cause on to-wit, January 20, 1970.

DATED this 5th day of June, 1970.


Attorney for Condemnees named above

Now comes Harry J. Wilters, Jr., attorney for condemnor,
and accepts service of the above and consents and agrees that the
said named condemnees join in the said appeal.

DATED this 5th day of June, 1970.


Attorney for Condemnor

MAMIE KELLY

Petitioner

-VA-

THE HOUSING AUTHORITY OF
THE CITY OF BAY MINETTE
BALDWIN COUNTY, ALABAMA

Respondent

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

CIVIL DIVISION

CASE NO. 9170

FINAL JUDGMENT

This cause coming on to be heard by the Court of this the 15th day of January 1973, now comes the parties and their respective attorneys of record and it appearing to the Court from evidence submitted to the Court prior to commencement of the trial hereof, that, an application was filed in the Probate Court of Baldwin County, Alabama by The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, seeking to condemn certain lands therein described for the uses and purposes therein averred, that subsequent thereto proceedings were had in the Probate Court of Baldwin County, Alabama, that said Court did enter an order of condemnation of the lands described in said application and which are hereinafter described, and that the necessary action to properly effect the appeal from the Probate Court of Baldwin County, Alabama, in accordance with all the statutes and laws in such cases made and provided, to the Circuit Court of Baldwin County, Alabama, were made. The plaintiff appealed from said order of condemnation to this Court and demanded a trial by jury; and it further appearing to the Court that the only issue in this proceeding is the damages and compensation, if any, to which the Complainant landowner Mamie Kelly is entitled and that an order of condemnation should be here entered condemning the lands hereinafter described for the uses and purposes set forth in the application, which is now on file in this Court.

And now comes a jury of twelve good and lawful men, to-wit, Timothy Ching and eleven others, and the issue of the amount of damages and compensation, if any, to which the landowner is entitled having been submitted to them, did return a verdict in words and figures as follows:

We, the Jury, find for the landowner and assess the damages and compensation at \$5,700.00

/s/ Timothy Ching
FOREMAN

And the Court having considered all of the above is of the opinion and judgment that an order or judgment of condemnation should be here entered conditioned upon the payment by The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, to the Clerk of this Court for the use and benefit of the Complainant landowner of the sum aforesaid; it is therefore

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

1. That the application of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama for the condemnation of the lands, rights and construction, hereinafter described be, and the same are hereby granted, and that the property described in Exhibit "A", attached hereto, and by reference made a part thereof as though fully set forth herein be, the same is hereby condemned for the use by The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, for the purpose set forth in the application of condemnation, and the rights therein, including fee simple title, are hereby divested out of the landowner and into The Housing Authority of the City of Bay Minette, Baldwin County Alabama, upon the payment by the said Housing Authority of the sum hereinafter ORDERED and DECREED to be paid.

2. That the damages and compensation to which the Complainant landowner in this case, Mamie Kelly, is entitled is hereby fixed at the sum of \$5,700.00 which said sum is hereby ORDERED to be

paid by The Housing Authority of the City of Bay Minette, Baldwin County, Alabama complainant landowner; and that upon the payment of said amount by The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, to said landowner the condemnation of the lands hereinabove described shall be, and become effective.

3. That The Housing Authority of the City of Bay Minette, Baldwin County Alabama pay the costs of this proceeding.

Dated this 26th day of February, 1973.

Jeffrey A. Madlibern
CIRCUIT JUDGE

FILED
FEB 26 1973
EUNICE B. BLACKMON CIRCUIT
CLERK

EXHIBIT "A"

All that certain tract of land lying in the North half of section 21, Township 2 South, Range 3 East, bounded and described as follows:

Starting at a point on the continuation of the North line of Carroll Street 40 feet east from the southeast corner of lot 8, in block 1 as shown on the plat of Douglasville on file in the office of the Judge of Probate of Baldwin County; thence due east 198 feet to the beginning corner of the property hereby conveyed, thence continue east on said line 77 feet, thence north 158.4 feet to a stake on the south line of Hurricane Road, thence along the south line of Hurricane Road 77 feet, thence south 158.4 feet to a point of beginning, and being a portion of the property heretofore conveyed by Bay Minette Land Company to the Grantor herein, deed dated March 10, 1925, and recorded in deed book 23, page 506

MAMIE KELLY

Petitioner

-VS-

THE HOUSING AUTHORITY OF
THE CITY OF BAY MINETTE
BALDWIN COUNTY, ALABAMA

Respondent

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CIVIL DIVISION

CASE NO. 9170

AMENDED FINAL JUDGMENT

WHEREAS, there was entered a FINAL JUDGMENT in this cause on the 26th day of February 1973, and

WHEREAS, when above said FINAL JUDGMENT was drawn, by error, there was omitted therefrom the order of Honorable Harry D'Olive, Probate Judge, Baldwin County, Alabama, in said Probate Court, Case no. 6795, wherein it was directed to be paid from the proceeds of the award made to the condemnee herein the sum of \$302.00 which was previously awarded to William M. Hall by a judgment against the estate of Lillie C. Bush, Deceased; the condemnee herein being the sole owner of the property formerly the estate of Lillie C. Bush, now deceased. It is therefore;

ORDERED, ADJUDGED and DECREED by the Court that the Clerk of this Court deduct from the award made to Mamie Kelly in this cause the aforesaid sum of \$302.00, and pay the same over to the said William M. Hall. In all other respects the FINAL JUDGMENT in this cause remains unchanged.

Dated this 13th day of March 1973.

John A. Madole
CIRCUIT JUDGE

Minute Book 13
Page 195

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

Condemnor,

vs.

MAMIE KELLEY, ET AL,

Condemnees.

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X

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9170

AMENDED FINAL JUDGMENT NUNC PRO TUNC

WHEREAS, there was entered a final judgment in this
cause on the 26th day of February, 1973, and;

WHEREAS, when the above final judgment was drawn, there
was omitted a claim filed by The Housing Authority of the City of
Bay Minette, Baldwin County, Alabama, in this cause on the 15th
day of September, 1970, for rent collected by the said Mamie Kelley
on the lands condemned after the date of the final decree of
condemnation;

It is, therefore, ORDERED, ADJUDGED and DECREED by the
Court that the Clerk of this Court deduct from the award made to
Mamie Kelley in this cause, the aforesaid claim, in the amount of
ONE HUNDRED TWENTY (\$120.00) DOLLARS, and pay the same over to the
said Housing Authority of the City of Bay Minette. In all other
respects the Final Judgment in this cause remains unchanged.

Dated this 20th day of April, 1973.

Telfair J. Mashburn
Telfair J. Mashburn, Circuit Judge

FILED

APR 23 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

493 K

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Minute Page 125
Book 13

MAMIE KELLEY, et al

Complainant

-VS-

THE HOUSING AUTHORITY OF
THE CITY OF BAY MINETTE,
ALABAMA

Respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

CASE NO. 11471

PETITION

FOR TRANSFER OF CAUSE

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To Honorable Telfair J. Mashburn, Judge of said Court comes now the parties hereto, by and between their respective attorneys of record and petition this Honorable Court to transfer this cause to the Circuit Court of Baldwin County, Alabama Law Side from the Equity Division of the Circuit Court of Baldwin County, Alabama, and they assign as ground therefore the fact this cause now partakes of the civil nature rather than equity.

Kenneth Cooper
ATTORNEY FOR COMPLAINANT

Thos J. Walter Jr
ATTORNEY FOR RESPONDENT

ORDER

The foregoing petition having been presented to the Court and the same being understood the Court is of the opinion that the petitioners are entitled to the relief prayed for. It is therefore,

ORDERED, ADJUDGED and DECREED by the Court that the Register of this Court transfer the whole file in this cause to the Civil Division of this Court.

Dated this 26th day of February 1973.

Telfair J. Mashburn
CIRCUIT JUDGE

MAMIE KELLY,

-VS-

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9,170

STIPULATION

It is hereby stipulated by and between the respective parties hereto, acting by and through their respective attorneys of record, that the Bay Minette Housing Authority had full authority to condemn the lands involved in this matter; that the condemnation was regularly had and made in the Probate Court; that there is no question here about the right of condemnation; that the appeal was regularly taken; and that the matter is here to be tried by a jury for the sole and only purpose of determining the amount of damages and/or compensation to be awarded Mamie Kelly for her lands as described in the petition in the Probate Court of Baldwin County, Alabama, taken for public use.

Done on this the fifteenth day of January, 1973.

G. H. Watter
ATTORNEY FOR CONDEMNOR

Kenneth Cooper
ATTORNEY FOR CONDEMNEE

FILED

JAN 15 1973

EUNICE B. BLACKMON CIRCUIT
CLERK

493-13

67

Use the jury find for Marie
Healy and fix the Damages
and Compensation as \$5700⁰⁰

Ernest H. Bishop
Fremont

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

Condemnor,

VS.

MAMIE KELLEY

Condemnee,

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IN THE CIRCUIT COURT OF

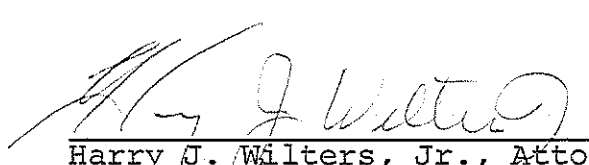
BALDWIN COUNTY, ALABAMA


AT LAW

CASE NO. 9170

It is stipulated by and between the Condemnor and the
Condemnee that the following is a description of the lands of the
Condemnee at the time the Decree of Condemnation was entered on
January 29, 1970:

All that certain tract of land lying in the
North half of Section 21, Township 2 South,
Range 3 East bounded and described as follows:
Starting at a point on the continuation of the
North line of Carroll Street 40 feet East from
the Southeast corner of Lot 8, in Block 1 as
shown on the plat of Douglasville on file in
the office of the Judge of Probate of Baldwin
County; thence due East 198 feet to the beginning
corner of the property hereby conveyed, thence
continue East on said line 77 feet, thence North
158.4 feet to a stake on the South line of
Hurricane Road, thence along the South line of
Hurricane Road 77 feet, thence South 158.4 feet
to the point of beginning, and being a portion
of the property heretofore conveyed by Bay Minette
Land Company to the Grantor herein, deed dated
March 10, 1925, and recorded in Deed Book 23,
page 506.


Harry J. Wilters, Jr., Attorney for
Condemnor,


Kenneth Cooper, Attorney for Condemnee

FILED

JAN 15 1973

EUNICE B. BLACKMON
CIRCUIT
CLERK

493-C

MAMIE KELLY,

Complainant

-VS-

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA:
PRINCE GRIFFIN, as Executor
Estate of H. M. Parsons, Deceased;
ANNIE P. MOORER; VADA P. POTTS;
GOLDA P. GRIFFIN;
JAMES G. McCARTHA;
IRMA E. McCARTHA;
McGHEE TEMPLE CHURCH OF GOD IN
CHRIST, INC., a Corporation;
C. H. GAHAN, JOHNNY TAYLOR,
IDA McCALL, BESSIE PLEASANT,
ALLEN MASON and A. T. McGHEE,
Trustees of McGhee Temple Church
of God in Christ, Inc., a
Corporation,

Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9,170

PETITION FOR DRAW DOWN

Comes now your Complainant, by her solicitor of record,
Kenneth Cooper, and respectfully petitions this Honorable Court
for a draw down in the amount of \$3,172.50 which is seventy-five
(75%) per cent of the award previously given to your Complainant
in this cause.

Dated this 13th day of October, 1971.

Kenneth Cooper
SOLICITOR FOR COMPLAINANT

Approved this 28 day of October, 1971.

Glenn J. Hester
SOLICITOR FOR RESPONDENT
THE HOUSING AUTHORITY OF
THE CITY OF BAY MINETTE

FILED

OCT 29 1971

EUNICE G. TINDAL, Register
Baldwin Co., Ala.

ORDER

The foregoing application having been presented to the Court
and the same being understood, the Court hereby directs the Clerk
of this Court to make the said draw down as requested. And no
further sums shall be paid from said award to Mamie Kelly pending
the outcome of her appeal in the Equity Division of this Court,
Case No. 11,471.

Dated this 4th day of November, 1971.

4930 *Jeffrey A. Marshall*
Circuit Judge

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

Condemnor,

vs.

MAMIE KELLEY, ET AL,

Condemnees.

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X

IN THE CIRCUIT COURT OF

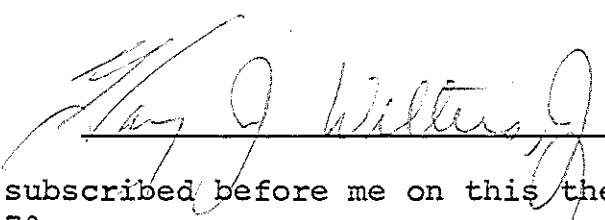
BALDWIN COUNTY, ALABAMA

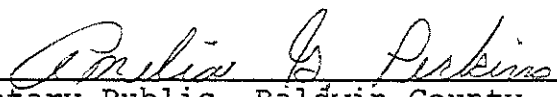
AT LAW

CASE NO. 9170

CLAIM

Comes now, Harry J. Wilters, Jr., Attorney at Law for
The Housing Authority of the City of Bay Minette, Alabama, a body
Corporation, and files this claim for the said Authority in the
amount of ONE HUNDRED TWENTY (\$120.00) DOLLARS. This claim arises
as a result of rent paid to Mamie Kelley from March 3, 1970, to
August 3, 1970, which should, in-fact, have been paid to The Housing
Authority of the City of Bay Minette, on the property condemned.


Sworn to and subscribed before me on this the 14th day of
September, 1970.


Notary Public, Baldwin County, Alabama

FILED

SEP 15 1970

ALICE J. DUCK

CLERK
REGISTER

THE HOUSING AUTHORITY OF THE
CITY OF BAY MINETTE, BALDWIN
COUNTY, ALABAMA,

Condemnor,

vs.

PRINCE GRIFFIN, ET AL,

Condemnees.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9170

DECREE

This cause having been appealed, in the manner provided by law, from the Probate Court of Baldwin County, Alabama, came on to be heard, by trial de novo, in this Court on this day; and on this date, came the parties to this cause by their attorneys; and the Court having heard and considered the same, is of the opinion that the petition of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, the Plaintiff in this cause, for the condemnation of the property described in Paragraph 3 of said petition should be granted and that The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation has the legal right to condemn said property for the purposes and uses stated in said petition.

It is, therefore, ORDERED and ADJUDGED by the Court and it is the judgment of the Court, that The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, has the legal right to condemn the following described property for use as an Urban Renewal Development, to-wit:

A parcel of land lying in the North half of Section 21, Township 2 South, Range 3 East, described as follows: Beginning at a point on the North right-of-way line of the New Hurricane Road, which point is 140 feet East of the Southeast corner of Lot 8, Block 1 as shown on a plat of Douglasville, recorded in Map Book 1, page 334 in the office of the Judge of Probate of Baldwin County, Alabama, from said point of beginning, run thence North 152.20 feet to a point on the South line of the Old Hurricane Road, thence run East along the said South line 177 feet to a point, thence run South 143.47 feet to a point on the North line of New Hurricane Road, thence West along the said North line 177 feet to the point or place of beginning.

It is further ORDERED and ADJUDGED by the Court, and it is the judgment of the Court, that the application and petition of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, in this cause for the condemnation of the land and property hereinabove described shall be, and is hereby granted; and said property and land hereinabove described is hereby condemned for the uses and purposes hereinabove stated, upon the payment into the Court of the compensation and damages assessed by the jury in this cause in the amount of FORTY EIGHT THOUSAND NINE HUNDRED FORTY DOLLARS (\$48,940.00), and the costs of this cause, which is taxed against the Plaintiff, The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation.

And a jury having been demanded for the trial of this cause, the Court did thereupon proceed to have assessed by a jury the damages and compensation to which the Defendant is entitled for the condemnation of the above described lands and property for the uses and purposes hereinabove described.

Thereupon, on this the 16th day of June, 1970, came a jury of good and lawful men, to-wit: Harry J. Weeks, and eleven others, and having been impaneled and sworn according to law, upon their oaths do say: "We the jury find in favor of the land-owners, and assess the damages at \$48,940.00. We the jury assess the value of the Church at \$41,150.00. We the jury assess the value of the 50 foot lot at \$1,000.00. We the jury assess the value of the Cypress house at \$800.00. We the jury assess the value of the 6 room house at \$3,350.00."

It is therefore, ORDERED and ADJUDGED by the Court and it is the judgment of the Court, that the Defendant have and recover of the Plaintiff, The Housing Authority of the City of Bay Minette, Baldwin County, Alabama, a body corporation, the sum of FORTY EIGHT THOUSAND NINE HUNDRED FORTY DOLLARS (\$48,940.00), the damages and compensation assessed as aforesaid, together with the costs in this

behalf expended, for which execution may issue. The Court further finds that the value of the lands condemned belonging to the Church, Prince Griffin, et al; and Mamie Kelly, is assessed at \$880.00 each. It is, therefore, ORDERED, ADJUDGED and DECREED that the Clerk pay to McGhee Temple Church of God in Christ and C. H. Gahan, Mortgagee \$42,030.00; Prince Griffin, as Executor of the Estate of H. M. Parsons, Deceased, Annie P. Moorer, Vada P. Potts and Golda P. Griffin \$1,680.00; J. M. McCartha and Irma McCartha \$1,000.00 and Mamie Kelly \$4,230.00, LESS the claim filed by William Hall in the Probate Court against the estate of Lillie Bush in the amount of \$444.04, to be paid to William Hall by the Clerk.

It is further ORDERED and ADJUDGED and it is the judgment of the Court, that when the damages and compensation assessed by the jury, judgment for which is hereinabove entered, is paid into the hands of the Clerk of this Court, or collected by execution or otherwise, the Clerk shall retain said funds in her hands, subject to the terms and provisions of Section 26, Title 19, 1940 Alabama Code.

It is further ORDERED and ADJUDGED, and it is the judgment of the Court, that this order and judgment of condemnation upon the payment of the sum ascertained and assessed by the verdict of the jury in this cause into the hands of the Clerk of this Court, and the costs of this cause, shall vest the title to be acquired for the uses and purposes stated in the application of The Housing Authority of the City of Bay Minette, Baldwin County, Alabama a body corporation, and for no other use and purpose, as is provided by law.

It is further Ordered and Adjudged, and it is the judgment of the Court, that the Clerk shall record this judgment and decree in the Office of the Judge of Probate of Baldwin County, Alabama,

in the deed records thereof, and the costs thereof be taxed as part of the costs of this cause.

Done this the 16th day of June, 1970.

Telfair J. Mashburn, Circuit Judge