

10,310

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CASE NO. 7,365

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F APPEAL

ama, petitioner in above-styled
Duly Appointed Special Assistant
ama, and prays for and takes an
aldwin County, Alabama, from the
red in this cause on the thirtieth
condemnation award against Tract
y Lake Forest, Inc., an Alabama

file in the Probate Court of
 rendering such final order of
 notice of appeal.

ry, 1972.

By: Kenneth C. Grier
DULY APPOINTED SPECIAL ASSISTANT
ATTORNEY GENERAL, STATE OF ALABAMA

Filed Jan. 28, 1972 M

Book _____ Page _____
Harry D. Deane
 Judge of Probate

Petitioner, State of Alabama, hereby
demands a trial by jury in this cause.

Kenneth Cooper
DULY APPOINTED SPECIAL ASSISTANT
ATTORNEY GENERAL, STATE OF ALABAMA

The undersigned hereby acknowledges himself as security for
costs in this cause.

Kenneth Cooper
DULY APPOINTED SPECIAL ASSISTANT
ATTORNEY GENERAL, STATE OF ALABAMA

BOOK 60 PAGE 336

STATE OF ALABAMA,	§	
Petitioner	§	
-VS-	§	IN THE CIRCUIT COURT OF
LAKE FOREST, INC., an Alabama Corporation, Daphne, Alabama, [Claimant of Tract 14, Project I-10-1(19)] and BALDWIN COUNTY, ALABAMA, a Political Subdivision of the State of Alabama,	§	BALDWIN COUNTY, ALABAMA
	§	AT LAW
	§	CASE NO. 10,310
	§	
Respondents	§	

STIPULATION

Is is hereby stipulated by and between the petitioner (appellant) and Lake Forest, Inc., an Alabama Corporation, (appellee), parties to the above-styled cause, through their respective attorneys of record, each acting with full authority, as follows:

1. That the petitioner is authorized to institute and prosecute this proceeding to acquire the fee to the property or interest for order of condemnation filed in the Probate Court of Baldwin County, Alabama, on the seventh day of October, 1971, for the public purposes stated in said application or petition.

2. That all proceedings in the Probate Court of Baldwin County, Alabama, in this cause were regular, and an appeal has been duly and properly perfected within the time allowed and entered in said Probate Court in this cause on the twenty-eighth day of January, 1972, and trial by jury on the issue of valuation has been properly demanded.

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

4. That the respondent herein is the only party known to either petitioner or respondent who has or asserts any right, title or interest in or to the lands or interest therein sought to be acquired.

5. That the respondent has had due notice of the trial set and all proceedings herein and expressly enters appearance in this Court.

6. That only those lands belonging to Lake Forest, Inc., an Alabama Corporation, lying North and South of Interstate Highway I-10-1(19) in Baldwin County, Alabama, comprising 37.6458 acres, are affected by this proceeding and all testimony will be limited to said lands.

7. That the only issue in this proceeding is the damages and compensation, if any, to which the respondent is entitled.

8. That the time of taking in this proceeding is the date on which the respondent granted the State the right of entry on March 14, 1968.

ATTORNEY FOR PETITIONER

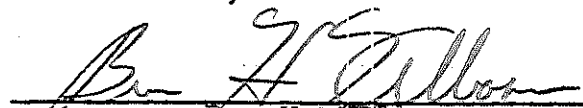

Kenneth Cooper


FILED

MAR 31 1972

EUNICE B. BLACKMON CIRCUIT
CLERK

ATTORNEYS FOR RESPONDENT
Lake Forest, Inc.


Ben H. Kilborn


T. K. Jackson, III

STATE OF ALABAMA,	Ø	
Petitioner	Ø	
-VS-	Ø	IN THE CIRCUIT COURT OF
LAKE FOREST, INC., an Alabama Corporation, Daphne, Alabama, [Claimant of Tract 14, Project I-10-1(19)] and BALDWIN COUNTY, ALABAMA, a Political Subdivision of the State of Alabama,	Ø	BALDWIN COUNTY, ALABAMA
	Ø	AT LAW
	Ø	CASE NO. 10,310
Respondents	Ø	

FINAL SETTLEMENT BY CONSENT

This cause coming on to be heard by the Court, now come the parties and their respective attorneys of record, and it appearing to the Court from the stipulation of the parties made and entered into on March 31, 1972, and filed in this cause, that on the fourteenth day of March, 1968, the State of Alabama entered into possession of the lands hereinafter described for the uses and purposes therein averred and that all acts and proceedings required to be done or held had been performed, and that this cause was set for trial only on and as to the valuation issue, the just compensation, if any, to be paid by the petitioner, the State of Alabama, to the respondent, Lake Forest, Inc., an Alabama Corporation, for the lands or interest in lands sought to be acquired in this proceeding, and that an order of condemnation should be entered condemning the fee title to the lands hereinafter described for the uses and purposes set forth in the application for condemnation which is now on file in this Court.

And now come the attorneys for the respective parties hereto, to wit: Kenneth Cooper for the State of Alabama and Ben H. Kilborn and T. K. Jackson, III for the respondent Lake Forest, Inc., an Alabama Corporation, and each attorney agrees and consents that a fair and reasonable amount to be paid by the petitioner to the respondent for the lands involved in this

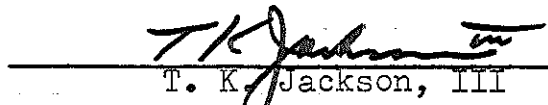
proceeding is the sum of Thirty-five Thousand Seven Hundred Thirty-nine (\$35,739.00) Dollars, which said sum includes land value, damages and interest to the date of this decree. And each of said attorneys has indicated his consent hereto by his following signature, to wit:

ATTORNEY FOR PETITIONER


Kenneth Cooper

ATTORNEYS FOR RESPONDENT
LAKE FOREST, INC.


Ben H. Kilborn


T. K. Jackson, III

And the Court having considered all of the above, is of the opinion and judgment that an order or judgment of condemnation should be entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the respondent landowner; it is, therefore,

ORDERED, ADJUDGED and DECREED by the Circuit Court of Baldwin County, Alabama, as follows, to wit:

1. That the application of the State of 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 hereof as though fully set forth herein, be and the same is hereby condemned in fee for the use by the State of Alabama as a right-of-way for a public road of limited access as set forth in the application aforesaid, and the rights therein are hereby divested out of the landowner and into the State of Alabama upon the payment by the State of Alabama of the sums hereinafter ordered and decreed to be paid.

2. That the respondent landowner, Lake Forest, Inc., an Alabama Corporation, is entitled to damages in this cause, which said sum is hereby fixed at Thirty-five Thousand Seven Hundred Thirty-nine (\$35,739.00) Dollars, which includes all interest on the said sum; and that upon the payment of said amount by the State of Alabama to the said landowner, the condemnation of the lands hereinabove described shall be and become effective to pass fee simple title to the said lands to the State of Alabama.

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

DONE this 3rd day of April, 1972.

John A. Mashburn
CIRCUIT JUDGE
28th Judicial Circuit

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EUNICE B. BLACKMON CIRCUIT
CLERK

~~EXHIBIT "A"~~

and as shown by the right of way map of Project No. I-10-1(19) as recorded in the Office of the Judge of Probate of Baldwin County:

Tract 14-1: Commencing at the northeast corner of irregular Section 31, T-4-S, R-2-E; thence S $10^{\circ} 34' 23''$ W, a distance of 1821.95 feet to the centerline of Project No. I-10-1(19) at Station 460+70.76; thence S $81^{\circ} 32' 36''$ W a distance of 3171.89 feet to the point of beginning at Station 428+98.87 on the westerly right-of-way line of U. S. 98 Highway; thence S $70^{\circ} 34' 07''$ E, along said right-of-way line a distance of 745.19 feet; thence S $90^{\circ} 25' 51''$ W, a distance of 55 feet, more or less, to a point that is easterly of and at right angles to the centerline of Interstate 10 connection at Station 514+00; thence northwesterly along a straight line (crossing the centerline of Interstate 10 connection at Station 514+00) a distance of 187 feet, more or less, to a point that is 180 feet westerly of and at right angles to the centerline of Interstate 10 connection at Station 514+00; thence N $40^{\circ} 45' 13''$ E, a distance of 140.41 feet; thence N $38^{\circ} 22' 37.5''$ W, a distance of 145.96 feet; thence N $81^{\circ} 30' 28''$ W, a distance of 1007.0 feet; thence S $89^{\circ} 09' 25''$ W, a distance of 403.79 feet; thence westerly along a curve to the right which has a radius of 11,650.15 feet an arc distance of 749.80 feet to a point on the east bank of the West Fork of O'Oliver Creek, which is 200 feet southerly of and at right angles to the centerline of said project at Station 405+37; thence northerly along the meanders of said bank a distance of 205 feet, more or less, to the centerline at said project at Station 405+22; thence continue northerly along the meanders of said bank a distance of 203 feet to a point which is 200 feet northerly of and at right angles to the centerline of said project at Station 405+20; thence easterly along a curve to the left which has a radius of 11,259.15 feet, an arc distance of 1949 feet to a point which is 200 feet northwesterly of and at right angles to the centerline of said project at Station 424+68.96 Back = Station 424+94.87 Ahead; thence N $81^{\circ} 32' 36''$ E, a distance of 307.10 feet; thence N $37^{\circ} 01' 13.5''$ E, a distance of 142.59 feet to the westerly right-of-way line of U. S. 98 Highway; thence S $70^{\circ} 34' 07''$ E, along said right-of-way line a distance of 300.02 feet to the point of beginning.

Said tract of land lying in irregular Sections 31 and 37, T-4-S, R-2-E and Section 36, T-4-S, R-1-E, Baldwin County, Alabama, and containing 28.14 acres, more or less.

As a part of the condemnation hereinabove described, there is also condemned for the benefit of the Condemnor all existing, future or potential common law or statutory rights of access between the right-of-way of the public way identified as Project No. I-10-1(19), County of Baldwin, and all of Condemnee's remaining real property consisting of all parcels contiguous one to another, whether acquired by separate condemnation or otherwise, all of which parcels either adjoin the real property condemned by this condemnation proceeding or are connected thereto by other parcels owned by the Condemnee.

Tract 14-2: Commencing at the northeast corner of irregular Section 31, T-4-S, R-2-E; thence S $10^{\circ} 34' 23''$ W, a distance of 1821.95 feet to the centerline of Project No. I-10-1(19) at Station 460+70.76; thence S $81^{\circ} 32' 36''$ W, a distance of 2943.13 feet to Centerline Station 431+27.63; thence N $90^{\circ} 25' 51''$ E, a distance of 103.64 feet to the point of beginning; thence S $82^{\circ} 25' 53''$ W, a distance of 139.23 feet to the easterly right-of-way line of U. S. Highway No. 98; thence N $70^{\circ} 34' 07''$ W, along said right-of-way line a distance of 583.34 feet; thence N $82^{\circ} 25' 53''$ E, along said right-of-way line a distance of 35 feet; thence N $70^{\circ} 34' 07''$ W, along said right-of-way line a distance of 26.55 feet; thence S $89^{\circ} 33' 29''$ E, a distance of 275.48 feet to the westerly right-of-way line of

Alabama Highway No. 104; thence S 9° 25' 51" W, along said right-of-way a distance of 576.87 feet to the point of beginning.

Said tract of land lying in irregular Section 31, T-4-S, R-2-E, Baldwin County, Alabama and containing 2.89 acres, more or less.

As a part of the condemnation hereinabove described, there is also condemned for the benefit of the Condemnor all existing, future or potential common law or statutory rights of access between the right-of-way of the public way identified as Project No. I-10-1(19), County of Baldwin, and all of Condemnee's remaining real property consisting of all parcels contiguous one to another, whether acquired by separate condemnation or otherwise, all of which parcels either adjoin the real property condemned by this condemnation proceeding or are connected thereto by other parcels owned by the condemnee.

Tract 14-3: Commencing at the northeast corner of irregular Section 31, T-4-S, R-2-E; thence S 1° 34' 23" W, a distance of 1821.95 feet to the centerline of Project No. I-10-1(19) at Station 460+70.76; thence S 81° 32' 36" W, a distance of 2607.48 feet; to Centerline Station 434+62.28; thence N 0° 05' 39" W, a distance of 92.98 feet to the point of beginning which is on the easterly right-of-way line of U. S. Highway No. 90; thence northerly along said right-of-way and a curve to the right which has a radius of 778.51 feet, an arc distance of 557.83 feet; thence S 89° 33' 29" E, a distance of 136.74 feet; thence S 0° 05' 39" E, a distance of 527.30 feet to the point of beginning.

Said tract of land lying in irregular Section 31, T-4-S, R-2-E, Baldwin County, Alabama and containing 1.22 acre, more or less.

As a part of the condemnation hereinabove described, there is also condemned for the benefit of the Condemnor all existing, future or potential common law or statutory rights of access between the right-of-way of the public way identified as Project No. I-10-1(19), County of Baldwin, and all of Condemnee's remaining real property consisting of all parcels contiguous one to another, whether acquired by separate condemnation or otherwise, all of which parcels either adjoin the real property condemned by this condemnation proceeding or are connected thereto by other parcels owned by the Condemnee.

Tract 14-4: Commencing at the northeast corner of Irregular Section 31, T-4-S, R-2-E; thence S 1° 34' 23" W, a distance of 1821.95 feet to the centerline of Project No. I-10-1(19) at Station 460+70.76; thence S 81° 32' 36" W, a distance of 2607.48 feet to Centerline Station 434+63.28; thence S 0° 05' 39" E, a distance of 35.17 feet to the point of beginning; thence continue S 0° 05' 39" E, a distance of 373.16 feet; thence N 88° 45' 02" E, a distance of 767.79 feet; thence S 81° 32' 36" W, a distance of 984.11 feet; thence S 43° 08' 54.5" W, a distance of 156.75 feet; thence S 40° 45' 13" W, a distance of 242.17 feet to the easterly right-of-way line of U. S. 98 Highway; thence N 7° 34' 07" W, along said right-of-way line a distance of 206.09 feet to the easterly right-of-way line of Alabama Highway No. 104; thence N 9° 25' 51" E, along said right-of-way line a distance of 659.99 feet to the centerline of said project at Station 432+11.69; thence continue N 9° 25' 51" E, along said right-of-way line a distance of 353.22 feet to the westerly right-of-way line of U. S. Highway No. 90; thence southeasterly along a curve to the left which has a radius of 858.51 feet an arc

distance of 358.10 feet to the centerline of said project at Station 434+36.15; thence continue along a curve to the left which has a radius of 858.51 feet, an arc distance of 41.16 feet to the point of beginning.

Said tract of land lying in irregular sections 31 and 37, T-4-S, R-2-E, Baldwin County, Alabama and containing 5.35 acres, more or less.

As a part of the condemnation hereinabove described, there is also condemned for the benefit of the Condemnor all existing, future or potential common law or statutory rights of access between the right-of-way of the public way identified as Project No. 1-10-1(19), County of Baldwin, and all of Condemnee's remaining real property consisting of all parcels contiguous one to another, whether acquired by separate condemnation or otherwise, all of which parcels either adjoin the real property condemned by this condemnation proceeding or are connected thereto by other parcels owned by the Condemnee.

Tract 14-E: Easement for Drainage: The herein described property a tract of land to be used for the purpose of a drainage ditch, more particularly described as: Beginning at a point which is 120.95 feet southwesterly of and at right angles to the centerline of U. S. 90 Connection East at Station 12+55; thence N 88° 46' 02" E, a distance of 57.74 feet; thence S 30° 20' 56" W, a distance of 200 feet; thence S 88° 46' 02" W, a distance of 115.48 feet; thence N 30° 20' 56" E, a distance of 195.20 feet; thence N 81° 32' 36" E, a distance of 32.49 feet; thence N 88° 46' 02" E, a distance of 28.02 feet to the point of beginning. *cont 0.0458 ac*

Said tract of land lying in irregular Section 37, T-4-S, R-2-E, Baldwin County, Alabama and containing 0.458 acre, more or less.

TRACT 14-E-2: Temporary Easement: The herein described property to be used for the purpose of a temporary detour road being more particularly described as: Commencing at Station 432+11.69 of Project No. 1-10-1(19), said point being the intersection of the easterly right of way line of Alabama Highway No. 104 and the centerline of subject project; thence south 9° 25' 51" West along the said right of way line a distance of 659.99 feet more or less to a point on the east right of way line of U. S. 98. Thence south 7° 34' 07" East along said right of way line a distance of 206.09 feet, more or less, to the point of beginning; thence south 7° 34' 07" East along said right of way line a distance of 140.57 feet, more or less, to a point; thence N 4° 45' 13" East a distance of 417.37 feet, more or less, to a point on the right of way line of subject project; thence south 43° 08' 54.5" West a distance of 48.30 feet, more or less, to a point; thence S 4° 45' 13" West a distance of 242.17 feet, more or less, to the easterly right of way line of U. S. 98 and the point of beginning.

Said tract of land lying in irregular section 37, T-4-S, R-3-E, Baldwin County, Alabama, and containing 0.22 acres, more or less.

It is hereby agreed that upon completion of the above mentioned project all rights granted herein to the said parcels of land covered by temporary easement lying outside the right of way shall cease and terminate and revert to the grantor.