

IN THE CIRCUIT COURT OF BENTON COUNTY, ARKANSAS

ARKANSAS STATE HIGHWAY COMMISSION

PLAINTIFF

VS.

NO. 2015-1062-2

FILED
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BRENDA DESHIELDS
CLERK AND RECORDER
BENTON COUNTY, AR.

SHAWN RICHARD CHENEY; TERI L. CHENEY;
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., MORTGAGEE; GLENN (BEAR)
CHANEY, IN HIS OFFICIAL CAPACITY AS
BENTON COUNTY TAX ASSESSOR; GLORIA
SPRING PETERSON, IN HER OFFICIAL CAPACITY
AS BENTON COUNTY TAX COLLECTOR;
CERTAIN LANDS BEING 0.11 ACRE, MORE OR
LESS, IN BENTON COUNTY, AND ANY PERSONS
OR ENTITIES CLAIMING AN INTEREST THEREIN

DEFENDANTS

AMENDED CONSENT JUDGMENT

On this day comes for hearing the cause of the Arkansas State Highway Commission, Plaintiff, vs. Shawn Richard Cheney and Teri L. Cheney, et al., Defendants, on the amount of compensation to be awarded to Defendants for the taking of 0.11 acre of land, more or less, and any other interest Defendants had which was condemned and previously identified herein as part of Tract 38, Job Number 090373, said lands being located in Benton County, Arkansas, and described in the *Complaint and Declaration of Taking* as follows:

TRACT NO. 38:

Part of the fractional Northwest Quarter of the Northwest Quarter of Section 7, Township 18 North, Range 29 West, Benton County, Arkansas, more particularly described as follows:

Commencing at a point being used as the Section Corner of Sections 6 and 7; thence South 88°07'38" East along the North line of the fractional Northwest Quarter of the Northwest Quarter of Section 7 a distance of 624.07 feet to a point; thence South 02°46'00" East a distance of 50.85 feet to a point on the Easterly right of way line of South Old Wire Road as established by the Plat of Bloomington Subdivision, Phase I recorded in Plat Record 18, Page 196; thence continue South 04°01'56" East along said right of way line a distance of 245.69 feet to a point; thence South 03°59'24" East along said right of way line a distance of 86.79 feet to a point; thence South 01°42'52" East along said right of way line a distance of 186.15 feet to a point; thence South 00°02'38"

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West along said right of way line a distance of 358.19 feet to the POINT OF BEGINNING; thence South 87°50'53" East a distance of 18.17 feet to a point on the Easterly right of way line of Arkansas State Highway 265 (Old Wire Road) as established by AHTD Job 090373; thence South 00°53'34" West along said right of way line a distance of 164.68 feet to a point; thence South 02°02'05" East along said right of way line a distance of 27.43 feet to a point; thence North 87°23'39" West a distance of 25.78 feet to a point on the Easterly right of way line of South Old Wire Road as established by AHTD Job S-4-14; thence North 00°00'03" West along said right of way line a distance of 191.93 feet to a point; thence South 87°50'53" East along said right of way line a distance of 9.19 feet to the point of beginning and containing 0.11 acres more or less as shown on plans prepared by the AHTD referenced as Job 090373.

The Court finds that the Defendants are the legal owners or interest holders of the lands described and condemned herein on July 23, 2015.

The Court finds that the Clerk of this Court issued *Summons* directed toward Defendants on July 23, 2015. Defendants were served in the time and manner provided by law. Additionally, a warning order of this action was published in the *Benton County Daily Record* on August 1 and 8, 2015.

Plaintiff deposited \$2,200.00 in the Registry of the Court as just compensation. That amount has not been withdrawn by Defendants Shawn Richard Cheney and Teri L. Cheney. The Defendants has offered to consent to judgment for \$7,700.00 as just compensation in this matter.

Mortgage Electronic Registration Systems, Inc. was served but did not file an Answer, and thus, it should be dismissed from this action. The Benton Tax Collector and Benton Tax Assessor appeared but only requested compensation for any property taxes owing or due on the property. The Court finds that there are no property taxes owing or due on this property. As such, the Benton County Tax Assessor and Collector do not have any interest in the proceeds. The Court further finds that, based upon the fact that no other claimants have appeared or claimed any interest herein, such claims, if any there

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be, should be, and are hereby, cut off and otherwise subordinated for all purposes to the superior claim of Defendants Shawn Richard Cheney and Terri L. Cheney. As a result, this matter is ripe for determination between Plaintiff and Defendants Shawn Richard Cheney and Teri L. Cheney and that such determination will determine the rights of all rightful claimants in these premises.

The Court finds that Defendants Shawn Richard Cheney and Teri L. Cheney are the owners of the property condemned in this action. As such, they are entitled to the amount of compensation agreed to and awarded herein.

Plaintiff and Defendants Shawn Richard Cheney and Teri L. Cheney have agreed that the sum of \$7,700.00 constitutes just compensation for the taking of Tract 38. The Plaintiff previously deposited with the clerk of the court \$2,200.00 as its estimate of just compensation. The Plaintiff will deposit an additional \$5,500.00 with the Circuit Clerk upon the execution of this order.

IT IS THEREFORE CONSIDERED, ORDERED, AND ADJUDGED:

(a) That based upon the fact that no other claimants have appeared or claimed any interest herein, such claims, if any there be, should be, and are hereby, cut off and otherwise subordinated for all purposes to the superior claim of Defendants.

(b) That Defendants Shawn Richard Cheney and Teri L. Cheney have and recover of and from Plaintiff judgment in the amount of \$7,700.00 without interest as just compensation for the taking of the fee title to the land described as Tract 38.

(d) Plaintiff is given credit for \$2,200.00 previously deposited into the Registry of the Court as an estimate of just compensation for the subject property. After Plaintiff deposits the additional sum of \$5,500.00, the Clerk is hereby ordered to issue a check in

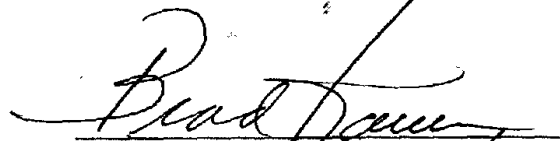
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the amount of \$7,700.00 made payable to Shawn Richard Cheney and Teri L. Cheney and sent to them at 5369 MacDonald Road, Woodbridge, VA 22193.

(e) That Defendants Shawn Richard Cheney and Teri L. Cheney are responsible for *ad valorem* taxes on their property condemned in this action for the tax years through 2015.


(f) That upon the filing of this *Consent Judgment and issuance of said check*, such payment shall constitute full and final satisfaction of the judgment granted herein.

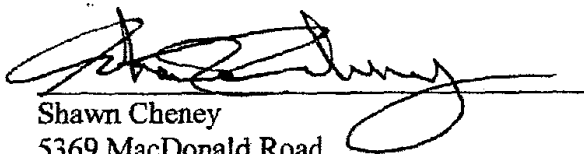
IT IS FURTHER CONSIDERED, ORDERED, AND ADJUDGED that the vesting in the Plaintiff of fee simple interest in the Tract 38 described above and herein before designated in the *Complaint and Declaration of Taking* is hereby confirmed.


CIRCUIT JUDGE *Brad Karren*

DATE: 2-7-16

APPROVED AS TO FORM AND CONTENT:


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Attorney for Plaintiff Arkansas State Highway Commission


Shawn Cheney
5369 MacDonald Road
Woodbridge, VA 22193

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Teri Cheney

Teri Cheney
5369 MacDonald Road
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