

STATE OF NORTH CAROLINA,

FILED

COUNTY OF TRANSYLVANIA. PM 4:07

CITY OF BREVARD,

Plaintiff, *nm*

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 06-CVS- 603

vs.

COMPLAINT, DECLARATION OF
TAKING AND NOTICE OF DEPOSIT

FLORA BAILEY AIKEN, ISAAC BAILEY,
JR., BERTHA RHODES, JOHN RHODES,
CONNIE WILLIAMS, GLADYS WILLIAMS,
WILLIE KATE ROBERSON, ERNEST
ROBERSON, NANCY DAY, PAUL DAY,
MARGOT STONE, JOE STONE, GRACE
ROWE, ACEY ROWE, GRACE ROWE as
Guardian for MARLENE AIKEN, and
all other persons who may claim
an interest in and to that
property described in a deed
of record from Grace Bailey
Wood, et al., to Flora Bailey
Aiken, dated August 12, 1966
and recorded in Deed Book 171,
page 407, Transylvania County
Registry.

Defendants.

NOW COMES the Plaintiff pursuant to Section 40A-41 of the
North Carolina General Statutes and alleges and says as follows:

PART I: JURISDICTION AND AUTHORITY.

1. Plaintiff is a duly organized municipal corporation
existing in and located in Transylvania County, North Carolina;

2. The Defendants, Flora Bailey Aiken, and Isaac Bailey,
Jr., upon information and belief, are citizens and residents of
Pennsylvania, who own an interest in real estate located in
Transylvania County, North Carolina; The Defendants Bertha
Rhodes, John Rhodes, Connie Williams, Gladys Williams, Willie

Kate Roberson, Ernest Roberson, Nancy Day, Paul Day, Margot Stone, Joe Stone, are upon information and belief, residents of Transylvania County, North Carolina; The Defendants, Grace Rowe, Acey Rowe, Grace Rowe as Guardian for Marlene Aiken, are upon information and belief, residents of Georgia;

3. Plaintiff is authorized to condemn private property for public purposes pursuant to the North Carolina General Statutes, specifically by GS Section 40A-3 and Section 160A-311;

4. It is necessary and in the public interest that a public roadway be constructed along a portion of the property described in Deed Book 171, page 407 of the Transylvania County Registry;

5. Plaintiff is informed, believes and therefore alleges and contends that Defendants, and perhaps other persons the identities and addresses of whom are unknown to Plaintiff, own an interest in the subject property as described in a deed found in Document Book 171, page 407, in the Transylvania County Register of Deeds office, a copy of which deed is attached hereto as Exhibit A;

PART II: DECLARATION OF TAKING.

Pursuant to North Carolina General Statute Section 40A-41, Plaintiff hereby files the following Declaration of Taking:

1. A right of way crossing this property is being taken by Plaintiff, and is hereby taken from Defendants pursuant to Plaintiff's authority under North Carolina General Statutes, specifically GS Section 40A-3 and Section 160A-311;

2. This taking is for the following public uses:

(a) Pursuant to GS Sec. 40A-3(B)(1), opening and improving public roads and rights of way;

(b) Pursuant to GS Sec. 40A-3(B)(2) and GS Sec. 160A-311(2), to protect water supply, water shed and potential water distribution systems; and

(c) Pursuant to GS Sec. 40A-3(B)(3), to establish and improve public recreational facilities and parks.

The right of way will provide the City of Brevard and the public with access from Pinnacle Road to the City's Bracken Creek property, which is more specifically described in deeds of record in Deed Book 30, page 75, Deed Book 30, page 374, Deed Book 30, page 380 and in Deed Book 36, page 328.

3. A description of the entire tract of land owned by Defendants and affected by the taking is attached as Exhibit A;

4. A statement of the property taken and a description of the area taken sufficient for the identification thereof follows:

Being a right of way for all vehicular and pedestrian travel across the property described in the deed recorded in Document Book 171, page 407; the said right of way being shown more specifically on a drawing by C. Michael Singleton, PLS, dated October 2, 2006, and recorded in Plat File 11, Slide 922.

The said right of way is to serve Plaintiff's properties as the same are described in the deeds recorded in Deed Book 30, page 75; Deed Book 30, page 374; Deed Book 30, page 380; and in Deed Book 36, page 328, providing ingress, egress and regress thereto, by and from the public road known as Pinnacle Road.

5. A copy of a plat showing the right of way is attached as Exhibit B;

6. The name(s) and address(es) of the owner(s) of the subject property, so far as the same can be reasonable diligence be ascertained by Plaintiff, is(are):

Flora Bailey Aiken, C/O C. Williams, 18 Occoguam Trail, Albrightsville, PA 18210;

Isaac Bailey, Jr., C/O C. Williams, 18 Occoguam Trail,
Albrightsville, PA 28210;

Bertha Rhodes, John Rhodes, Connie Williams, Gladys Williams,
Willie Kate Roberson, Ernest Roberson, Nancy Day, Paul Day,
Margot Stone, Joe Stone, Grace Rowe, 318 West Hills Street,
Decatur, Georgia, 30030, Acey Rowe, 318 West Hills Street,
Decatur, Georgia, 30030, Grace Rowe as Guardian for Marlene
Aiken, 318 West Hills Street, Decatur, Georgia, 30030;

7. Plaintiff believes other persons unknown to Plaintiff may
own or claim to own an interest in the subject property.

8. The sum of money Plaintiff estimates to be just
compensation for this taking, is Two Hundred Fifty Dollars
(\$250.00);

9. Plaintiff knows of no liens or encumbrances against the
affected property;

10. Defendants will not be allowed to remove any timber,
buildings, structures, permanent improvements or fixtures which
might be situated within the right of way taken as it crosses the
subject property;

11. Plaintiff prays to the Court that there be a
determination of just compensation in accordance with the
provisions of Article 3, Chapter 40A of the General Statutes.

PART 3: NOTICE OF DEPOSIT.

The sum of \$250.00 is hereby deposited with the Clerk of
Superior Court and is tendered to Defendants as just compensation
for the taking.