

DOC # 2006-0262343

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County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder

When Recorded Mail To:

Riverside City Attorney's Office

3900 Main Street

Riverside, CA 92522

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*Single Title  
per NP*



**PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION  
AS TO DEFENDANTS ROBERT E. PHILBRICK, DORIS R. PHILBRICK,  
JAMES B. AUSTIN, AND GARY R. AUSTIN  
CASE NO. RIC 422339**

**16049**

16049

FEB 28 2006

1 GREGORY P. PRIAMOS, Agency General Counsel #136766  
2 HERIBERTO F. DIAZ, Deputy Agency General Counsel #132821  
3 REDEVELOPMENT AGENCY FOR THE CITY OF RIVERSIDE  
4 City Hall, 3900 Main Street  
5 Riverside, California 92522  
6 Telephone (951) 826-5567  
7 Facsimile (951) 826-5540

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

APR 06 2006



8 Attorneys for Plaintiff, Redevelopment Agency  
9 for the City of Riverside

10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF RIVERSIDE

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12 REDEVELOPMENT AGENCY FOR THE )  
13 CITY OF RIVERSIDE, a public body, )  
14 corporate and politic, )

15 Plaintiff, )

16 vs. )

17 ROBERT E. PHILBRICK, Trustee under Deed )  
18 of Trust dated April 16, 1992, establishing the )  
19 Robert E. Philbrick and Doris R. Philbrick )  
20 Living Trust; DORIS R. PHILBRICK, Trustee )  
21 under Deed of Trust dated April 16, 1992, )  
22 establishing the Robert E. Philbrick and Doris )  
23 R. Philbrick Living Trust; JAMES B. AUSTIN; )  
24 GARY R. AUSTIN; ALPHA BETA FOOD )  
25 MARKETS, INC.; S.P.I. DEVELOPMENT )  
26 CORP.; TILLIE FELDMAN; MARTHA )  
27 BARTON; LESTER R. GIEGERICH; JOHN )  
R. GIEGERICH; CATHERINE M. )  
GIEGERICH; ESTHER BLAUFARB; DOES 1 )  
through 100; and ALL PERSONS UNKNOWN )  
CLAIMING AN INTEREST IN THE )  
PROPERTY, )

Defendants. )

CASE NO.: RIC 422339

**PARTIAL JUDGMENT AND FINAL  
ORDER OF CONDEMNATION AS TO  
DEFENDANTS ROBERT E. PHILBRICK,  
DORIS R. PHILBRICK, JAMES B.  
AUSTIN, AND GARY R. AUSTIN**

[Stipulation re Settlement and for Entry of  
Judgment and Final Order of  
Condemnation filed concurrently  
herewith]

Assessor's Parcel Numbers:

193-261-002  
193-261-006

25 ///  
26 ///  
27 ///

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1 Pursuant to a written Stipulation by and between plaintiff Redevelopment Agency for the  
2 City of Riverside (hereinafter "Agency"), by and through Heriberto F. Diaz, Deputy City Attorney,  
3 and defendants Robert E. Philbrick, Doris R. Philbrick, James B. Austin, and Gary R. Austin  
4 (hereinafter collectively "Philbrick/Austin"), that a Judgment and Final Order of Condemnation as  
5 to Assessor's Parcel Numbers 193-261-002 and 193-261-006 may be made and entered herein in  
6 accordance with the terms and conditions hereof without further notice to said defendants.

7 IT IS HEREBY FOUND AND DETERMINED:

8 1. The interest of defendants Philbrick/Austin in and to the real property designated  
9 in the complaint as Assessor's Parcel Numbers 193-261-002 and 193-261-006 is fee simple  
10 absolute.

11 2. By execution of the Stipulation herein, defendants Philbrick/Austin waive the  
12 right to jury trial, Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of  
13 Entry of Final Order of Condemnation as to Assessor's Parcel Numbers 193-261-002 and 193-  
14 261-006, and the right and time for appeal.

15 3. Defendants Philbrick/Austin expressly waive the right to challenge the Agency's  
16 right to acquire the property by eminent domain, the right to further and greater compensation, and  
17 the right to an award of interest, attorneys fees and costs, to the extent that they may be allowable  
18 by law.

19 4. Pursuant to said stipulation, the total amount of just compensation to be paid by  
20 plaintiff to defendants Philbrick/Austin is the sum of Two Million Nine Hundred Thousand  
21 Dollars (\$2,900,000.00). Said sum is inclusive of fair market value and interest thereon, attorneys  
22 fees and all costs of suit, including those costs defined in *California Code of Civil Procedure* §  
23 1268.710 and litigation expenses including, but not limited to those defined in *California Code of*  
24 *Civil Procedure* § 1235.140.

25 5. An Order of Prejudgment Possession became effective as to the interests of  
26 defendants Philbrick/Austin in and to Assessor's Parcel Numbers 193-261-002 and 193-261-006  
27 on August 17, 2005.

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1           6.     The use for which an interest in and to Assessor's Parcel Numbers 193-261-002  
2 and 193-261-006 is being acquired is a use authorized by law and the acquisition of said interest is  
3 necessary to said use.

4           7.     The total of all applicable unpaid taxes, penalties, and costs for prior, current, and  
5 next succeeding tax years, prorated, to the date of possession are as follows:

<u>Assessor's Parcel Number</u>	<u>Total Unpaid Taxes, Penalties and Costs</u>
193-261-006	\$2,133.53

8           Agency shall pay said delinquent taxes for and on behalf of the defendants as  
9 further consideration for this stipulated judgment.

10           WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

11           1.     The total compensation, award, and damages to be paid as a result of the  
12 condemnation of the interests of defendants Robert E. Philbrick, Doris R. Philbrick, James B.  
13 Austin, and Gary R. Austin in Assessor's Parcel Numbers 193-261-002 and 193-261-006 is the  
14 total sum of Two Million Nine Hundred Thousand Dollars (\$2,900,000.00).

15           2.     Payment hereunder shall be deemed to expressly include all costs of suit pursuant  
16 to California *Code of Civil Procedure* § 1268.710 and all litigation expenses including, but not  
17 limited to, those defined in California *Code of Civil Procedure* § 1235.140. Payment hereunder  
18 shall further be deemed to be the total just compensation and damages, if any, to which defendants  
19 Philbrick/Austin shall be entitled by reason of the condemnation of Assessor's Parcel Numbers  
20 193-261-002 and 193-261-006.

21           3.     That the sum of Two Thousand One Hundred Thirty-three Dollars and Fifty-three  
22 Cents (\$2,133.53), apportioned pursuant to paragraph 7, above, shall be paid outside these court  
23 proceedings by the plaintiff to the County of Riverside tax collector for unpaid taxes, penalties,  
24 and costs for prior, current, and succeeding tax years prorated to the date of possession.

25           4.     The award remaining to be paid herein in the amount of Two Million Nine  
26 Hundred Thousand Dollars (\$2,900,000.00) shall be paid outside of these court proceedings and  
27 shall be payable as follows:

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1 a. To Robert E. Philbrick, Doris R. Philbrick, James B. Austin, and Gary R.  
2 Austin at the following address: 600 Central Avenue, Suite 81, Riverside, California 92507.

3 5. Plaintiff shall be entitled to withdraw funds on deposit with the State Treasurer's  
4 office without further order of this Court.

5 6. Payment to defendants Philbrick/Austin of the sums herein above specified shall  
6 constitute payment in full for the real property taken and for all damages of any kind and nature  
7 whatsoever suffered by said defendants by reason of such taking.

8 7. An Order for Prejudgment Possession as to Assessor's Parcel Numbers 193-261-  
9 002 and 193-261-006 became effective on August 17, 2005, ninety days after service.

10 8. Plaintiff's portion of taxes, if any, are cancelled as of the effective date of  
11 possession.

12 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF  
13 CONDEMNATION:

14 The interests of defendants Robert E. Philbrick, Doris R. Philbrick, James B. Austin, and  
15 Gary R. Austin in the real property described in Exhibit "A" and designated as Assessor's Parcel  
16 Numbers 193-261-002 and 193-261-006 are hereby condemned for the public use and purposes  
17 described in the Complaint as fee simple absolute. Plaintiff Redevelopment Agency for the City of  
18 Riverside to take title to the interests of said defendants in said real property, together with all  
19 improvements thereon in which said defendants have an interest, free and clear of any and all liens,  
20 encumbrances, easements, and leaseholds, of whatever kind or nature, subject only to existing  
21 easements of record as of December 20, 2004.

22  
23 DATED: 4/5/06

*[Signature]*  
24 Judge of the Superior Court

25  
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27 04-2010

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EXHIBIT "A"

That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

That portion of Lot 4 in Block 14 of the Lands of the Riverside Land and Irrigating Company, as shown by map on file in Book 1, Page 72 (formerly Book 1, Page 70) of Maps, records of San Bernardino County, California, described as follows:

Beginning at a point in the northwesterly line of said Lot 4, distant southwesterly thereon, 365.00 feet from the most northerly corner thereof;

THENCE southeasterly and parallel with the northeasterly line of said Lot, 214 feet;

THENCE northeasterly and parallel with the northwesterly line of said Lot, 39.36 feet to the TRUE POINT OF BEGINNING;

THENCE continuing northeasterly and parallel with northwesterly line of said Lot, 140.64 feet;

THENCE southeasterly and parallel with the northeasterly line of said Lot, 302.00 feet to an angle point in the northwesterly line of the land described in deed to Breazeale and Associates, a partnership, by document recorded November 13, 1963, as Instrument No. 119827 of Official Records of Riverside County, California;

THENCE southwesterly, and parallel with the northwesterly line of said Lot, 448.09 feet to the northeasterly line of Parcel 2 of the land described in deed to the City of Riverside, by document recorded June 29, 1956, in Book 1935, Page 366 of Official Records of said Riverside County;

THENCE northwesterly along said last mentioned northeasterly line, 272.00 feet to the most southerly corner of the land described in deed to S.P.I. Development Corporation, by document recorded April 17, 1961, as Instrument No. 32430 of Official Records of said Riverside County;

THENCE along the southwesterly and northeasterly lines of said last mentioned land the following bearings and distances:

Northeasterly and parallel with the northwesterly line of said Lot, 169.87 feet;

Southeasterly and parallel with the northeasterly line of said Lot, 160 feet;

Northeasterly and parallel with the northwesterly line of said Lot, 138 feet;

Northwesterly and parallel with the northeasterly line of said Lot, 190 feet to the TRUE POINT OF BEGINNING;



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Northeasterly and parallel with the northwesterly line of said Lot, 138 feet;

Northwesterly and parallel with the northeasterly line of said Lot, 190 feet to the TRUE POINT OF BEGINNING;



**PROOF OF SERVICE BY MAIL--[1013a, (3) 2015.5 Code Civ. Proc.]**

*STATE OF CALIFORNIA, COUNTY OF RIVERSIDE*

I am a resident of the county aforesaid; I am over the age of 18 years and not a party to the within above-entitled action; my business address is 3900 Main Street, Riverside, California 92522.

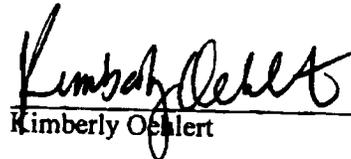
On February 28, 2006, I served the within **PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION AS TO DEFENDANTS ROBERT E. PHILBRICK, DORIS R. PHILBRICK, JAMES B. AUSTIN, AND GARY R. AUSTIN** on the interested parties in said action addressed as follows:

SEE ATTACHED SERVICE LIST

- (XX) **VIA MAIL** - In accordance with the regular mail collection and processing practices of this business office, with which I am familiar, by means of which mail is deposited with the United States Postal Service at Riverside, California, that same day in the ordinary course of business, I deposited such sealed envelope for collection and mailing on this same date following ordinary business practices.
- ( ) **PERSONAL** - I caused such envelope to be delivered by hand to the above-listed addressee pursuant to Code Civ. Proc. § 1011.
- ( ) **VIA OVERNIGHT DELIVERY** - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to Code Civ. Proc. § 1013(c). Said document was deposited at the box regularly maintained by said express service carrier on the date set forth above.
- ( ) **VIA FACSIMILE** - I caused such document to be delivered to the office of the addressee via facsimile machine pursuant to Code Civ. Proc. § 1013(e). Said document was transmitted from the office of City Attorney in Riverside, California, on the date set forth above.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on February 28, 2006, at Riverside, California.

  
\_\_\_\_\_  
Kimberly Oehlert



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**SERVICE LIST**

*Redevelopment Agency for the City of Riverside v. Robert E. Philbrick, et al.*  
Riverside Superior Court Case No. RIC 422339

Timothy J. Gray, Esq.  
Law Offices of Timothy J. Gray  
1801 E. Parkcourt Place, Suite D-202  
Santa Ana, CA 92701  
714-543-1877  
714-543-4977 fax

Attorneys for defendant:  
Riverside Dairy Queen, Inc.

Edward O. Lear  
CENTURY LAW GROUP  
5200 W. Century Boulevard, Suite 940  
Los Angeles, CA 90045

Attorneys for defendants:  
Jerry Lee dba Stewart's Liquor; Thien Minh  
Do dba Crystal Nails; and Kamlesh Patel dba  
Drive-in Dairy



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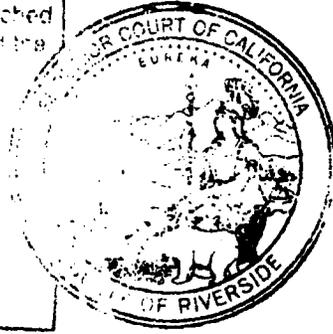
This must be in red to be  
"CERTIFIED COPY"

Each document to which this certificate is attached  
is certified to be a full, true and correct copy of the  
original on file and of record in the office.

Superior Court of California  
County of Riverside

By *Alison*  
DEPUTY

Dated: **APR 11 2006**



Certification must be in red to be a  
"CERTIFIED COPY"



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