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DOC # 2006-0771288

10/19/2006 08:00A Fee:NC

Page 1 of 13

Recorded in Official Records

County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



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

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JUDGMENT AND FINAL ORDER OF CONDEMNATION
CASE NO. RIC437553

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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."

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1 GREGORY P. PRIAMOS, City Attorney #136766
2 HERIBERTO F. DIAZ, Deputy City Attorney #132821
3 CITY OF RIVERSIDE
4 City Hall, 3900 Main Street
Riverside, California 92522
Telephone (951) 826-5567
Facsimile (951) 826-5540

FILED
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF RIVERSIDE

OCT 11 2006

5 Attorneys for Plaintiff, City of Riverside

(Fee Exempt Govt. Code § 6103)

6
7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF RIVERSIDE
9

10 CITY OF RIVERSIDE, a California charter)
11 city and municipal corporation,)
12)
13 Plaintiff,)

14 vs.)

15 JEFFREY ESHELMAN; DENISE)
16 ESHELMAN; COURTESY MORTGAGE)
17 SERVICE, a California corporation; ROLAND)
18 F. MOSHIER; MARGARET M. MOSHIER;)
19 FIRST AMERICAN TITLE INSURANCE)
20 COMPANY, a California corporation;)
21 ALFRED O. ANGLE; PEARL S. ANGLE;)
ORANGE COUNTY DISTRICT ATTORNEY;))
CHRISTIAN CENTER RESTAURATION;)
DOES 1 through 100; and ALL PERSONS)
22 UNKNOWN CLAIMING AN INTEREST IN)
23 THE PROPERTY,)
24 Defendants.)

CASE NO. RIC437553
Assigned for all purposes to the
Honorable Judge Craig G. Riemer
Department 7

**JUDGMENT AND FINAL ORDER OF
CONDEMNATION**

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

Assessor's Parcel Number: 191-313-002

Complaint filed: September 21, 2005
MSC: December 4, 2006
TMC: January 3, 2007
Trial: January 8, 2007

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2006-0771288
10/19/2006 08:00A
2 of 13

City Attorney's Office
3900 Main Street
Riverside, CA 92522
(951) 826-5567

16024
-2

1 Pursuant to a written stipulation by and between plaintiff City of Riverside (hereinafter
2 "City"), by and through Heriberto F. Diaz, Deputy City Attorney, and defendants Jeffrey Eshelman
3 and Denise Eshelman (collectively hereinafter "Eshelman"), by and through their attorneys of
4 record, David B. Cosgrove, Esq., of Rutan & Tucker that a Judgment and Final Order of
5 Condemnation as to Assessor's Parcel Number 191-313-002 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 Eshelman in and to the real property designated in the
9 complaint as Assessor's Parcel Number 191-313-002 is fee simple absolute.

10 2. Pursuant to its Charter, Sections 37350.5 and 40404 of the Government Code of the
11 State of California, Section 4090 of the Streets and Highways Code of the State of California,
12 Section 1240.010 of the Code of Civil Procedure of the State of California and Article I, Section
13 19 of the Constitution of the State of California, City is authorized to acquire real property or
14 interests therein for public uses and purposes, to wit: the widening and improvement of Van Buren
15 Boulevard from Garfield Street to Andrew Street and for related and incidental improvements
16 ("Project").

17 3. After a duly noticed public hearing and an opportunity to be heard in compliance
18 with *Code of Civil Procedure* section 1245.235, on September 13, 2005, City adopted Resolution
19 No. 21039 authorizing City to acquire the property described in the complaint on file herein,
20 including Riverside County Assessor's Parcel Number ("APN") 191-313-002 by eminent domain.
21 In compliance with sections 1245.220 and 1245.230 of the *Code of Civil Procedure*, City found
22 and determined that: (a) the public interest and necessity require the Project; (b) the Project is
23 planned or located in the manner that will be most compatible with the greatest public good and
24 the least private injury; (c) the property sought to be acquired is necessary for the Project; (d) the
25 offer required by *Government Code* section 7267.2 has been made to the owner or owners of
26 record. No party challenged City's right to take the subject property interests.

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2006-0771288
10/19/2006 08:09A
3 of 13

1 4. Plaintiff commenced this eminent domain action to condemn the following property
2 interests: fee simple and permanent and temporary easements in and to APN 191-313-002.

3 5. Plaintiff named the following defendants in this action:

<u>Defendant</u>	<u>Parcel</u>	<u>Interest</u>
Jeffrey Eshelman	191-313-002	Owner
Denise Eshelman	191-313-002	Owner
Courtesy Mortgage Service, Roland F. Moshier	191-313-002	Trustee
Margaret M. Moshier	191-313-002	Beneficiary
First American Title Insurance	191-313-002	Trustee
Alfred O. Angle	191-313-002	Beneficiary
Pearl S. Angle	191-313-002	Beneficiary
Orange County District Attorney	191-313-002	Possible Claimant
Christian Center Restauration	191-313-002	Tenant

15 6. On September 23, 2005, plaintiff City of Riverside deposited with the State
16 Treasury Condemnation Fund the amount of Five Hundred Fifty-five Thousand Three Hundred
17 Thirty Dollars (\$555,330.00) as a deposit of probable just compensation apportioned as follows:

<u>APN</u>	<u>Defendant</u>	<u>Interest</u>	<u>Deposit</u>
191-313-002	Jeffrey Eshelman & Denise Eshelman	Real Estate	\$540,000
191-313-002	Christian Center Restauration	Improvements to Real Property	\$15,330

22 None of the parties in this action have made an application to withdraw any portion
23 of the deposit of probable compensation. All funds remain on deposit with the State Treasurer.

24 7. The use for which an interest in and to Assessor's Parcel Number 191-313-002 is
25 being acquired is a use authorized by law and the acquisition of said interest is necessary to said
26 use.

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16024
-4

1 8. An Order for Prejudgment Possession was signed by the Honorable Judge Thomas
2 H. Cahraman on September 29, 2005, authorizing plaintiff to take possession of APN 191-313-002
3 on the later of ninety (90) days following the date of service of said order or January 31, 2006.
4 Pursuant to said order plaintiff was authorized to take possession of APN 191-313-002 on
5 February 12, 2006.

6 9. By execution of the Stipulation re Settlement and for Entry of Judgment and Final
7 Order of Condemnation ("Stipulation") herein, defendants Eshelman waive the right to jury trial,
8 Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final
9 Order of Condemnation as to Assessor's Parcel Number 191-313-002 and the right and time for
10 appeal.

11 10. Pursuant to the Stipulation, defendants Eshelman expressly waive the right to
12 challenge the City's right to acquire the property by eminent domain, the right to further and
13 greater compensation, and the right to an award of attorneys fees, to the extent that they may be
14 allowable by law.

15 11. Pursuant to the Stipulation, the total amount of just compensation to be paid by
16 plaintiff to defendants Eshelman is the sum of One Million Dollars (\$1,000,000.00) ("Award").
17 The Award is inclusive of statutory interest, attorney fees and all costs of suit, including those
18 costs defined in *California Code of Civil Procedure* § 1268.710, and litigation expenses including,
19 but not limited to those defined in *California Code of Civil Procedure* § 1235.140.

20 12. The total of all applicable unpaid taxes, penalties, and costs for prior, current, and
21 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>
191-313-002	\$0.00

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2006-0771288
10/19/2006 08:00A
5 of 13

16024
-5

1 13. Only defendants Eshelman appeared in this action seeking just compensation for the
2 property interests alleged in the complaint. The following defendants having been regularly served
3 with process herein and, having failed to appear or answer within the time allowed by law, had
4 their defaults taken on the dates indicated below:

5	<u>Defendant</u>	<u>Date Filed</u>
6	Roland F. Moshier	January 11, 2006
7	Margaret M. Moshier	January 11, 2006
8	Orange County District Attorney	January 11, 2006
9	Christian Center Restauration	January 11, 2006
10	Courtesy Mortgage Service	May 1, 2006
11	Alfred O. Angle	May 1, 2006
12	Pearl S. Angle	May 1, 2006

13 14. The following defendant filed a disclaimer on the date indicated below and is
14 entitled to no compensation herein:

15	<u>Defendant</u>	<u>Date Filed</u>
16	First American Title Insurance Company	December 28, 2005

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

19 1. The total compensation, award, and damages to be paid as a result of the
20 condemnation of the interests of defendants Eshelman in and to APN 191-313-002 is the total sum
21 of One Million Dollars (\$1,000,000.00) ("Award").

22 2. Defendants Eshelman waive any claims to statutory interest, all costs of suit
23 pursuant to California *Code of Civil Procedure* § 1268.710, and all litigation expenses including,
24 but not limited to, those defined in California *Code of Civil Procedure* § 1235.140. Payment
25 hereunder shall be deemed to be the total just compensation and damages, if any, to which
26 defendants Eshelman shall be entitled by reason of the condemnation of Assessor's Parcel Number
27 191-313-002.



2006-0771200
10/19/2006 08:00A
6 of 13

2006-0771288
18/19/2006 08:00A
7 of 13



1 3. The Award herein to be paid outside of these court proceedings shall be payable to
2 Jeffrey Eshelman and Denise Eshelman on or before thirty (30) days following entry of this
3 Judgment by way check delivered to the following address:

4 c/o David B. Cosgrove, Esq.
5 RUTAN & TUCKER
6 611 Anton Blvd., Suite 1400
7 Costa Mesa, CA 92626-1931

8 4. Payment to defendants Eshelman of the sums herein above specified shall constitute
9 payment in full for the real property taken and for all damages of any kind and nature whatsoever
10 suffered by said defendants by reason of such taking and construction of the project in the manner
11 proposed.

12 5. Pursuant to an Order of Prejudgment Possession, plaintiff took possession of
13 Assessor's Parcel Number 191-313-002 on February 12, 2006.

14 6. Defendants Eshelman's portion of taxes, if any, are cancelled as of February 12,
15 2006.

16 7. The funds on deposit with the Treasurer of the State of California, Condemnation
17 Fund, in the amount of Five Hundred Fifty-five Thousand Three Hundred Thirty Dollars
18 (\$555,330.00), including all interest remaining on deposit, shall be disbursed to plaintiff City of
19 Riverside forthwith and payable as follows:

20 Heriberto F. Diaz, Deputy City Attorney
21 Office of the City Attorney
22 City of Riverside
23 3900 Main Street, Fifth Floor
24 Riverside, California 92522

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

27 Upon payment of the Award, the interest of defendants Jeffrey Eshelman and Denise
Eshelman in the real property designated as Assessor's Parcel Number 191-313-002 is hereby
condemned for the public use and purposes described in the Complaint herein, to wit, the widening
and improvement of Van Buren Boulevard from Garfield Street to Andrew Street and for related

16024
-7

1 and incidental improvements. Plaintiff City of Riverside to take title to the interests of said
2 defendants in the real property described in Exhibit "A" hereto, together with all improvements
3 thereon in which said defendants have an interest, free and clear of any and all liens,
4 encumbrances, easements, and leaseholds, of whatever kind or nature.

5 Plaintiff has caused final disposition as to all parties named in the Complaint and/or
6 appearing and this matter requires no further court action. Wherefore this Judgment and Final
7 Order of Condemnation is now made and entered.

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10 DATED: 10-10-06

Craig G. Riemer
Judge of the Superior Court

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2006-0771288
10/19/2006 08:00A
8 of 13



2006-0771288
10/19/2006 08:00A
8 of 13

EXHIBIT A

16024
-9

EXHIBIT "A"

PARCEL 150
A.P.N. 191-313-002

Parcel 150 E - *Fee Simple Interest*

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

Lot 2 and the northeasterly 10 feet of Lot 1 all in Block 12 of the Village of Arlington, as shown by map recorded in Book 1, Page 62 of Maps, records of San Bernardino County, California, more particularly described as follows:

BEGINNING at the most easterly corner of said Lot 2, Block 12;

THENCE northwesterly and parallel with the southwesterly line of said Lot 2, a distance of 150 feet to the northwesterly line of said Lot 2;



THENCE southwesterly on the southeasterly line of Miller Street, 60 feet;

THENCE southeasterly at a right angles to Miller Street and parallel with the northeasterly line of said Lot 2, a distance of 150 feet to the northwesterly line of Magnolia Avenue;

THENCE northeasterly on the said northwesterly line of Magnolia Avenue, 60 feet to the POINT OF BEGINNING;

EXCEPTING THEREFROM an undivided one-half interest of the northeasterly 1 foot thereof as conveyed to William A. Burrows, by deed recorded in Book 321, Page 194 of Deeds, records of Riverside County, California, and an undivided one-half interest of the southwesterly 1 foot thereof as conveyed to C. H. Ormsby, by deed recorded in Book 302, Page 230 of Deeds, records of Riverside County, California.

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

 7/11/05 Prep. 
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/05



11-44



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18 of 13

16024
- 10

EXHIBIT "A"

PARCEL 150
A.P.N. 191-313-002
OPTIONAL ACQUISITION

Parcel 150 A – Public Street Easement

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

That portion of Lots 1 and 2 in Block 12 of the Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, records of San Bernardino County, California, described as follows:

COMMENCING at the most westerly corner of said Lot 1;

THENCE North 56°22'23" East, along the northwesterly line of said Lot 1, a distance of 40.00 feet to the POINT OF BEGINNING of the parcel of land being described; said point also being the most westerly corner of that certain parcel of land described in deed recorded July 20, 1989, as Instrument No. 90716 of Official Records of Riverside County, California;

THENCE North 56°22'23" East, continuing along the northwesterly line of said Lots 1 and 2, a distance of 31.05 feet;

THENCE South 11°19'10" West, a distance of 18.46 feet;

THENCE South 33°38'46" East, parallel with the southwesterly line of said Lot 1, a distance of 137.05 feet to the southeasterly line of said Lot 2;

THENCE South 56°22'23" West, along the southeasterly line of said Lots 1 and 2, a distance of 18.00 feet to the most southerly corner of said parcel of land described in document recorded July 20, 1989;

THENCE North 33°38'46" West, a distance of 150.12 feet to the POINT OF BEGINNING.

Area – 2787 square feet.

Parcel 150 B – 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 Lot 2 in Block 12 of the Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, records of San Bernardino County, California, lying within a strip of land 5.00 feet in width, the westerly line of which is described as follows:



COMMENCING at the most westerly corner of Lot 1 in said Block 12;

THENCE North 56°22'23" East, along the northwesterly line of said Lots 1 and 2, a distance of 71.05 feet to the POINT OF BEGINNING of this line description;

THENCE South 11°19'10" West, a distance of 18.46 feet;

THENCE South 33°38'46" West, a distance of 137.05 feet to the southeasterly line of said Lot 2 and the END of this line description.

The sidelines of said strip of land 5.00 feet in width, shall be lengthened or shortened to terminate in said northwesterly line and lengthened or shortened to terminate in said southeasterly line.

Area - 780 square feet.

Parcel 150 C - Temporary Construction Easement (1 Month)

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

Lot 2 in Block 12 of the Village of Arlington, as shown by map on file in Book 1, Page 62 of Maps, records of San Bernardino County, California;

EXCEPTING THEREFROM that portion of said Lot 2, lying westerly of a line that is parallel with and distant 5.00 feet easterly, as measured at right angles, from the following described line;

COMMENCING at the most westerly corner of Lot 1 in said Block 12;

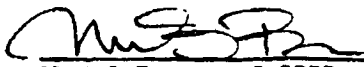

THENCE North 56°22'23" East, along the northwesterly line of said Lots 1 and 2, a distance of 71.05 feet to the POINT OF BEGINNING of this line description;

THENCE South 11°19'10" West, a distance of 18.46 feet;

THENCE South 33°38'46" West, a distance of 137.05 feet to the southeasterly line of said Lot 2 and the END of this line description.

Area - 5540 square feet.

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

 7/11/05 Prep. 
Mark S. Brown, L.S. 5655 Date
License Expires 9/30/05



11-46

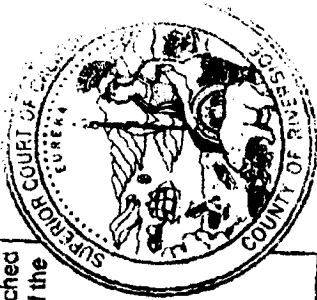
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12 of 13



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RECEIVED
OCT 18 2006
BY CITY ATTORNEY



2006-0771288

CERTIFIED COPY

For information, this certificate is attached
is correct and true and correct copy of the
original and is on record in my office.

Superior Court of California
County of Riverside

[Signature]
DEPUTY

10/13/06

Certification must be in red ink



2006-0771288
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13 of 13

NOT A PART OF THE RECORDED DOC.

191-312-019

VAN BUREN

55'

MILLER STREET

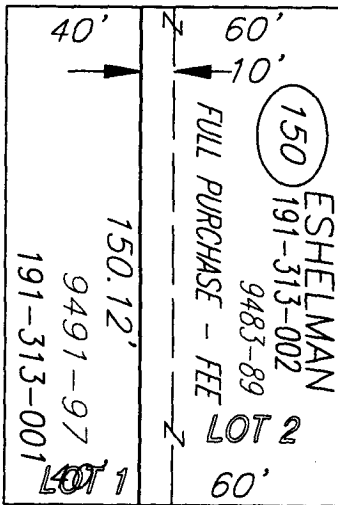
N56°22'23"E

40'

BOULEVARD

N33°38'46"W
218.12'

40'



VILLAGE OF ARLINGTON
M.B. 1/62 S.B. Co.

BLOCK 12

MAGNOLIA AVENUE

66'

N56°22'23"E

• CITY OF RIVERSIDE, CALIFORNIA •

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

SHEET 1 OF 1

SCALE: N.T.S.

DRAWN BY: Kgs DATE: 12/6/04

SUBJECT: VAN BUREN BOULEVARD WIDENING

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