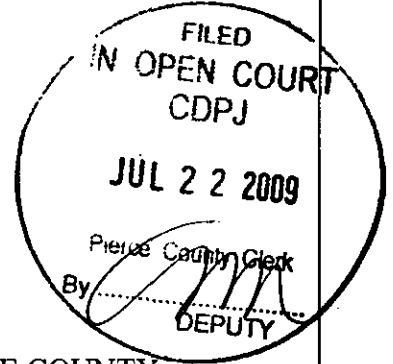


05-2-05211-8 32505613 DCA 07-24-09

Honorable Thomas J. Felnagle



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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

CITY OF PUYALLUP, a municipal corporation,

Petitioner,

vs.

CARL R. HOGAN, et ux, et al.,

Respondents

NO. 05-2-05211-8
DECREE OF APPROPRIATION
(Clerk's Action Required)

On February 7, 2005, the City Council of the City of Puyallup enacted Ordinance No. 2819 exercising its power of eminent domain as part of the 39th Avenue SE Extension Project and finding the existence of a public use and necessity for the acquisition of portions of Respondents Carl R. and Betty Hogan's property located at the common address of 3707 to 3745 South Meridian Street, Puyallup, Washington ("Take Property"), Pierce County Tax Parcel Nos. 04-1903-3-037 and 04-1910-2-085, legally described as:

Tax Parcel No. 04-1903-3-037:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 10 TOWNSHIP 19 NORTH, RANGE 4 EAST, W.M.;
THENCE SOUTH 88°21'48" EAST, ALONG THE NORTH LINE OF SAID SECTION 10, A DISTANCE OF 84.83 FEET TO THE EASTERLY RIGHT-OF-WAY OF

ORIGINAL

1 MERIDIAN STREET AND THE POINT OF
2 BEGINNING;

3 THENCE NORTH 01°05'39" EAST ALONG THE
4 EASTERLY RIGHT-OF-WAY LINE OF MERIDIAN
5 STREET A DISTANCE OF 23.44 FEET TO A 538.00
6 FOOT RADIUS CURVE CONCAVE TO THE
7 SOUTHWEST, THE RADIUS POINT OF WHICH
8 BEARS SOUTH 14°53'25" WEST;

9 THENCE ALONG THE ARC OF SAID CURVE 78.33
10 FEET THROUGH A CENTRAL ANGLE OF 08°20'33",
11 TO THE NORTH LINE OF SECTION 10;

12 THENCE NORTH 88°21'48" WEST ALONG SAID
13 NORTH SECTION LINE A DISTANCE OF 74.45 FEET
14 TO THE POINT OF BEGINNING.

15 SITUATE IN THE CITY OF PUYALLUP, COUNTY OF
16 PIERCE, STATE OF WASHINGTON.

17 Tax Parcel No. 04-1910-2-085:

18 COMMENCING AT THE NORTHWEST CORNER OF
19 SECTION 10 TOWNSHIP 19 NORTH, RANGE 4 EAST,
20 W.M.;

21 THENCE SOUTH 88°21'48" EAST, ALONG THE
22 NORTH LINE OF SAID SECTION 10, A DISTANCE OF
23 84.83 FEET TO THE EASTERLY RIGHT-OF-WAY OF
24 MERIDIAN STREET AND THE POINT OF
25 BEGINNING;

THENCE CONTINUING ALONG SAID NORTH
SECTION LINE SOUTH 88°21'48" EAST A DISTANCE
OF 74.45 FEET TO A 538.00 FOOT RADIUS CURVE
CONCAVE TO THE SOUTHWEST RADIUS POINT OF
WHICH BEARS SOUTH 23°13'58" WEST;

THENCE ALONG THE ARC OF SAID CURVE A
DISTANCE OF 114.00 FEET THROUGH A CENTRAL
ANGLE OF 12°08'27";

THENCE SOUTH 54°37'35" EAST A DISTANCE OF
23.71 FEET TO THE SOUTH LINE OF THE ABOVE
DESCRIBED TAX PARCEL NO. 04-1910-2-085;

THENCE NORTH 88°21'48" WEST, ALONG SAID
SOUTH LINE, A DISTANCE OF 239.72 FEET TO THE
EASTERLY RIGHT-OF-WAY OF MERIDIAN STREET;

THENCE NORTH 1°35'26" EAST, ALONG SAID
EASTERLY RIGHT-OF-WAY, A DISTANCE OF 16.03
FEET;

1 THENCE CONTINUING ALONG SAID EASTERLY
 2 RIGHT-OF-WAY NORTH 28°09'20" EAST A
 3 DISTANCE OF 33.54 FEET;
 4 THENCE CONTINUING ALONG SAID EASTERLY
 5 RIGHT-OF-WAY SOUTH 88°24'34" EAST A
 6 DISTANCE OF 30.00 FEET;
 7 THENCE CONTINUING ALONG SAID EASTERLY
 8 RIGHT-OF-WAY NORTH 1°05'39" EAST A DISTANCE
 9 19.93 FEET TO THE POINT OF BEGINNING.

10 Puyallup commenced eminent domain proceedings in February of 2005. Puyallup
 11 received possession and use of the Take Property by stipulation on June 14, 2007, upon
 12 payment of \$2,000,000.00 into the Court's registry. On May 2, 2008, Puyallup deposited
 13 an additional \$850,000.00 into the Court's registry.

14 This matter went to a jury trial before the Hon. Thomas J. Felnagle, beginning on
 15 May 20, 2009. On June 10, 2009, the jury returned a verdict in the amount of
 16 \$5,150,000.00.

17 On June 11, 2009, the City of Puyallup deposited the balance of the funds owing
 18 to Carl R. and Betty Hogan as Just Compensation for the Take Property, including pre-
 19 judgment interest, in the amount of \$2,938,959.90.

20 Respondents Carl R. and Betty Hogan, as fee owners of the Take Property, elect
 21 to have any liens for taxes owing, if any, as to the entirety of the Take Property set over
 22 to those portions of their property not condemned herein as provided for in RCW
 23 84.60.070. No other parties or individuals have a fee ownership interest in the Take
 24 Property condemned by the City of Puyallup.

25 Accordingly, it is hereby DECREED that:

1. The City of Puyallup shall and has paid the total sum of \$5,788,958.90 (\$2,000,000 on June 14, 2007; \$850,000 on May 2, 2008; and \$2,938.958.90 on June 11,

1 2009) into the Registry of the Court, which sum includes pre-judgment interest from the
2 respective dates of the City's two initial deposits to June 11, 2009, as Just Compensation
3 for the appropriation by exercise of its power of eminent domain of Respondents'
4 Property.

5 2. All of the rights, title, and interests of Respondents to the Take Property shall
6 be free from all claims of fee interest, leasehold interest, or other interest and shall be
7 conveyed to and vested in Petitioner City of Puyallup in fee simple absolute.
8 Apportionment of such just compensation between conflicting claims thereto by
9 Respondents Carl Hogan, the fee owner, and his former tenant, Respondent KeyBank,
10 N.A., will be decided in a subsequent trial between such parties, now set for January 4,
11 2010, and no such claims or judgment on such conflicting claims shall limit, affect or
12 modify this Decree of Appropriation.

13 3. Any liens for taxes owed, if any, as to the entirety of the Take Property shall
14 be set over to that portion of the property owned by Carl R. and Betty Hogan not
15 condemned herein as provided for in RCW 84.60.070.

16 4. The rights and obligations of the parties shall inure to the benefit of and be
17 binding upon their respective successors in interest, heirs, and assigns.

18 5. Judgment as to just compensation has been entered in this case. The entry of
19 this Decree of Appropriation, and the subsequent disbursal pursuant to any court order of
20 part or all of the funds deposited by the City of Puyallup in the registry of the court in
21 payment and satisfaction of such judgment, shall be without prejudice to Respondent Carl
22 Hogan's right to seek his reasonable attorneys fees and expert witness fees under RCW
23 8.25.070. This Court expressly retains jurisdiction to hear and decide that matter.
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6. The City of Puyallup shall record a certified copy of this Decree of Appropriation in the Office of the Pierce County Auditor.

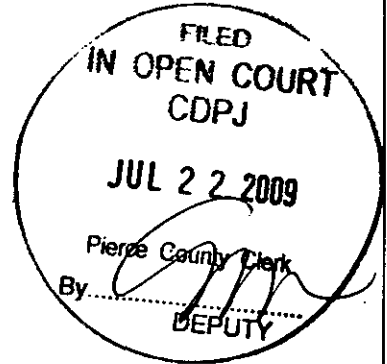
DONE this 22nd day of July, 2009.

Thomas J. Felnagle
Honorable Thomas J. Felnagle

Presented by:

KENYON DISEND, PLLC

By: Michael R. Kenyon
Michael R. Kenyon
WSBA No. 15802
Attorneys for Petitioner Puyallup



Copy Received; Approved for Entry;
And Notice of Presentation Waived:

VANDEBERG JOHNSON &
GANDARA, LLP

By G. Perrin Walker
G. Perrin Walker
WSBA No. 4013
Attorneys for Respondents Hogan

GRAHAM & DUNN PC

By Larry J. Smith
Larry J. Smith
WSBA No. 13648
Attorneys for Respondent KeyBank
National Association

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DONE this ____ day of _____, 2009.

Honorable Thomas J. Felnagle

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Attorneys for Petitioner Puyallup

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DONE this ____ day of _____, 2009.

Honorable Thomas J. Felnagle

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LANE POWELL, PC

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By 
Michael M. Fleming
WSBA No. 6143
Attorneys for Respondent Borders, Inc.

GERALD A. HORNE
Prosecuting Attorney


By _____
David A. Prather
WSBA No. 8292
Deputy Prosecuting Attorney and Attorneys
for Respondent Pierce County

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