

2015-0198855

05/13/2015 11:29 AM Fee: \$ 0.00

Page 1 of 13

Recorded in Official Records
County of Riverside
Peter Aldana
Assessor-County Clerk-Recorder



When Recorded Mail To:

Riverside City Attorney's Office
3900 Main Street
Riverside, CA 92522
Ref: CA# L14-0033.14

This instrument is for the benefit
of the City of Riverside and is
exempt from recording fees
(Government Code § 27383¹)

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Space above this line reserved for Recorder's use.

JUDGMENT AND FINAL ORDER OF CONDEMNATION
CASE NO. RIC143386

D-17213

¹ Government Code § 27383: "No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record."

D-17213

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KRISTI J. SMITH, Interim City Attorney, SBN 120218
BRANDON S. MERCER, Deputy City Attorney, SBN 244413
OFFICE OF THE CITY ATTORNEY
City Hall, 3900 Main Street
Riverside, California 92522
Telephone (951) 826-5567
Facsimile (951) 826-5540
bmercerc@riversideca.gov

FILED **KTL**
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
APR 20 2015
Howell
L. Howell
APR 21 2015

Attorneys for Plaintiff, City of Riverside

(Fee Exempt Gov't Code § 6103) 

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

CITY OF RIVERSIDE, a California charter city and
municipal corporation,

Plaintiff,

vs.

INOCENTE APREZA; et al.

Defendants.

) Case No. RIC1403386
) ASSIGNED TO THE HONORABLE
) JUDGE SUNSHINE S. SYKES
) Dept. 6 – Case Management
)
) JUDGMENT AND FINAL ORDER OF
) CONDEMNATION
)
) [Stipulation re Settlement and for Entry of
) Judgment and Final Order of Condemnation
) submitted concurrently herewith.]

This Judgment and Final Order of Condemnation is made following disposition through the court proceedings described below of all parties and property interests alleged in the Complaint in Eminent Domain. Pursuant to a written stipulation by and between plaintiff City of Riverside (hereinafter "City"), by and through Brandon S. Mercer, Deputy City Attorney, and U.S. Bank National Association, As Trustee For Morgan Stanley Mortgage Loan Trust 2007-13, Mortgage Pass-Through Certificates, Series 2007-13 ("Defendant"), by and through its attorneys, Houser & Allison, APC, that a Judgment and Final Order of Condemnation as to Assessor's Parcel Numbers 147-281-023 and 147-281-024 may be made and entered herein in accordance with the terms and conditions hereof without further notice to said Defendants,

IT IS HEREBY FOUND AND DETERMINED:

1. Pursuant to its Charter, sections 37350.5 and 40404 of the Government Code of the State of California, section 4090 of the Streets and Highways Code of the State of California, section 1240.010 of the Code of Civil Procedure of the State of California, and Article I, section

1 19 of the Constitution of the State of California, plaintiff City of Riverside is authorized to
2 acquire real property or interests therein for public uses and purposes, to wit: widening
3 approximately one mile of Tyler Street between Hole and Wells Avenues.

4 2. After a duly noticed public hearing and an opportunity to be heard in compliance
5 with Code of Civil Procedure section 1245.235, on March 25, 2014, plaintiff's City Council
6 adopted Resolution Number 22642 authorizing plaintiff to acquire the property described in the
7 attached exhibit "A" by eminent domain ("Subject Property"). In compliance with sections
8 1245.220 and 1245.230 of the Code of Civil Procedure, the City Council found and determined
9 that: (a) the public interest and necessity require the proposed project, (b) the proposed project
10 is planned and located in the manner that will be the most compatible with the greatest public
11 good and least private injury, (c) the acquisition and taking of interests in the property sought to
12 be acquired are necessary for the Project, and (d) the offer required by section 7267.2 of the
13 Government Code has been made to the owners of record of the Subject Property.

14 3. Plaintiff named the following Defendants in this action:

<u>Defendants Name</u>	<u>Property Interest</u>
Inocente Apreza	Owner
Quality Loan Service Corporation	Trustee under deed of trust
U.S. Bank National Association, As Trustee For Morgan Stanley Mortgage Loan Trust 2007-13, by Saxon Mortgage Services, Inc., as its Attorney-In-Fact	Beneficiary under deed of trust
Esteban Castro Apreza	Potential claimant

22 4. The interest of Defendant in and to the real property designated in the complaint
23 as Assessor's Parcel Numbers 147-281-023 and 147-281-024 is deed of trust beneficiary. The
24 interest being acquired by the City through this eminent domain action is a street and highway
25 easement and a temporary construction easement, as more particularly described in Exhibit 'A'
26 hereto.

27 5. By execution of the Stipulation re Settlement and for Entry of Judgment and Final
28 Order of Condemnation herein ("Stipulation"), Defendant waives the right to jury trial,

1 Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final
2 Order of Condemnation as to Assessor's Parcel Numbers 147-281-023 and 147-281-024, and the
3 right and time for appeal.

4 6. By execution of the Stipulation, Defendant expressly waives the right to challenge
5 the City's right to acquire the property by eminent domain, the right to further and greater
6 compensation and damages of whatever kind or nature, and the right to an award of interest,
7 attorneys fees and costs, to the extent that they may be allowable by law.

8 7. By execution of the Stipulation, the total compensation is in complete settlement
9 of any and all claims for compensation arising from the taking of the real property described in
10 Exhibit 'A' hereto ("Subject Property"), including costs, statutory interest, severance damages,
11 fixtures, equipment, or inventory, loss of business goodwill, relocation assistance, loss of or
12 damage to improvements pertaining to the realty, damages for precondemnation or inverse
13 condemnation, attorney's fees, all costs and litigation expenses of Defendant against the City by
14 reason of taking of the Subject Property.

15 8. Pursuant to the Stipulation, Defendant makes a knowing waiver of any and all
16 rights created by California Civil Code section 1542.

17 9. Pursuant to the Stipulation, the total amount of just compensation to be paid by
18 plaintiff to Defendant is the sum of Fifteen Thousand Dollars (\$15,000.00) ("Award").

19 10. On March 27, 2014, the City deposited the sum of Seven Thousand Four Hundred
20 Dollars (\$7,400.00) ("Deposit") with the Treasurer of the State of California, Condemnation
21 Fund, as the probable just compensation for Assessor's Parcel Numbers 147-281-023 and 147-
22 281-024.

23 11. No funds have been withdrawn from the Deposit and \$7,400.00 remains on
24 deposit with the State Treasurer condemnation fund.

25 12. Pursuant to the Stipulation, City represents that payment of the Award will be
26 made within thirty (30) days after entry of this Judgment and Final Order of Condemnation.
27
28

1 13. An Order of Prejudgment Possession became effective as to the interests of all
2 defendants in and to Assessor's Parcel Numbers 147-281-023 and 147-281-024 on September 4,
3 2014.

4 14. The use for which an interest in and to Assessor's Parcel Numbers 147-281-023
5 and 147-281-024 is being acquired is a use authorized by law and the acquisition of said interest
6 is necessary to said use.

7 15. The Defendant "All Persons Unknown Claiming an Interest in the Property" was
8 dismissed without prejudice from this action by plaintiff on February 24, 2015.

9 16. The following defendants have been regularly served with process herein and
10 having failed to appear or answer within the time allowed by law, had their defaults taken on the
11 dates indicated below:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
Inocente Apreza	02/24/2015
Esteban Castro Apreza	07/22/2014

16 17. The following defendant filed a disclaimer on the date indicated below and is
17 entitled to no compensation:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
Quality Loan Service Corporation	05/30/2014

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

22 1. The total compensation, award, and damages to be paid as a result of the
23 condemnation of the interest of defendant U.S. Bank National Association, As Trustee For
24 Morgan Stanley Mortgage Loan Trust 2007-13, Mortgage Pass-Through Certificates, Series
25 2007-13 ("Defendant") in and to Assessor's Parcel Numbers 147-281-023 and 147-281-024 is
26 the total sum of Fifteen Thousand Dollars (\$15,000.00).

27 2. Payment of the Award hereunder shall be deemed to expressly include all costs of
28 suit pursuant to California Code of Civil Procedure section 1268.710 and all litigation expenses
including, but not limited to, those defined in California Code of Civil Procedure section

D-17213

1 1235.140. Payment hereunder shall further be deemed to be the total just compensation and
2 damages, if any, to which Defendant shall be entitled by reason of the condemnation of and
3 construction activities by plaintiff on Assessor's Parcel Numbers 147-281-023 and 147-281-024.

4 3. The State Treasurer is authorized and directed to disburse to plaintiff the sum of
5 Seven Thousand Four Hundred Dollars (\$7,400.00) from those funds on deposit in the
6 Condemnation Fund in connection with the above-entitled matter. Payment of said funds shall
7 be made payable to "City of Riverside" and forwarded to:

8 Office of the City Attorney
9 c/o Brandon Mercer, Esq.
10 3900 Main Street 5th Floor
Riverside, CA 92522

11 4. The Award in the amount of Fifteen Thousand Dollars (\$15,000.00) shall be paid
12 by plaintiff outside these court proceedings to Defendant as follows: the draft shall be made
13 payable to "Houser & Allison, APC Client Trust Account" and forwarded to:

14 Eric D. Houser, Esq.
15 Joshua R. Mino, Esq.
16 HOUSER & ALLISON
17 9970 Research Drive
Irvine CA 92618

18 5. Payment to Defendant of the total Award shall constitute payment in full for the
19 real property taken and for all damages of any kind and nature whatsoever suffered by said
20 Defendant by reason of such taking.

21 6. An Order of Prejudgment Possession became effective as to the interests of all
22 defendants in and to Assessor's Parcel Numbers 147-281-023 and 147-281-024 on September 4,
23 2014.

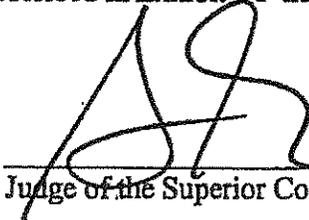
24 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
25 CONDEMNATION:

26 The interests of defendants U.S. Bank National Association, As Trustee For Morgan
27 Stanley Mortgage Loan Trust 2007-13, Mortgage Pass-Through Certificates, Series 2007-13;
28 Inocente Apreza; Quality Loan Service Corporation; Inocente Apreza; and Esteban Castro
Apreza ("Defendants") in the real property described in Exhibit "A" as to Assessor's Parcel

1 Numbers 147-281-023 and 147-281-024 is hereby condemned for the public use and purposes
2 described in the Complaint as widening approximately one mile of Tyler Street between Hole
3 and Wells Avenues. Plaintiff City of Riverside to take title to the interests of Defendants in said
4 real property, together with all improvements thereon in which said Defendants have an interest,
5 free and clear of any and all liens, encumbrances, easements, and leaseholds, of whatever kind
6 or nature.

7 The interests condemned to the City of Riverside in and to Assessor's Parcel Numbers
8 147-281-023 and 147-281-024 are legally described in Exhibit 'A' hereto.

9
10 DATED: 4/17/15



Judge of the Superior Court

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EXHIBIT A

D-17213

POR APN: 147-281-023 & 024
Street & Highway Easement

PARCEL 1

All that portion of the northwesterly rectangular 65.00 feet of Lot 9 Block 11 of La Granada, in the City of Riverside, County of Riverside, State of California, as shown by map filed in Map Book 12, Pages 42 through 51, inclusive, in the Office of the County Recorder of said County, lying northeasterly of a line that is parallel with and distant 50.00 feet southwesterly, measured at right angles, from the centerline of Tyler Street (formerly Tyler Street) as shown on said map;

EXCEPTING THEREFROM that portion conveyed to the City of Riverside by document recorded May 7, 1992, as Instrument No. 165543 of Official Records of said Riverside County.

PARCEL 2

That portion of Lot 8 in Block 11 of La Granada, in the City of Riverside, County of Riverside, State of California, as shown by map filed in Map Book 12, Pages 42 through 51, inclusive, in the Office of the County Recorder of said County, described as follows:

BEGINNING at the most easterly corner of said Lot 8;

THENCE northwesterly along the northeasterly line of said Lot 8, a distance of 10.00 feet to the northwesterly line of Parcel 2 of those certain parcels of land described in deed to Stephen A. King, et ux., by Grant Deed recorded May 31, 1991, as Instrument No. 182790 of Official Records of said Riverside County;

THENCE southwesterly along said northwesterly line, a distance of 25.65 feet to a line that is parallel with and distant 50.00 feet southwesterly, as measured at right angles, from the centerline of Tyler Street (formerly Tyler Avenue);

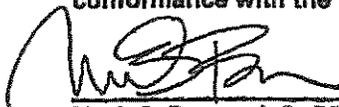
THENCE southeasterly along said parallel line, a distance of 10.00 feet to the southeasterly line of said Lot 8;

THENCE northeasterly along said southeasterly line, a distance of 25.65 feet to the POINT OF BEGINNING;

EXCEPTING THEREFROM that portion conveyed to the City of Riverside by document recorded May 7, 1992, as Instrument No. 165543 of Official Records of said Riverside County.

Containing 1,304 S.F., more or less.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.


Mark S. Brown, L.S. 5655
License Expires 9/30/11

12/23/09 Date
Prep. _____



D-17213

*FOR A.P.N's. 147-281-023 & 024
Temporary Construction Easement*

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

That portion of Lots 8 and 9 in Block 11 of La Granada, as shown by map on file in Book 12, Pages 42 through 51 of Maps, Riverside County records, described as follows:

COMMENCING at the most easterly corner of said Lot 8;

THENCE North $30^{\circ}19'00''$ West, along the northeasterly line of said Lot 8, a distance of 10.00 feet to the northwesterly line of Parcel 2 of those certain parcels of land described in deed to Stephen A. King, et ux., by Grant Deed recorded May 31, 1991, as Instrument No. 182790 of Official Records of said Riverside County;

THENCE South $46^{\circ}47'34''$ West, along said northwesterly line, a distance of 25.65 feet to a line that is parallel with and distant 50.00 feet southwesterly, as measured at right angles, from the centerline of Tyler Street (formerly Tyler Avenue), as shown on said map, and being the POINT OF BEGINNING of the parcel of land being described;

THENCE South $46^{\circ}47'34''$ West, continuing along said northwesterly line, a distance of 10.26 feet to a line that is parallel with and distant 60.00 feet southwesterly, as measured at right angles, from said centerline of Tyler Street;

THENCE South $30^{\circ}19'00''$ East, along said last mentioned parallel line, a distance of 76.68 feet to the southeasterly line of the northwesterly rectangular 65.00 feet of said Lot 9;

THENCE North $46^{\circ}47'34''$ East, along said southeasterly line, a distance of 10.26 feet to said line that is parallel with and distant 50.00 feet southwesterly from the centerline of Tyler Street;

THENCE North $30^{\circ}19'00''$ West, along said last mentioned parallel line, a distance of 76.68 feet to the POINT OF BEGINNING.

Area - 767 square feet, more or less.

This temporary easement and right-of-way shall terminate 9 months after issuance of the notice

D-17213

to proceed or upon completion of the public improvements and acceptance by the City as demonstrated by recordation of a notice of completion, whichever occurs first.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

Mark S. Brown 8/15/2012 Prep. KEP
Mark S. Brown, L.S. 5655 Date



PROOF OF SERVICE

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 April 13, 2015, I served the within JUDGMENT AND FINAL ORDER OF CONDEMNATION on the interested parties in said action addressed as follows:

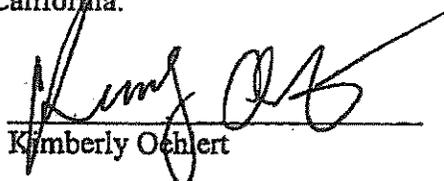
Eric D. Houser, Esq.
Joshua R. Mino, Esq.
HOUSER & ALLISON
9970 Research Drive
Irvine CA 92618
Tel: (949) 679-1111
Fax: (949) 679-1112
jmino@houser-law.com

Attorneys for defendants:
U.S. Bank National Association, As Trustee
For Morgan Stanley Mortgage Loan Trust
2007-13, Mortgage Pass-Through
Certificates, Series 2007-13

- (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 C.C.P. § 1011.
- () **VIA OVERNIGHT DELIVERY** - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to C.C.P. § 1013(c). Said document was deposited at the box regularly maintained by said express service carrier on the date set forth above.

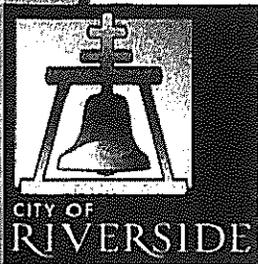
I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on April 13, 2015, at Riverside, California.



Kimberly Oehlert

D-17213



MEMORANDUM
CITY ATTORNEY'S OFFICE

D-17213

TO: City Clerk
FROM: Kimberly Oehlert
DATE: June 12, 2015
RE: CITY V. APREZA (TYLER AVENUE STREET WIDENING); CA L14-0033.14; RIVERSIDE
SUPERIOR COURT CASE NO. RIC1403386

Enclosed is the original recorded Judgment and Final Order of Condemnation regarding the above-referenced eminent domain matter.

Please retain this document as the City's official record.

If you have any questions regarding the foregoing, please do not hesitate to call me.

Kimberly Oehlert
Paralegal
Ext. 5768

D-17213