Deed Record, No. 91, Madison County, Iowa

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

Alfred Marquardt
To
Iowa Power & Light Co.

#2156

Fee $10.60
Plats $2.00

Filed for record the 21 day of April A. D. 1960 at 4:06 o'clock P. M.

Mary E. Welty, Recorder

TRANSCRIPT OF CONDEMNATION

CERTIFICATE OF TRANSCRIPT

THE STATE OF IOWA, Madison County, ss.

I, Marguerite Morrissey Clerk of the District Court in and for said County, do hereby Certify that the attached is a full, true and correct copy of "TRANSCRIPT OF CONDEMNATION PROCEEDINGS FROM SHERIFF OF MADISON COUNTY, VERDICT, RULING ON MOTION TO TAX ATTORNEY FEES FOR PLAINTIFF'S ATTORNEYS, JUDGMENT ENTRY AND AFFIDAVIT OF CLERK OF DISTRICT COURT." In Cause Entitled Alfred Marquardt, Plaintiff-vs-Iowa Power & Light Company, Defendant, Law No. 18621, Madison County, Iowa District Court. as the same appears of record in my office.

WITNESS my hand and the Seal of said Court hereto affixed, at my office in Winterset, in said County, on this 14 day of April 1960.

(DISTRICT COURT SEAL) Marguerite Morrissey, Clerk

STATE OF IOWA MADISON COUNTY) CERTIFICATE OF TRANSCRIPT

FILED
1957 JAN 4 AM 11:36
Marguerite Morrissey Clerk District Court Madison County, Iowa

I, Rex Rouse, Sheriff of Madison County, Iowa, hereby certify that the attached constitute all of the papers remaining in my hands pertaining to the condemnation proceedings undertaken on the application of the Iowa Power & Light Company against Alfred Marquardt or true and correct copies thereof insofar as said papers pertain to said landowners, which papers are hereby filed with the Clerk of the District Court of the State of Iowa in and for Madison County, Iowa in compliance with Section 472.20, of the 1954 Code of Iowa.

Dated this 4th day of January, A.D. 1956.

Rex Rouse
Rex Rouse, Sheriff
Madison County, Iowa

BEFORE THE SHERIFF OF THE COUNTY OF MADISON STATE OF IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA.	))))	APPLICATION FOR CONDEMNATION AND APPOINTMENT OF COMMISSION TO APPRAISE DAMAGES

TO: Rex Rouse, Sheriff of Madison County, Iowa:

The applicant, Iowa Power and Light Company, an Iowa corporation with its general office in Des Moines, Iowa, hereby applies to Rex Rouse, the duly elected, qualified and acting Sheriff of Madison County, Iowa, for the appointment of a Commission to appraise the damages to the real estate, hereinafter described, and in connection therewith applicant states as follows:

1. That applicant, Iowa Power and Light Company, is a corporation organized under the laws of the State of Iowa, with its principal place of business and its general offices in the City of Des Moines, Polk County, Iowa, and is engaged in the business of generating and distributing electricity at various points and places within the State of Iowa.

2. That applicant holds a franchise issued by the Iowa State Commerce Commission authorizing the construction and operation of a transmission line in Madison County, Iowa, to be located upon the property hereinafter described and other property located in Madison County, Iowa. The franchise above referred to is more particularly described as follows:

DATE	DOCKET NO.	FRANCHISE NO.	LOCATION
June 13, 1956	E-11657	9688	Madison County, Iowa

3. That on or about the 24th day of September, 1956, under its Docket No. EEE-212 the Iowa State Commerce Commission issued to applicant its Certificate of necessity to condemn

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

certain lands for transmission line purposes, wherein the Iowa State Commerce Commission finds that the lands hereinafter described are necessary for the use of applicant for the construction, operation and maintenance of said transmission line in Madison County, Iowa. That said Certificate of Necessity prescribes the amount and sets forth a description of the land necessary for such purpose.

4. Applicant seeks to condemn and acquire by the procees of eminent domain a right of way and easement one hundred (100) feet in width over, upon and across the real estate hereinafter set forth for the construction, maintenance and operation of said transmission line together with the permanent and perpetual right to cut and trim trees, overhang, and of ingress and egress over and across said 100 foot strip of property for the purpose of erecting, operating, maintaining, repairing, altering or removing the poles, structures or other equipment incident to the construction, maintenance and operation of said transmission line.

5. That the description of the property to be affected or sought to be condemned by its congressional numbers, a description of the specific property sought to be condemned from the said parcel of property, together with the name of the record owner and party in possession of the parcel of property sought to be condemned, and the place of residence of such person, so far as is known to applicant or as shown of record, are as follows, to-wit: - - -

Received 10-3-56, 8:59 A. M. Rex Rouse, Sheriff

Parcel No. 204. The Southwest Fractional Quarter (SW Fr.¼) of the Southwest Quarter (SW¼) and the East Half (E½) of the Southwest Quarter (SW¼) and the West Half (W½) of the Southeast Quarter (SE¼) of Section 7, Township 77 North, Range 27 West of the 5th P. M., Madison County, Iowa, more particularly described as a strip of land 100 feet in width across the above described property and properties adjacent to it. The centerline of the said strip shall enter the said Section 7 at a point approximately 2600 feet north of the southwest corner of the Section and extend thence easterly to a point approximately 2600 feet north and 4292 feet east of the southwest corner of the said Section 7 and continue thence northeasterly at an angle of 25°29' left to a point approximately 2270 feet south of the northeast corner of the said Section 7.

Attached hereto, marked "Exhibit A", and by this reference made a part hereof, is a plat showing the location of property sought to be condemned.

The owner of record of the above described real estate is Alfred Marquardt, whose post office address is R.F. D., Van Meter, Iowa.

The mortgagee of record is Bankers Life Company whose post office address is Des Moines, Iowa.

Parcel No. 211 The East Half (E½) of the Southeast Quarter (SE¼) of Section 5 and the West Half (W½) of the Southwest Quarter (SW¼) of Section 4, Township 77 North, Range 27 West of the 5th P.M., Madison County, Iowa, more particularly described as a strip of land 100 feet in width across the above described property and properties adjacent to it. The centerline of the said strip shall enter the said Section 5 at a point approximately 390 feet west of the southeast corner of the Section and extend thence northeasterly through the said Sections 5 and 4 to a point approximately 2565 feet south of the northeast corner of the said Section 4.

Attached hereto, marked "Exhibit A", and by this reference made a part hereof, is a plat showing the location of property sought to be condemned.

The owner of record of the above described real estate is Alfred Marquardt, whose post office address is R.F.D., Van Meter, Iowa.

Applicant hereby requests that the Sheriff of Madison County, Iowa, appoint a Commission to appraise the damages to said land in accordance with the terms and provisions of Chapter 472, Code of Iowa (1954).

Dated at Des Moines, Iowa, on this 1st day of October, 1956.

IOWA POWER AND LIGHT COMPANY, Applicant
By - - -
Its attorney

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

BEFORE THE SHERIFF OF THE COUNTY OF MADISON, STATE OF IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA.) NOTICE OF HEARING BEFORE COMMISSIONERS

TO: Alfred Marquardt

and all other persons, companies, or corporations having any interest in or owning any of the following described real estate:

The East Half (E½) of the Southeast Quarter (SE¼) of Section 5 and the West Half (W½) of the Southwest Quarter (SW¼) of Section 4, Township 77 North, Range 27 West of the 5th P.M., Madison County, Iowa.

You are hereby notified that Iowa Power and Light Company, a corporation, organized under the laws of the State of Iowa, with its principal place of business in the City of Des Moines, Polk County, Iowa, desires the condemnation of right of way and easement over and across the following described real estate, to-wit:

A strip of land 100 feet in width across the above described property and properties adjacent to it. The centerline of the said strip shall enter the said Section 5 at a point approximately 390 feet west of the southeast corner of the Section and extend thence northeasterly through the said Sections 5 and 4 to a point approximately 2565 feet south of the northeast corner of the said Section 4.

That such condemnation is sought for the following purpose: for the construction, maintenance and operation of an electric transmission line, together with the permanent and perpetual right to cut and trim trees, overhang, and of ingress and egress over and across said property for the purpose of erecting, operation, maintaining, repairing, altering or removing the equipment incident to the construction, operation and maintenance of said transmission line.

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

That said Commissioners will on the 5th day of November, 1956 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.

IOWA POWER AND LIGHT COMPANY A CORPORATION
OF DES MOINES, IOWA
By Webster & Frederick
Farmers & Merchants State Bank Bldg.
Winterset, Iowa, its attorneys

STATE OF IOWA MADISON COUNTY) SS RETURN OF ORIGINAL NOTICE

The within notice received this 3rd day of Oct. 1956, and I certify that I served the same on the defendants named below by delivering a copy thereof to each of the said defendants personally at the time and place set opposite thier respective names:

Name of defendent	Month	Day	Year	City, Town or Township	County	State
Alfred Marquardt	Oct.	17	1956	Jefferson	Madison	Ia.

FEES
Service $ .75
fees pd. by plaintiff 11-26-56 RRR

Rex Rouse, Sheriff

BEFORE THE SHERIFF OF THE COUNTY OF MADISON, STATE OF IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA) NOTICE OF HEARING BEFORE COMMISSIONERS

TO: Alfred Marquardt, owner Bankers Life Company, mortgagee

and all other persons, companies, or corporations having any interest in or owning any of the following described real estate:

The Southwest Fractional Quarter (SW Fr.¼) of the Southwest Quarter (SW¼) and the East Half (E½) of the Southwest Quarter (SW¼) and the West Half (W½) of the Southeast Quarter (SE¼) of Section 7, Township 77 North, Range 27 West of the 5th P. M., Madison County, Iowa.

Deed Record, No. 91, Madison County, Iowa

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

You are hereby notified that Iowa Power and Light Company, a corporation, organized under the laws of the State of Iowa, with its principal place of business in the City of Des Moines, Polk County, Iowa, desires the condemnation of right of way and easement over and across the following described real estate, to-wit:

A strip of land 100 feet in width across the above described property and properties adjacent to it. The centerline of the said strip shall enter the said Section 7 at a point approximately 2600 feet north of the southwest corner of the Section and extend thence easterly to a point approximately 2600 feet north and 4292 feet east of the southwest corner of the said Section 7 and continue thence northeasterly at an angle of 25°29' left to a point approximately 2270 feet south of the northeast corner of the said Section 7.

That such condemnation is sought for the following purpose: for the construction, maintenance and operation of an electric transmission line, together with the permanent and perpetual right to cut and trim trees, overhang and of ingress and egress over and across said property for the purpose of erecting, operating, maintaining, repairing, altering or removing the equipment incident to the construction, operation and maintenance of said transmission line.

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

That said Commissioners will on the 5th day of November, 1956, 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.

IOWA POWER AND LIGHT COMPANY, A CORPORATION
OF DES MOINES, IOWA
By Webster & Frederick
Farmers & Merchants State Bank Bldg.
Winterset, Iowa, its attorneys

STATE OF IOWA, MADISON COUNTY) SS. RETURN OF ORIGINAL NOTICE

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Name of defendent	Month	Day	Year	City, Town or Township	County	State
Alfred Marquardt	Oct.	17	1956	Jefferson	Madison	Ia.

Rex Rouse, Sheriff

FEES
Service $ .75
fees pd. by plaintiff 11-26-56 RRR

BEFORE THE SHERIFF OF THE COUNTY OF MADISON, STATE OF IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA) AWARD OF COMMISSIONERS

We, the undersigned Commissioners, appointed by the Sheriff of Madison County, Iowa, to assess and appraise the damages to real estate in Madison County, Iowa, by reason of the condemnation of easements over lands for electric transmission line purposes by Iowa Power and Light Company, under the applications filed in the office of the Sheriff of Madison County, Iowa, on Oct 3 1956, do hereby make our report and award in writing as follows:

Pursuant to our appointment, each of the Commissioners so appointed by you, duly qualified on the 5 day of Nov., 1956, by taking and subscribing an oath in writing before the Clerk of the District Court of Madison County, Iowa, that each of us would to the best of his ability faithfully and impartially assess and appraise the damages to real estate in Madison County, Iowa, by reason of the appropriation of lands for electric transmission line purposes under said application, and make report thereof to the Sheriff.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

On the 5th day of November, 1956, at - - A.M., we viewed the real estate described in the application for condemnation now on file with the Sheriff of Madison County, Iowa, as owned by Alfred Marquardt and that after hearing the statement and claims of the applicant and record owner, we do now hereby report that we have assessed the damages to the tract of real estate herein referred to by reason of the appropriation and condemnation of a transmission line easement over said land as follows:

For damages to the interest of Alfred Marquardt record owners, the sum of $1938.72

The award herein made is subject to the lien of Madison County, Iowa, if any, for unpaid general taxes upon the real estate and any unpaid personal taxes of the record owner.

IN WITNESS WHEREOF, The undersigned Commissioners, have hereto subscribed their names at Winterset, Iowa, this 9 day of Nov. 1956.

Lloyd Bond C. F. Ruth John W. Foster
Don Beeler Wm. A. Ryner Roy Huston

The above and foregoing award of Commissioners was received and filed in my office on the 9 day of Nov. 1956, at 5:00 o'clock P. M.

Rex Rouse Sheriff
of Madison County, Iowa

BEFORE THE SHERIFF OF THE COUNTY OF MADISON, STATE OF IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA) AWARD OF COMMISSIONERS

We, the undersigned Commissioners, appointed by the Sheriff of Madison County, Iowa, to assess and appraise the damages to real estate in Madison County, Iowa, by reason of the condemnation of easements over lands for electric transmission line purposes by Iowa Power and Light Company, under the applications filed in the office of the Sheriff of Madison County, Iowa, on Oct 3 1956, do hereby make our report and award in writing as follows:

Pursuant to our appointment, each of the Commissioners so appointed by you, duly qualified on the 5th day of November, 1956, by taking and subscribing an oath in writing before the Clerk of the District Court of Madison County, Iowa, that each of us would to the best of his ability faithfully and impartially assess and appraise the damages to real estate in Madison County, Iowa, by reason of the appropriation of lands for electric transmission line purposes under said application, and make report thereof to the Sheriff.

On the 5th day of November, 1956, at - - A.M., we viewed the real estate described in the application for condemnation now on file with the Sheriff of Madison County, Iowa, as owned by Alfred Marquardt and that after hearing the statement and claims of the applicant and record owner, we do now hereby report that we have assessed the damages to the tract of real estate herein referred to by reason of the appropriation and condemnation of a transmission line easement over said land as follows:

For damages to the interest of Alfred Marquardt record owners, the sum of $1588.82

The award herein made is subject to the lien of Madison County, Iowa, if any, for unpaid general taxes upon the real estate and any unpaid personal taxes of the record owner.

In Witness Whereof, the undersigned Commissioners, have hereto subscribed their names at Winterset, Iowa, this 9 day of Nov., 1956.

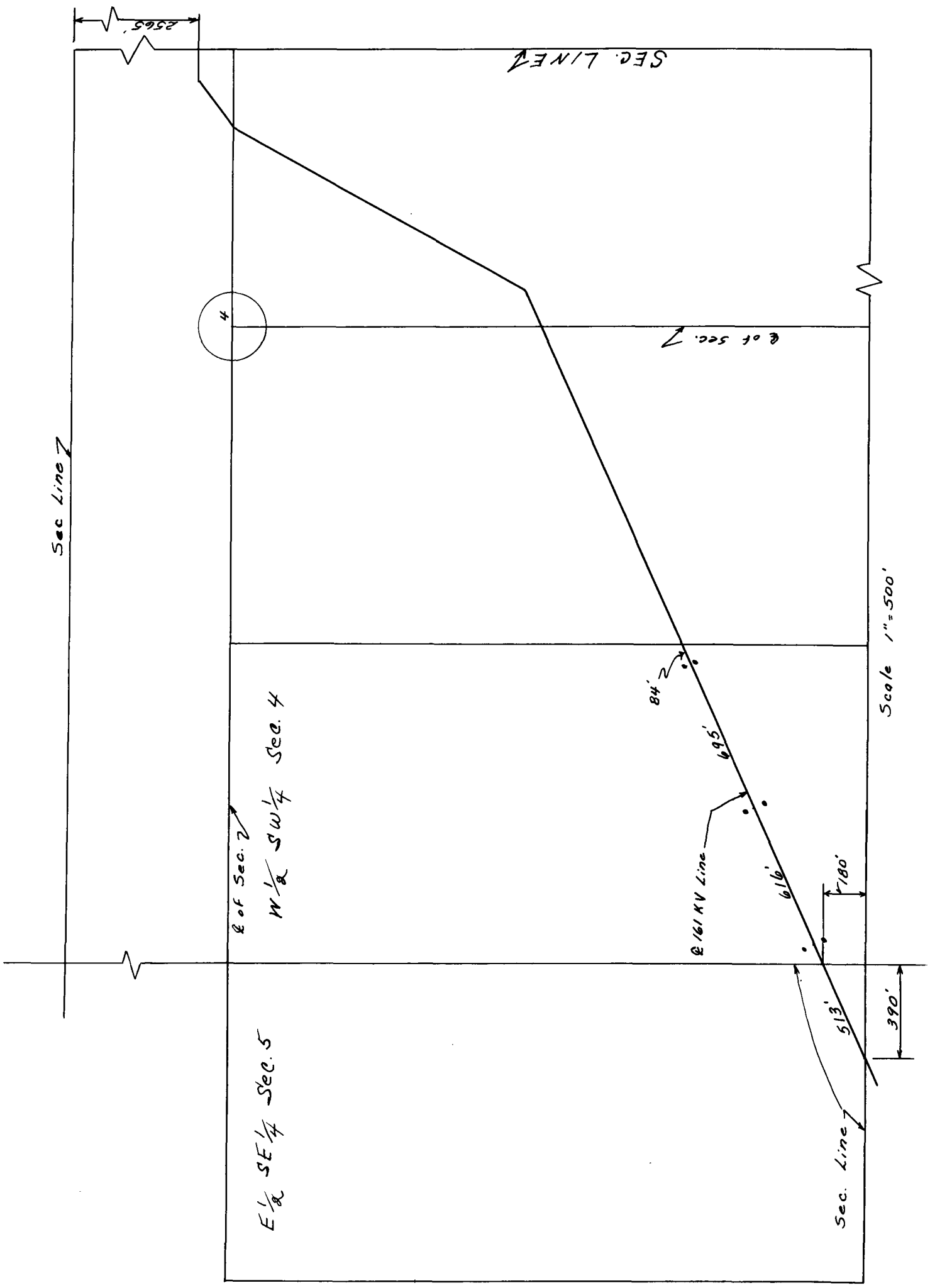
Lloyd Bond C. F. Ruth John W. Foster
Don Beeler Wm. A. Ryner Roy Huston

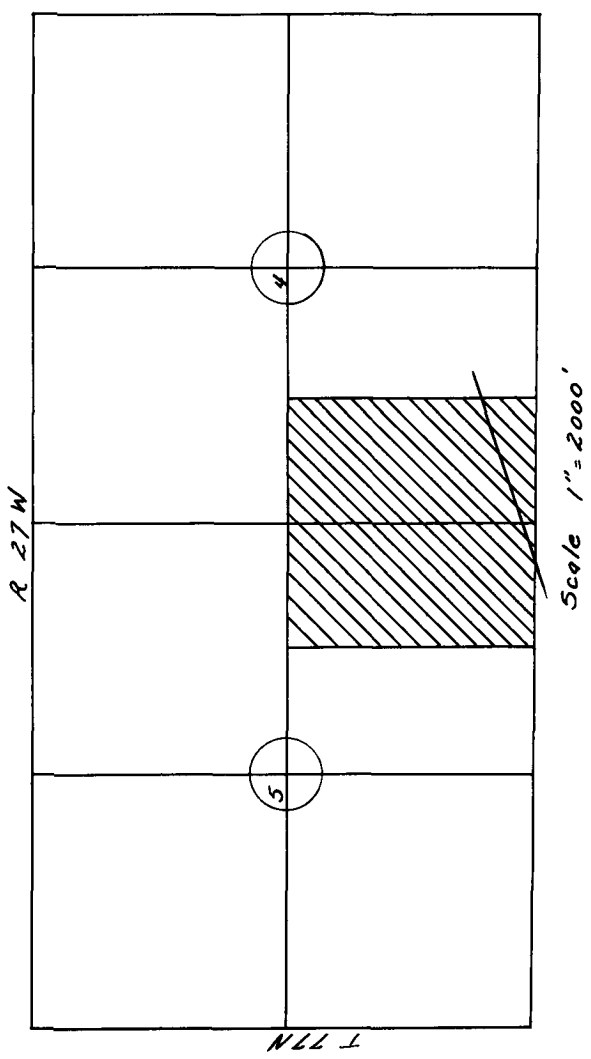
The above and foregoing award of Commissioners was received and filed in my office on the 9 day of Nov., 1956, at 5:00 o'clock P. M.

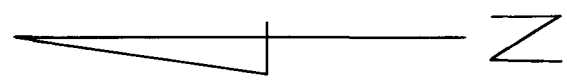
Rex Rouse Sheriff
of Madison County, Iowa

Deed Record, No. 91, Madison County, Iowa

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101



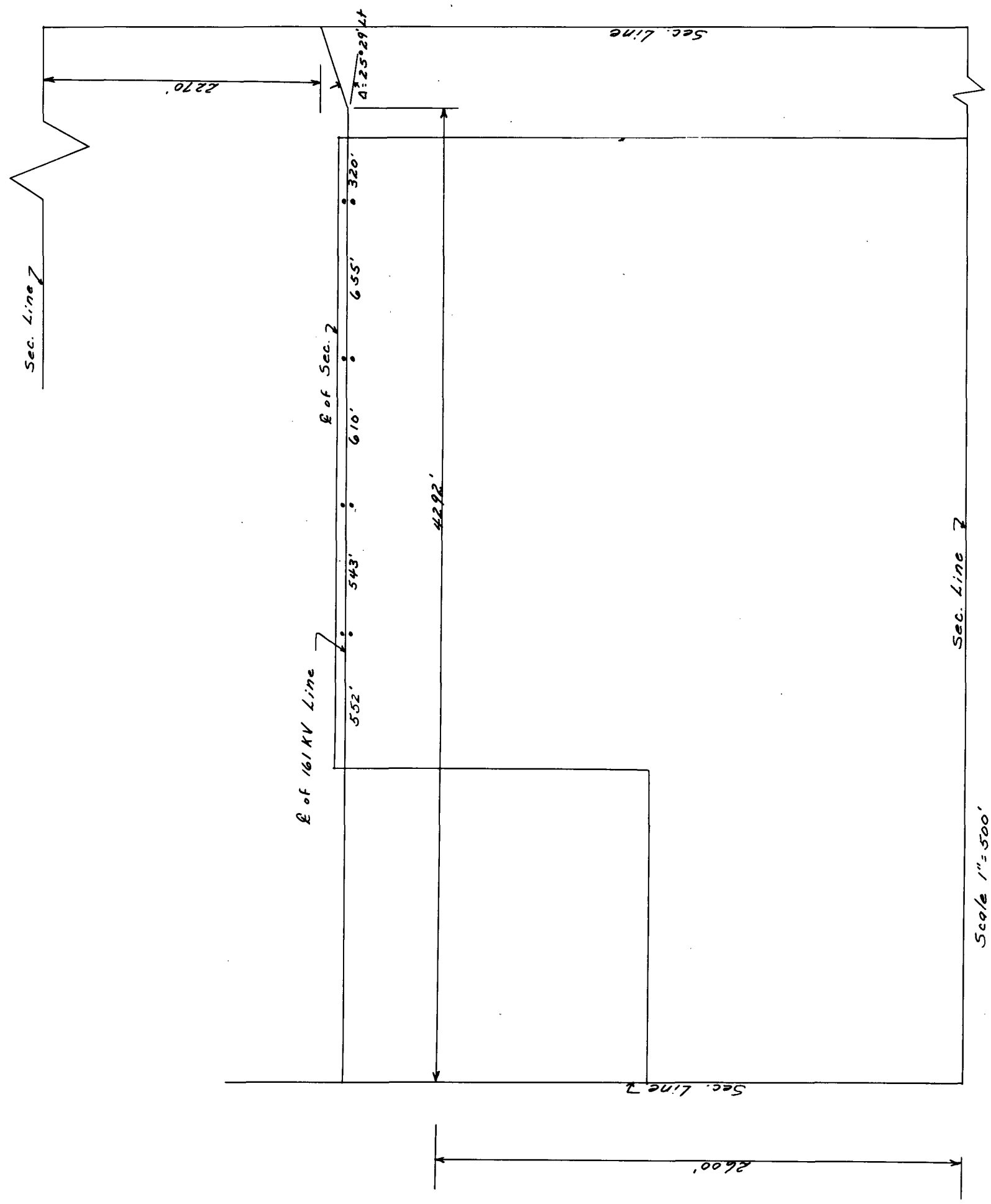




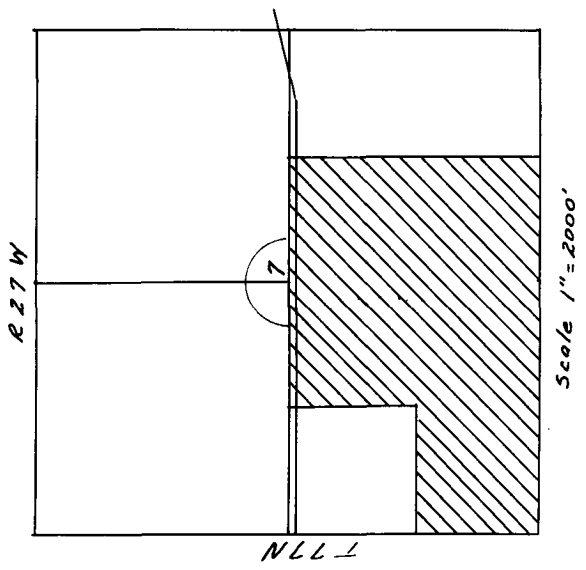
Horizontal distance from nearest conductor to nearest building not less than 100 feet.
All dimension are approximate.

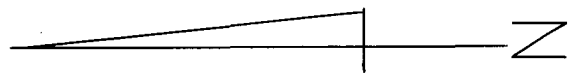
Deed Record, No. 91, Madison County, Iowa

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101



AS SHOWN ON ORIG PLAT





Horizontal distance from nearest conductor to nearest building not less than 100 feet.
All dimensions are approximate.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

IN THE DISTRICT COURT OF THE STATE OF IOWA IN AND FOR MADISON COUNTY
PP 454 SEPTEMBER TERM 1958

ALFRED MARQUARDT,
Plaintiff,
vs.
IOWA POWER & LIGHT COMPANY,
Defendant.

No. 18621 Law.

VERDICT.

FILED
1958 OCT 9 PM 7:15
MARGUERITE MORRISSEY
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

FORM NO. 1:

We, the Jury, fix the amount of the damages that the plaintiff, Aflred Marquardt, is entitled to under Division I of his petition on the 201-acre farm in the sum of $2010.00.

Willard Mease
Foreman

FORM NO. 2:

We, the Jury, fix the amount of the damages that the plaintiff, Alfred Marquardt, is entitled to under Division II of his petition on the 160-acre farm in the sum of $2400.00.

Willard Mease
Foreman.

IN THE DISTRICT COURT OF THE STATE OF IOWA IN AND FOR MADISON COUNTY

FILED
1960 MAR 7 AM 8:02
MARGUERITE MORRISSEY
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

ALFRED MARQUARDT,
Plaintiff,
vs.
IOWA POWER AND LIGHT COMPANY,
Defendant.

NO. 18621 LAW

RULING ON MOTION TO TAX ATTORNEY FEES FOR PLAINTIFF'S ATTORNEYS

The Iowa Power & Light Company under the power of eminent domain condemned a right of way across two farms of the plaintiff owner of the farms for the purpose of erecting its transmission lines across the land.

The plaintiff owner of the farms appealed from the award granted him by the condemnation commission to the District Court. The petition on appeal was in two counts, one count being an appeal from the award on one tract of land, and the second count being an appeal from the award on the second tract of land.

The case was tried to three different District Court juries before the final verdict was rendered.

The plaintiff was successful in obtaining a verdict from the jury in excess of the awards of the condemnation commission on each of the two counts of his petition. However, the verdict of the District Court jury on Count I of the plaintiff's petition was the exact amount which the defendant offered to confess judgment for on 12-10-57, which date was before the first of the three trials.

The plaintiff has filed a motion asking the Court to tax attorney fees in favor of the plaintiff's attorneys under the provisions of Section 472.33 of the 1958 Code of Iowa.

The defendant is not resisting the taxing of the fees for the plaintiff's attorneys under the provisions of Section 472.33 of the Iowa Code, but it is resisting the fee asked by the plaintiff on the following grounds:

1. That the plaintiff is not entitled to the allowance of an attorney fee on Count I after 12-10-57, the date of defendant's offer to confess judgment in the exact amount eventually recovered on said Count.

2. That as a matter of law, the plaintiff is not entitled to the allowance of fees for two separate attorneys of firms of attorneys.

3. That the amount of fees asked is in excess of the increase of the jury's award on Count II over the Commissioners' award, the increase in the award being only $811.18.

4. That the increase in the awards on the two counts totaled $116.00 less than the

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

total offer to confess judgment made on 9-9-58 prior to the third and final trial.

5. That the fee asked is based solely on a per diem and per hour basis and does not take into consideration other factors necessary to determine reasonable attorney fees.

6. The fees asked are in excess of the usual fee basis in effect in Madison County, Iowa.

7. The time of plaintiff's attorneys in connection with the Special Appearance and motions to dismiss the appeal was the result of plaintiff's manner of handling the matter and would not constitute any basis for an award of attorney fees to be taxed to defendant.

8. The time of plaintiff's attorneys in resisting the motion to inspect realty is not a proper item to be charged to defendant.

9. The items for study during the actual trial inhere in the normal per diem charge for trial and should not be charged separately.

10. There were no novel or difficult questions of law or fact presented in the case.

11. The time for preparation of the trials for which the plaintiff asks pay is excessive.

12. That the amount asked by plaintiff on each of the two counts was so exorbitant as to lack good faith and to confuse the jury thus resulting in the three trials. That plaintiff is only entitled to allowance of an attorney fee for one of the three trials.

13. That the fee asked is in excess of the reasonable fees to be taxed to defendant under Section 472.33 of the Iowa Code.

This Court presided at the first trial and the third and final trial. The second trial was presided over by Judge Prall. The Court is thoroughly familiar with the case, the time necessary for trial, the legal and factual problems, the ability and standing of the attorneys on each side of the case, the usual and necessary time for preparation and trial and work necessary during recesses and adjournments during the course of the trial in such a case, the amount involved and the results obtained.

Under the law the plaintiff is not entitled to the allowance of any fee for his attorneys' services on Count I after 12-10-57, and the Court in determing the reasonable fee for plaintiff's attorneys will not consider the services rendered on Count I after that date.

The Court finds that the plaintiff should not be restricted to an allowance of fee for only one attorney. The defendant was represented by the law firm of Webster and Frederick of Winterset, who bear the reputation of being able attorneys and whom the Court recognizes as being able attorneys. During the preliminary negotiations, Ben A. Webster, Jr., an attorney from Des Moines (who is associated with one of the leading law firms in Des Moines) participated. Mr. Webster represents the defendant in legal matters and he is recognized by the Court as being an able lawyer and experienced in the trial of condemnation cases. This Court finds that the plaintiff had reason to believe that Mr. Ben Webster would participate in the trial of the case and was justified in obtaining additional counsel to work with Mr. Darling in representing him, even though it materialized that Ben Webster did not actually enter his appearance and participate in the trial until the day the third trial commenced.

The mere fact that the fee asked is in excess of the increase of the jury's award on Count II over the Commissioners' award is not in itself sufficient to justify the Court in refusing to allow the fee asked, if it is found to be reasonable. If the award of the jury had only exceeded the Commissioners' award by $1.00 the plaintiff's attorneys would still have been titled to the allowance of a reasonable attorney fee as part of the costs under the statute. The Court does not believe the defendant could seriously content that in such an event the attorney fee should not exceed $1.00.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

The fact that the jury's award on the two counts of plaintiff's petition was less than the total of the amounts that the defendant offered to confess judgment for on the two counts just prior to the third trial does not alter the fact that the jury's award on the second count did exceed the amount for which the defendant offered to confess judgment on that count and thus entitle the plaintiff's attorneys to the allowance of a reasonable attorney fee.

The Court certainly should and has considered other factors than a per diem and per hour basis in determining the amount of the fee which he has allowed the plaintiff's attorneys and has also considered the usual fees charged in Madison County, Iowa, for services such as were rendered.

In regard to the defendant's contention that the manner in which the plaintiff and his lawyers handled the entire condemnation matter, which manner may have caused additional proceedings and services to become necessary which otherwise would not have been necessary, has merit and has been taken into consideration by the Court in fixing the fee which he deems to be reasonable for the plaintiff's attorneys.

While there were no novel or difficult questions of law or fact in this case that might not arise in the usual condemnation case, yet the ordinary lawyer does not try a sufficient number of condemnation cases but that it is necessary to devote a considerable amount of time in preparation of the case in order to properly represent his client. The Court has, in determining the attorney fee, allowed in this case, tried to be fair and just to both sides and to allow only for those services and that time which were reasonably necessary in representing the plaintiff.

The Court heard the testimony of the plaintiff as to values which he felt should be considered by the jury in determining the amount of his recovery. The Court was convinced that the plaintiff was in good faith, even though the Court was of the opinion that the plaintiff's testimony as to the difference in values of the land before and after condemnation was entirely too great and, in fact, not realistic.

In any event, the Court was not confused by the plaintiff's testimony nor does the Court believe the jury was confused by it. In fact, the Court believes the plaintiff's testimony not only did not confuse the jury, and thus necessitate additional trials, but the Court believes his testimony harmed his cause and resulted in the jury returning a lower verdict than they might have returned had the plaintiff's testimony been more realistic.

The Court finds that the plaintiff is entitled to have the services of his attorneys which were rendered at all three trials taken into consideration in determining the amount which is reasonable for those services and the Court has done that.

The Court does not agree with the defendant's counsel that the time devoted to the trial of the case should be divided equally between Count I and Count II. It must be remembered that the plaintiff did not instigate the condemnation proceedings which were the cause of the litigation, that was done by the defendant and even though both counts were involved in the litigation, the plaintiff is entitled to the allowance of reasonable attorney fees for the legal services rendered in obtaining the verdict on Count II, which exceeded the condemnation award. In order to accomplish that result, it necessitated practically the same preparation and trial time as though Count I had not been involved.

The Court finds, after considering all of the factors such as the reasonable time and services necessary for the preparation and for the three trials, the legal and factual problems, the ability and standing of the attorneys, the amount and principals involved, that the reasonable attorney fees that should be allowed and taxed in favor of plaintiff's attorneys, Gordon K. Darling and John Connolly III, is the sum of $4,635.00, plus the expense of partial transcripts of testimony in the sum of $37.10, making a total of $4,672.10.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

The plaintiff's attorneys are directed to prepare a proper entry and present it to the Court for signature.

Dated this 4th day of March, 1960.

Geo. H. Sackett Judge
of the Fifth Judicial District of Iowa.

Copy Hereof Mailed to
John Connolly III
Ben Webster, Jr.
Delivered to Webster & Frederick
Gordon K. Darling
on 3-7-60
M. Morrissey Clerk of District Court Madison County, Iowa.

IN THE DISTRICT COURT OF THE STATE OF IOWA IN AND FOR MADISON COUNTY

COMPARED FILED 1960 MAR 31 PM 2:40
MARGUERITE MORRISSEY CLERK OF DISTRICT COURT MADISON COUNTY, IOWA.

PP-644

ALFRED MARQUARDT,
Plaintiff,
-vs-
IOWA POWER & LIGHT COMPANY,
Defendant.

No. 18621 Law

JUDGMENT ENTRY

BE IT REMEMBERED that this cause is now before the Court on the Plaintiff's Motion to Tax Attorney's Fees for Plaintiff's Attorneys, and the Resistance thereto filed by the Defendant. Said Motion having been argued and submitted to the Court, the Court having heretofore on March 7, 1960, filed written Ruling thereon, and the Court being well and fully advised in the premises finds that an Order should be entered herein allowing attorneys' fees in favor of Plaintiff's attorneys in the total sum of $4,672.10 in accordance with said written Ruling, and entering judgment thereon. The Court further finds that Order should be entered apportioning the court costs other than said attorneys' fees beyond December 10, 1957, the date of Defendant's offer to confess judgment herein, on the basis that Plaintiff prevailed in excess of offer to confess judgment on Count II of Plaintiff's Petition, but obtained a verdict in the exact amount for which Defendant offered to confess judgment on Count I of Plaintiff's Petition, said offer to confess judgment having been made on December 10, 1957.

IT IS NOW THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff's attorneys, Gordon K. Darling and John Connolly III, be and they are now and hereby allowed a fee, pursuant to written Ruling hereinbefore filed as aforesaid, in the total sum of $4,672.10, to be paid by Defendant, the same to be taxed as a part of the costs herein.

Judgment is now and hereby ordered and entered of record against the Defendant, Iowa Power & Light Company, for costs including said attorneys' fees, in the total sum of $4,849.59. Judgment is now and hereby ordered and entered of record against the Plaintiff, Alfred Marquardt, for the remainder of the costs herein in the sum of $132.13.

IT IS FURTHER ORDERED that Attorneys' fees herein awarded Plaintiff's attorneys shall bear interest from the date hereof at the rate of five per cent per annum.

All of which is now and hereby ordered and entered of record this 31st day of March, 1960.

Geo. H. Sackett Judge
of the Fifth Judicial District of Iowa

Approved as to form:
Shirley A. Webster
Defendant's attorneys.

AFFIDAVIT

THE STATE OF IOWA, Madison County, ss:

I, Marguerite Morrissey, Clerk of the District Court in and for said County, do hereby certify that in the cause entitled Alfred Marquardt, Plaintiff-vs-Iowa Power & Light Company, Law No. 18621, that Iowa Power & Light Company paid into my office on February 28, 1959, the sum of $2010.00 damages and $109.15 interest for damages on the 201-acre farm and in the sum of $2400.00 for damages and $276.34 interest on the 160-acre farm,

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

and that on the 30th day of July, 1959, I paid the total sum of $4795.49 to Mr. Alfred Marquardt, Plaintiff in the above referred to cause.

WITNESS my hand and the Seal of said Court hereto affixed, at my office in Winterset, in said County, on this 14th day of April, 1960.

(DISTRICT COURT SEAL)

COMPARED

Marguerite Morrissey
Clerk of District Court.