FILED NO. 33
BOOK 111 PAGE 661

1976 JUL -2 PM 2:51 Free

MARY E. WELTY $8.50
RECORDER
MADISON COUNTY, IOWA

RECEIVED
4-27-76 435
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA.

APPLICATION FOR CONDEMNATION OF PROPERTY

TO . . . . GIBSON C. HOLLIDAY, CHIEF JUDGE, FIFTH JUDICIAL DISTRICT OF IOWA:

COMES NOW the City of St. Charles, Iowa, and hereby makes application under the provisions of Section 472.3 of the 1975 Code of Iowa, and in support of said application, states:

Par. 1

The City of St. Charles, Iowa, seeks to acquire by condemnation, certain rights in land described as follows:

A. DESCRIPTION OF PROPERTY TO BE AFFECTED:

The West Half (W½) of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) and the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Twenty-four (24), Township Seventy-five (75) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, subject to highway easements, and except all the coal, oil, gas and other minerals underlying the surface of only that portion of the above described premises formerly occupied as a right of way by the Chicago, Burlington & Quincy Railroad Company.

B. DESCRIPTION OF PROPERTY SOUGHT TO BE CONDEMNED:

Title in fee simple to the following-described real estate:

Beginning at a point 1007.73 Feet N.90°00'E. and 70.77 Feet N.0°48'W. of the Southwest Corner of the North Half (N½) of the Northeast Quarter (NE¼) of Section Twenty-four (24), Township Seventy-five (75) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa; thence N.0°48'W., 440.0 Feet; thence N.89°12'E., 600.0 Feet; thence S.0°48'E., 383.09 Feet to a point on the Northerly right of way line of the county road; thence S.76°51'W., along the Northerly right of way line of said county road, 266.10 Feet; thence S.89°12'W., along the Northerly right of way line of said County Road, 340.06 Feet to the Point of Beginning.

A plat showing the location of the property sought to be condemned with reference to such description is attached hereto and marked Exhibit "A".

PERMANENT EASEMENT AND RIGHT OF WAY:

A 20 Ft. sanitary sewer easement, being 10 Ft. on each side of the following-described centerline. Beginning at a point 207.0 Ft. N.90°00'E. and 57.8 Ft. N.0°00' of the Southwest Corner of the North Half (N½) of the Northeast Quarter (NE¼) of Section Twenty-four (24), Township Seventy-five (75) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, thence N.14°40'E., 362.2 Ft.; thence S.46°12'E., 431.4 Ft.; thence N.28°14'E., 275.0 Ft.; thence N.89°12'E., 280.0 Ft.

A plat showing the location of the easement and right of way sought to be condemned with reference to such description is attached hereto and marked Exhibit "B".

TEMPORARY EASEMENT AND RIGHT OF WAY:

A 50 Ft. temporary construction sanitary sewer easement being 25 Ft. on each side of the following described centerline: Beginning at a point 207.0 Ft., N.90°00'E. and 57.8 ft., N.0°00' of the Southwest Corner of the North Half (N½) of the Northeast Quarter (NE¼) of Section Twenty-four (24), Township Seventy-five (75) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, thence N. 14°40'E., 262.2 Ft.; thence S.46°12'E., 431.4 Ft.; thence N.28°14'E., 275.0 Ft; thence N.89°12'E., 280.0 Ft.

The temporary easement and right of way shall be abandoned and terminated and all rights of the City of St. Charles in and to said temporary easement and right of way shall cease when said sanitary sewer has been constructed and said project accepted by the City of St. Charles or on January 1, 1980, whichever shall first occur.

C. NAMES OF ALL OWNERS OF RECORD AND PARTIES IN POSSESSION:

Norman Dean Smith - owner and person in possession
St. Charles, Iowa

Wife of Norman Dean Smith - Geanene M. Smith
St. Charles, Iowa

D. HOLDERS OF LIENS AND ENCUMBRANCES:

Madison County, Iowa
c/o George F. Abrahams, Auditor
Courthouse
Winterset, Iowa 50273

E. PURPOSE OF CONDEMNATION:

Said condemnation is sought for the purpose of constructing a sewer lagoon and sewage treatment facility on the real estate sought to be condemned as shown by Exhibit "A" and for the purpose of constructing, operating and maintaining a sanitary sewer main over, under and across the real estate sought to be condemned as shown by Exhibit "B".

Par. 2

The City of St. Charles also seeks to acquire by condemnation certain rights in land described as follows:

A. DESCRIPTION OF PROPERTY TO BE AFFECTED:

Lot Eight (8) of Austin's Addition to the Town of St. Charles, Madison County, Iowa.

B. DESCRIPTION OF PROPERTY SOUGHT TO BE CONDEMNED:

PERMANENT EASEMENT AND RIGHT OF WAY:

The South 20 Ft. of Lot Eight (8), Austin's Addition To the City of St. Charles, Madison County, Iowa.

A plat showing the location of the easement and right of way sought to be condemned with reference to such description is attached hereto and marked Exhibit "C".

TEMPORARY EASEMENT AND RIGHT OF WAY:

The North 20 Ft. of the South 40 Ft. of Lot Eight (8), Austin's Addition to the City of St. Charles, Madison County, Iowa.

The temporary easement and right of way shall be abandoned and terminated and all rights of the City of St. Charles in and to said temporary easement and right of way shall cease when said sanitary sewer has been constructed and said project accepted by the City of St. Charles or on January 1, 1980, whichever shall first occur.

C. NAMES OF ALL OWNERS OF RECORD AND PARTIES IN POSSESSION:

F. Marion Austin, single
Afton, Iowa 50830

D. HOLDERS OF LIENS AND ENCUMBRANCES:

Madison County, Iowa
c/o George F. Abrahams, Auditor
Courthouse
Winterset, Iowa 50273

E. PURPOSE OF CONDEMNATION:

Said condemnation is sought for the purpose of constructing, operating and maintaining a sanitary sewer main over, under and across the real estate sought to be condemned as shown by Exhibit "C".

Par. 3

The applicant, the City of St. Charles, Iowa, requests the appointment of a commission to appraise damages.

WHEREFORE, the applicant, the City of St. Charles, Iowa, prays for the appointment of a commission to assess damages as provided by Chapter 472 of the 1975 Code of Iowa.

Dated this 22nd day of April, 1976.

CITY OF ST. CHARLES, IOWA

By Jerrold B. Oliver

Jerrold B. Oliver
WEBSTER, JORDAN, OLIVER & WALTERS
Farmers & Merchants State Bank Bldg.
Winterset, Iowa 50273
Telephone: 515-462-3731

ATTORNEYS FOR THE CITY OF ST. CHARLES, IOWA

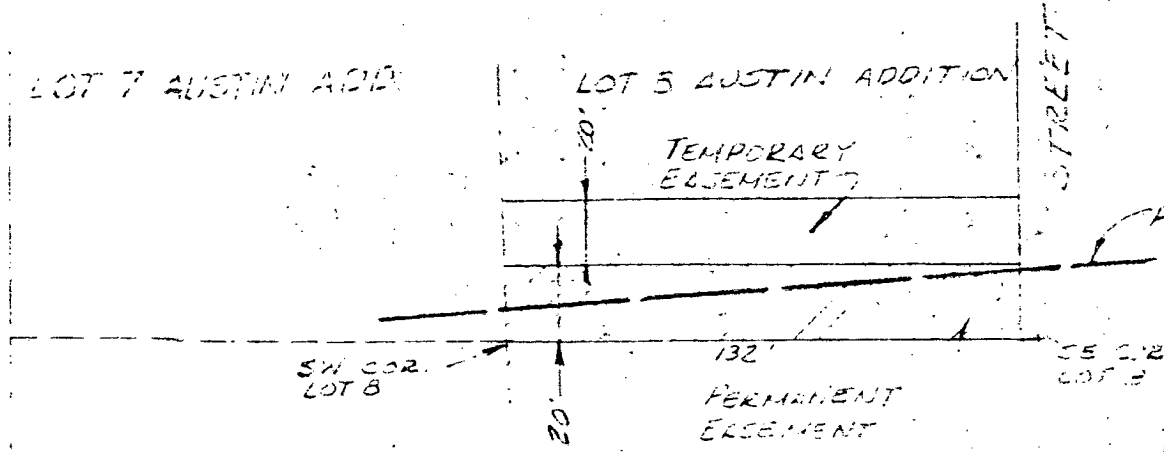
Filed in duplicate in my office at Des Moines, Iowa, this 22nd day of April, 1976.

Gibson C. Holliday, Chief Judge
Fifth Judicial District of Iowa

664

For Exhibit A & B see filed Plats with condemnation Proceedings

Exhibit "C"



PERMANENT EASEMENT
THE SOUTH 20 FT. OF LOT 6, AUSTIN'S ADDITION TO THE CITY OF ST. CHARLES, MADISON COUNTY, IOWA. (0.0606 ACRES).

TEMPORARY EASEMENT
THE NORTH 10 FT. OF THE SOUTH 40 FT. OF LOT 8, AUSTIN'S ADDITION TO THE CITY OF ST. CHARLES MADISON COUNTY, IOWA. (0.0606 ACRES).

SCALE: 1"=50'

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

3/31/76
PENN J. OAKES, PE AND LS — DATE
IOWA REG. NO. 2321

REVISIONS		
NO.	DATE.	BY
1		
2		
3		
4		
5		

EASEMENT PLAT - AUSTIN PROPERTY ST. CHARLES, IOWA.

OAKES ENGINEERING COMPANY
DES MOINES, IOWA

DRAWN BY RLC	SCALE 1" = 50'	MATER[illegible]
CHK'D	DATE 3/31/76	DRAWING NO [illegible]-E1
TRACED	APP'D	

TELEDYNE POST 1848 015-8½X11

2

RECEIVED
4-27-16
4:25 pm
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	:	DISMISSAL AS TO REAL ESTATE OWNED BY NORMAN DEAN SMITH AND AMENDMENT TO APPLICATION FOR CONDEMNATION OF PROPERTY

COMES NOW the Condemnor, the City of St. Charles, Iowa, and hereby amends its Application for Condemnation of Property filed herein, by striking paragraph 1 of said Application and dismissing the Application as to the property sought to be acquired from Norman Dean Smith as described in said paragraph 1.

CITY OF ST. CHARLES, IOWA

By Jerrold B. Oliver

Jerrold B. Oliver
WEBSTER, JORDAN, OLIVER & WALTERS
Farmers & Merchants State Bank Bldg.
Winterset, Iowa 50273
Telephone: 515-462-3731

ATTORNEYS FOR THE CITY OF ST. CHARLES, IOWA

3

RECEIVED
4-27-76
425 pm
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	:	SELECTION AND APPOINTMENT OF COMPENSATION COMMISSIONERS BY THE CHIEF JUDGE OF THE FIFTH JUDICIAL DISTRICT.

An Application for Condemnation having been filed with me by the City of St. Charles, Iowa, for the selection and appointment, by lot, of six suitable persons as the law provides to act as a compensation commission to assess and appraise the damages sustained by reason of the condemnation of certain specified rights in certain land described by applicant, in its Application filed in the above-entitled matter, I hereby designate, select and appoint as members of said compensation commission required in this matter, the following persons:

	NAME	ADDRESS
Licensed Real Estate Broker or Salesman	Earl Whitworth	Macksburg
	William Hunter	Earlham
Knowledgeable of Property Values by Virtue of Occupation	Kenneth Ritter	Winterset
	John Foster	Winterset
Other Than Agricultural	Jack Hilton	Winterset
	Clarence Johnson	Winterset

I further designate, select and appoint Kenneth Ritter as Chairman.

Dated at Des Moines, Iowa, this 22 day of April, 1976.

Gibson C. Holliday, Chief Judge of the Fifth Judicial District of Iowa

Filed in my office at Winterset, Iowa, this 27th day of April, 1976.

Sheriff of Madison County, Iowa

RECEIVED
4-27-76
4:25 PM
MADISON CO.
SHERIFF
WINTERSET, IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA.

ORDER APPOINTING SUBSTITUTE COMPENSATION COMMISSIONERS

NOW ON THIS 22 day of April, 1976, an Application to the Chief Judge of the Fifth Judicial District for the selection and appointment of a commission to appraise damages, having been presented to me and a commission so appointed, it is ordered that in the event a commissioner or commissioners are unable to serve, the following persons shall be substituted to fill the vacancy in the category in which their name appears:

	NAME	ADDRESS
Licensed Real Estate Salesman or Broker	Ole Olson	Winterset
Knowledgeable of Property Values by Virtues of Occupation	Ernest Stowell	Winterset
Other Than Agricultural	Earl Crawford	Winterset

Said substitute commissioners have been appointed by lot and shall not serve unless a vacancy occurs. In the event of a vacancy, the Sheriff of Madison County, Iowa, shall notify the substitute commissioner or commissioners of their appointment in the same manner as the original commissioners were notified.

Dated at Des Moines, Iowa, this 22 day of April, 1976.

Gibson C. Holliday, Chief Judge of the Fifth Judicial District of Iowa

Filed in my office at Winterset, Iowa, this 27th day of April, 1976.

Sheriff of Madison County, Iowa.

RECEIVED
4-27-76 4:25 pm.
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	NOTICE OF CONDEMNATION OF PROPERTY BY MADISON COUNTY, IOWA

TO . . . . . F. MARION AUSTIN and MADISON COUNTY, IOWA, and all other persons, companies or corporations having any interest in or owning any of the following-described real estate:

Lot Eight (8) of Austin's Addition to the Town of St. Charles, Madison County, Iowa.

YOU ARE NOTIFIED that the City of St. Charles, Iowa, desires the condemnation of the following-described land:

PERMANENT EASEMENT AND RIGHT OF WAY:

The South 20 Feet of Lot 8, Austin's Addition to the City of St. Charles, Madison County, Iowa.

TEMPORARY EASEMENT AND RIGHT OF WAY:

The North 20 Feet of the South 40 Feet of Lot 8, Austin's Addition to the City of St. Charles, Madison County, Iowa.

That such condemnation is sought for the following purpose: constructing, operating and maintaining a sanitary sewer main over, under and across the land sought to be condemned.

That a commission has been appointed as provided by law for the purpose of appraising the damages which will be caused by said condemnation.

That said commissioners will, on the 20th day of May, 1976, at 9:30 o'clock A. M., view said premises and proceed to appraise said damages, at which time you may appear before the commissioners, if you care to do so.

CITY OF ST. CHARLES, IOWA

By Jerrold B Oliver

Jerrold B. Oliver
WEBSTER, JORDAN, OLIVER & WALTERS
Farmers & Merchants State Bank Bldg.
Winterset, Iowa 50273
Telephone: 515-462-3731

ATTORNEYS FOR THE CITY OF ST. CHARLES, IOWA

BBB

RETURN OF SERVICE — GOVERNMENTAL BODY

STATE OF IOWA, Madison County, ss.

NOTICE OF CONDEMNATION OF PROPERTY BY MADISON COUNTY, IOWA

The within / came into my hands on the 27th day of April, 19 76

and on the 28th day of April, 1976, I served the same upon the

Madison County, Iowa

by offering to read the same to George Abrahams, he being the Auditor

of said Governmental Body, which he waived, and by giving him a true copy thereof, all done in

Center Township, Madison County, Iowa.

FEES

Service - - - $3.00

Copies - - - $

Mileage - - - $1.00

Total - - - $4.00

Rex Rouse

Rex Rouse

of Madison County

By

Deputy.

BOONE BLANK BOOK CO., BOONE, IOWA 1091-72

5

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	:	NOTICE OF CONDEMNATION OF PROPERTY BY MADISON COUNTY, IOWA

TO . . . . . F. MARION AUSTIN and MADISON COUNTY, IOWA, and all other persons, companies or corporations having any interest in or owning any of the following-described real estate:

Lot Eight (8) of Austin's Addition to the Town of St. Charles, Madison County, Iowa.

YOU ARE NOTIFIED that the City of St. Charles, Iowa, desires the condemnation of the following-described land:

PERMANENT EASEMENT AND RIGHT OF WAY:

The South 20 Feet of Lot 8, Austin's Addition to the City of St. Charles, Madison County, Iowa.

TEMPORARY EASEMENT AND RIGHT OF WAY:

The North 20 Feet of the South 40 Feet of Lot 8, Austin's Addition to the City of St. Charles, Madison County, Iowa.

That such condemnation is sought for the following purpose: constructing, operating and maintaining a sanitary sewer main over, under and across the land sought to be condemned.

That a commission has been appointed as provided by law for the purpose of appraising the damages which will be caused by said condemnation.

That said commissioners will, on the 20th day of May, 1976, at 9:30 o'clock A. M., view said premises and proceed to appraise said damages, at which time you may appear before the commissioners, if you care to do so.

CITY OF ST. CHARLES, IOWA

By Jerrold B Oliver

Jerrold B. Oliver
WEBSTER, JORDAN, OLIVER & WALTERS
Farmers & Merchants State Bank Bldg.
Winterset, Iowa 50273
Telephone: 515-462-3731

ATTORNEYS FOR THE CITY OF ST. CHARLES, IOWA

RECEIVED
UNION COUNTY, IOWA
APR 29 1976
DONALD LOY, SHERIFF
By

RECEIVED
5-10-76 4:25PM
BJR
WINTERSET, IOWA

RETURN OF SERVICE OF ORIGINAL NOTICE

The State of Iowa, Union County, ss.

The within notice received this 28 day of April, 19 76, and I certify that I served the same on the defendants named below by delivering a copy thereof to each of said defendants personally at the time and place set opposite their respective names:

Name of Defendants	Month	Day	Year	City, Town or Township	County	State
J. Marvin Anderson	4	28	76	Afton	Union	Iowa
					Union	Iowa
					Union	Iowa
					Union	Iowa
					Union	Iowa

Fees
Service $ 3.00
Copies $
Mileage $ 3.60
Total $ 6.60

Pd. 6/7 P. Pitt

Donald Kay
Sheriff, Union County, Iowa

By Donald Peterson, Deputy

B. B. B. CO. 7564

6

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	:	SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and Clarence Johnson

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Rex Rouse

Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at Winterset, Iowa, this 5th day of May, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

Filed in my office at Winterset, Iowa, this _____ day of _____, 1976.

Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and Clarence Johnson

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Reg Ronse
Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at Macksburg, Iowa, this 5th day of May, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

Earl Whitworth

Filed in my office at Winterset, Iowa, this 5th day of May, 1976.

Reg Ronse
Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that

_____

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and Clarence Johnson

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Rex Rouse

Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at Earlham, Iowa, this 7th day of May, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

William W Hunter

Filed in my office at Winterset, Iowa, this _____ day of _____, 1976.

Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that

_____

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and Clarence Johnson

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Reg Ranse

Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at _____, Iowa, this _____ day of _____, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

Jack Hilton

Filed in my office at Winterset, Iowa, this _____ day of _____, 1976.

_____

Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that

_____

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	:	SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and ~~Clarence Dobson~~ Earl Crawford

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Rex Ponse
Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at Winterset, Iowa, this 17th day of May, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

Earl G. Crawford

Filed in my office at Winterset, Iowa, this 17th day of May, 1976.

Rex Ponse
Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that

_____

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and Clarence Johnson

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Rep Rouse

Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at _____, Iowa, this 3rd day of May, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

John W Foster

Filed in my office at Winterset, Iowa, this _____ day of _____, 1976.

Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that

_____

5-24-76
300
mj

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA	:	SUMMONS TO COMMISSIONERS

TO: Earl Whitworth, William Hunter, Kenneth Ritter, John Foster, Jack Hilton and Clarence Johnson

Madison County, Iowa, has filed with the Chief Judge of the Fifth Judicial District including Madison County, Iowa, an Application for the selection of a compensation commission to assess the damages which owners, lienholders, encumbrancers, and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of such appropriation of the rights as described in the application.

WHEREAS, pursuant to Iowa law, you have been selected and appointed by the Chief Judge of the Fifth Judicial District for Madison County, Iowa, as a member of such compensation commission, and such selection and appointment has been duly filed in my office, and further, that Kenneth Ritter has been designated as Chairman of the commission.

NOW, THEREFORE, you are commanded to be and appear before the undersigned in the office of the Sheriff of Madison County, State of Iowa, on the 20th day of May, 1976, at 9:00 o'clock A. M. for the purpose of qualifying as such commission, and proceed to view said premises and make an award of damages as by law provided.

Rep Reese
Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and legal service of the foregoing Summons accepted and receipt of a copy acknowledged at _____, Iowa, this _____ day of _____, 1976. I further certify that I do not possess any interest in the above proceedings which would cause me to render a biased decision therein.

_____

Filed in my office at Winterset, Iowa, this _____ day of _____, 1976.

_____
Sheriff of Madison County, Iowa

REFUSAL TO SERVE

I will be unable to serve for the reason that I possess an interest in the proceeding which would cause me to render a biased decision, or for the reason that I have a prior commitment for this date

Clarence J Johnson

7

INSTRUCTIONS TO CONDEMNATION COMMISSIONERS FROM IOWA CHIEF JUSTICE

You have been selected as a compensation commission to determine and assess damages to property condemned for a public use under the power of eminent domain.

Pursuant to the provisions of section 5, Senate File 1171, Acts of the 63rd General Assembly, you are instructed as follows:

1. The Constitution prohibits the taking of private property for a public use without just compensation. Governmental units and certain utilities are authorized by statute to condemn private property or a certain use thereof for public purposes and it is your duty to fix a just compensation for that taking or use. You shall arrive at such compensation in a fair and impartial manner and on an independent basis without taking into consideration any advantages or benefits which may accrue to the property from such public use. The property owner is entitled to be made whole but double recovery is not allowed.

2. Where the entire property unit is taken, the measure of damages is the fair market value of the property immediately before condemnation and before such value has been affected by the proposed public use. Where only a portion of the property unit is taken, including certain rights such as an easement, the measure of damages is the difference between the fair market value of the property as a whole immediately before condemnation and before it has been affected by the proposed public use and the fair market value of what is left after the taking. Any advantage which may accrue to the remaining property by reason of the public use is not to be considered. Substantially the same measure applies to damages to a leasehold.

3. Allowance shall be made to the owner for any personal property damaged or destroyed, for the cost of removing and replacing fences and removing buildings onto abutting property of the owner.

4. Allowance shall be made for cost, if any, of removing personal property a distance not to exceed 25 miles but not over $500.

5. In arriving at the fair market value of the property you shall not consider evidence or information regarding prior negotiations between the parties. However, when you report the commission's award to the sheriff, if it exceeds 110% of the condemnor's final offer, he will so advise you and you will then determine and fix reasonable attorney fees and costs, if any, incurred by the condemnee in presenting his case before your commission.

6. You will be in charge of the sheriff who will administer the oath to you and furnish transportation to and from the site of the property or properties you are required to view.

These brief and general instructions do not purport to enumerate all problems which might confront you but the position of the parties or their attorneys on any additional problems may be explained to you at the time of the hearing.

Prepared at Des Moines, Iowa this 29th day of June, 1970.

C. Edwin Moore

C. EDWIN MOORE, CHIEF JUSTICE
SUPREME COURT OF IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA : OATH TO COMMISSIONERS

STATE OF IOWA :
: ss
MADISON COUNTY :

Each of the undersigned being duly sworn says:

That I do possess the qualifications listed under my name below, and

That I do not possess any interest in the proceeding which would cause me to render a biased decision, and

That I will, to the best of my ability, faithfully and impartially assess the damages which owners, lienholders, encumbrancers and other persons interested in the land from which certain rights are sought to be appropriated by these proceedings will sustain by reason of the appropriation of the rights as set forth and described in the Application in the office of the Sheriff, and make a written report to the sheriff as authorized and prescribed in Chapter 472 of the 1975 Code of Iowa and any amendments thereto, and in accordance with the instructions of the Chief Justice of the Supreme Court, and will well and truly perform any and all other duties imposed upon me by law as a member of the compensation commission selected and appointed to assess said damages.

Earl Eckstrom
NAME:
Licensed Real Estate Salesman or Broker

Lowell E. Miller
NAME:

John W. Foster
NAME:
Knowledgeable of Property Values by Virtue of Occupation

W. W. Hunt
NAME:

Earl E. Brandt
NAME:
Other than Agricultural

Jack Hilton
NAME:

Subscribed and sowrn to before me this 20th day of May, 1976.

Margaret N. Wheeler
Notary Public in and for the State of Iowa

Filed in my office at Winterset, Iowa, this 20th day of May, 1976.

Sheriff of Madison County, Iowa

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

AFFIDAVIT OF FINAL OFFER

STATE OF IOWA :
: ss
MADISON COUNTY :

On this 30 day of April, 1976, comes Jerrold B. Oliver, Attorney for the Condemnor, the City of St. Charles, Iowa, and states, as by law provided, that the most recent offers made to the owners, lienholders, encumbrancers and other persons interested in the appropriation of certain specified rights in certain land as described by the Applicant in the Application filed in the above matter are as follows:

F. Marion Austin:

Temporary and Permanent Easement $150.00

CITY OF ST. CHARLES, IOWA

By Jerrold B. Oliver
Jerrold B. Oliver

Subscribed and sworn to before me by Jerrold B. Oliver this 30 day of April, 1976.

TERRI WALKER Notarial Seal Iowa

Terri Walker
Notary Public in and for the State of Iowa

Filed in my office at Winterset, Iowa, this 20th day of May, 1976.

Rep Rouse
Sheriff of Madison County, Iowa

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

REPORT OF CONDEMNATION COMMISSION

TO . . . . . .REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA:

We, the undersigned, being the duly appointed and qualified commissioners appointed to assess the damages sustained by the owners, lienholders, encumbrancers and other persons interested in the appropriation of certain specified rights as set forth and described in the application filed in the above-entitled matter respectfully reports as follows:

That we proceed to view the respective premises at the time or times fixed in the notice to persons interested therein and do hereby assess and appraise the damages which the respective persons will sustain by reason of the appropriation as follows:

	LAND & IMPROVEMENTS	CONSEQUENTIAL DAMAGES	TOTAL AWARD	CONDEMNEES' ATTY. FEES AND COSTS
F. Marion Austin	$	$	$ 150.00	$
	$	$	$	$
	$	$	$	$

Respectfully reported at Winterset, Iowa, this 20 day of May, 1976.

Fred E. Cutler — John H. Foster

William W. Hunter — Earl Whitworth

Earl B. Bradley — Jack Hilton

I certify that the above amounts are legally payable to each claimant and that the claim is correct and just and that payment has not been received.

Filed in my office at Winterset, Iowa, this 20th day of May, 1976.

Rex Rouse
Madison County Sheriff

SHERIFF'S CERTIFICATION OF COSTS

I further certify that costs incident to this proceeding have been taxed as follows:

	Fee	Postage	Mileage	Total
1. Sheriff serving notices and copy	3.00		1.00	$ 4.00
2. Summoning commissioners		3.51		3.51
3. Sheriff attending commissioners	30.00		3.60	33.60
TOTALS	33.00	3.51	4.60	$ 41.11

4. COMMISSIONERS EXPENSES:

Kenneth Ritter, Chairman 1 day service and mileage	$ 51.00
Earl Whitworth 1 day service and mileage	52.55
William Hunter 1 day service and mileage	56.00
Jack Hilton 1 day service and mileage	51.00
Earl Crawford 1 day service and mileage	51.00
John Foster 1 day service and mileage	53.60
TOTAL COMMISSIONERS EXPENSES	$315.15

5. DAMAGES AWARDED:

F. Marion Austin	150.00
TOTAL DAMAGES AWARDED	150.00

RECAPITULATION

TOTAL DAMAGES AWARDED	150.00	
TOTAL SHERIFF's COSTS	41.11	
TOTAL COMMISSIONER'S EXPENSES	315.15	
GRAND TOTAL	506.26	$506.26

Costs of $6.60 for serving F. Marion Austin in Union County previously paid by County Attorney of Madison County, Jerrold Oliver.

Certified a true statement of condemnations awards and expense in connection with: "In the Matter of the Condemnation of Certain Rights in Land by the City of St Charles, Iowa, for the Use and Benefit of the City of St. Charles, Iowa, Located in Madison County, Iowa," and the Original copies thereof on this 20th day of May, 1976.

Rex Rouse

REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA

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IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

ENDORSEMENT OF SHERIFF OF MAILING OF NOTICE OF APPRAISEMENT OF DAMAGES AND TIME FOR APPEAL

I, Rex Rouse, Sheriff of Madison County, Iowa, hereby endorse and certify to the attached report of Compensation Commission that I have mailed by ordinary mail on this 20th day of May, 1976, the likewise attached Notice of Appraisement of Damages and Time for Appeal to each of the persons which it is addressed.

Rex Rouse

Rex Rouse, Sheriff
Madison County, Iowa

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY THE CITY OF ST. CHARLES, IOWA, FOR THE USE AND BENEFIT OF THE CITY OF ST. CHARLES, IOWA, LOCATED IN MADISON COUNTY, IOWA

NOTICE OF APPRAISEMENT OF DAMAGES AND TIME FOR APPEAL

TO: F. Marion Austin

You and each of you are hereby notified that the duly appointed and qualified commissioners assessed and appraised the damages sustained by you by reason of the condemnation as set out upon the attached report of Compensation Commission, and that pursuant to Section 472.18 of the Code of Iowa, as amended by House File 215, Acts of the 64th General Assembly, you may within thirty (30) days from the date of mailing of this Notice, appeal to the district court as by law provided.

Rex Rouse

Rex Rouse, S heriff
Madison County, Ia.

ORIGINAL

TREASURER'S OFFICE
Madison County, Iowa

No. 1110

$ 150.00

Winterset, Iowa, 6-29 1976

RECEIVED OF Mad. Co. Sheriff, Rex Rouse

for General Fund,

the sum of One hundred fifty and no/100 DOLLARS,

for F. Marion Austin, St. Charles Condemnation Award

County Treasurer

By V. Jones, Dep. Treas.

KOCH BROTHERS, DES MOINES 73-757

FILED NO. 33
BOOK 111 PAGE 664
1976 JUL -2 PM 2:57
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

SHERIFF OF MADISON COUNTY
WINTERSET, IOWA 50273

WINTERSET, IA 50273
MAY 20PM

FRANCIS PARKMAN AMERICAN HISTORIAN 1823-1893

PROCLAIM LIBERTY THROUGHOUT ALL THE LAND USA 13c

CERTIFIED MAIL No. 460475

RESTRICTED DELIVERY

RETURNED TO SENDER
REASON CHECKED
Unclaimed X
Addressee unknown
Insufficient address
No such number
No such office in state
Not known at this address
Refused

Mr. F. Marion Austin
Afton, Iowa 50830

Recd 6-8-76 JUN 5 1976