

**2017-0317904**

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Page 1 of 15

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Assessor-County Clerk-Recorder



When Recorded Mail To:

**Riverside City Attorney's Office**

3750 University Ave. #250

Riverside, CA 92501

Ref: CA# L14.0033.08

This instrument is for the benefit  
of the City of Riverside and is  
exempt from recording fees  
(Government Code § 27383<sup>1</sup>)

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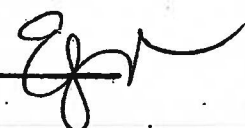
**JUDGMENT AND FINAL ORDER OF CONDEMNATION**

**CASE NO. RIC1403185**

**D - 17425**

<sup>1</sup> 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."

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

<p>CITY OF RIVERSIDE  Plaintiff/Petitioner</p> <p>vs.</p> <p>APOLINAR M. MURILLO  Defendant/Respondent</p>	<p>FOR COURT USE ONLY</p> <p><b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</p> <p>JUL 18 2017</p> <p><u>E. Usher</u> </p> <p>CASE NUMBER: RIC1403185</p> <p>BL JUL 26 2017 04</p>
<p>DOCUMENT COVERSHEET</p>	

Full Document Title: JUDGMENT AND FINAL ORDER OF CONDEMNATION

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*(If the document is not officially titled, please provide the description of what is being filed.)*

Other File Clerk Notes: \_\_\_\_\_

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JUL 17 2017

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

JUL 18 2017

E. Usher 

1 GARY G. GEUSS, City Attorney, SBN 128022  
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9 bmercer@riversideca.gov

6 Attorneys for Plaintiff, City of Riverside

(Fee Exempt Gov't Code § 6103)

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF RIVERSIDE

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

13 Plaintiff,

14 vs.

15 APOLINAR M. MURILLO; et al.,

16 Defendants.

) Case No. RIC1403185  
) ASSIGNED TO THE HONORABLE  
) JUDGE DANIEL A. OTTOLIA  
) Dept. 4 – Case Management  
)  
) **JUDGMENT AND FINAL ORDER OF**  
) **CONDEMNATION**  
)  
) Complaint Filed: April 1, 2014  
) Hearing: May 11, 2017

18 This Judgment and Final Order of Condemnation is made following disposition through  
19 the court proceedings described below of all parties and property interests alleged in the  
20 Complaint in Eminent Domain. Pursuant to a written stipulation by and between plaintiff City of  
21 Riverside (hereinafter "City"), by and through Brandon S. Mercer, Deputy City Attorney, and  
22 defendants Apolinar M. Murillo, Mortgage Electronic Registration Systems, Inc., and  
23 Specialized Loan Servicing LLC, (collectively "Defendants"), by and through their respective  
24 attorneys of record, that a Judgment and Final Order of Condemnation as to Assessor's Parcel  
25 Number ("APN") 147-251-016 may be made and entered herein in accordance with the terms  
26 and conditions hereof without further notice to said Defendants,

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

2. After a duly noticed public hearing and an opportunity to be heard in compliance with Code of Civil Procedure section 1245.235, on March 25, 2014, plaintiff's City Council adopted Resolution Number 22652 authorizing plaintiff to acquire the property described in the attached exhibit "A" by eminent domain ("Subject Property"). In compliance with sections 1245.220 and 1245.230 of the Code of Civil Procedure, the City Council found and determined that: (a) the public interest and necessity require the proposed project, (b) the proposed project is planned and located in the manner that will be the most compatible with the greatest public good and least private injury, (c) the acquisition and taking of interests in the property sought to be acquired are necessary for the Project, and (d) the offer required by section 7267.2 of the Government Code has been made to the owners of record of the Subject Property.

3. Plaintiff named the following defendants in this action:

<u>Defendants Name</u>	<u>Property Interest</u>
Apolinar M. Murillo	Owner
CTC Real Estate Services	Trustee under deed of trust
Mortgage Electronic Registration Systems, Inc.	Beneficiary under deed of trust
All Persons Unknown Claiming an Interest in the Property	Potential Claimant

4. On or about May 11, 2016, the court ordered the Clerk of the Court to accept and file the Answer of defendant Specialized Loan Servicing LLC, as a proper party to this action having an interest in the property which is the subject of this litigation.

1           5.     The interest of defendant Apolinar M. Murillo in and to the real property  
2 designated in the complaint as APN 147-251-016 is fee simple absolute. The interest being  
3 acquired by the City through this eminent domain action is a street and highway easement and  
4 temporary construction easement, as more particularly described in Exhibit 'A' hereto.

5           6.     By execution of the Stipulation re Settlement and for Entry of Judgment and Final  
6 Order of Condemnation herein ("Stipulation"), Defendants waive the right to jury trial,  
7 Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final  
8 Order of Condemnation as to APN 147-251-016, and the right and time for appeal.

9           7.     By execution of the Stipulation, Defendants expressly waive the right to challenge  
10 the City's right to acquire the property by eminent domain, the right to further and greater  
11 compensation and damages of whatever kind or nature, and the right to an award of interest,  
12 attorneys fees and costs, to the extent that they may be allowable by law.

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

20          9.     Pursuant to the Stipulation, Defendants make a knowing waiver of any and all  
21 rights created by California Civil Code section 1542.

22          10.    Pursuant to the Stipulation, the total amount of just compensation to be paid by  
23 plaintiff to Defendants is the sum of Sixty-one Thousand Nine Hundred Dollars (\$61,900.00)  
24 ("Award").

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11. On March 27, 2014, the City deposited the sum of Sixty-one Thousand Nine Hundred Dollars (\$61,900.00) ("Deposit") with the Treasurer of the State of California, Condemnation Fund, as the probable amount of just compensation for APN 147-251-016.

12. No funds have been withdrawn from the Deposit and \$61,900.00 remains on deposit with the State Treasurer condemnation fund.

13. Pursuant to the Stipulation, payment of the Award shall be made out of the State Treasurer condemnation fund to Specialized Loan Servicing LLC for payment to the senior Deed of Trust holder after entry of this Judgment and Final Order of Condemnation.

14. An Order of Prejudgment Possession became effective as to Defendants' interest in and to APN 147-251-016 on or about August 29, 2014.

15. The use for which an interest in and to APN 147-251-016 is being acquired is a use authorized by law and the acquisition of said interest is necessary to said use.

16. The following defendant was dismissed from this action on the dates indicated below:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
All Persons Unknown Claiming an Interest in the Property	Concurrently with the submission of this Judgment

17. The following defendant has been regularly served with process herein and having failed to appear or answer within the time allowed by law, had its default taken on the dates indicated below:

<u>DEFENDANT</u>	<u>DATE OF FILING</u>
CTC Real Estate Services	07/22/2014

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

1. The total compensation, award, and damages to be paid as a result of the condemnation of the interests of defendants Apolinar M. Murillo, Mortgage Electronic Registration Systems, Inc., and Specialized Loan Servicing LLC (collectively "Defendants") in and to APN 147-251-016 is the total sum of Sixty-one Thousand Nine Hundred Dollars (\$61,900.00).

1           2.     Payment of the Award hereunder shall be deemed to expressly include all costs of  
2 suit pursuant to California Code of Civil Procedure section 1268.710 and all litigation expenses  
3 including, but not limited to, those defined in California Code of Civil Procedure section  
4 1235.140. Payment hereunder shall further be deemed to be the total just compensation and  
5 damages, if any, to which Defendants shall be entitled by reason of the condemnation of and  
6 construction activities by plaintiff on APN 147-251-016.

7           3.     Payment of the Award shall be made out of the State Treasurer condemnation  
8 fund to Specialized Loan Servicing LLC for payment to the senior Deed of Trust holder after  
9 entry of this Judgment and Final Order of Condemnation.

10          4.     Payment to Defendants of the total Award shall constitute payment in full for the  
11 real property taken and for all damages of any kind and nature whatsoever suffered by  
12 Defendants by reason of such taking.

13          5.     An Order of Prejudgment Possession became effective as to the interest of  
14 Defendants in and to APN 147-251-016 on August 29, 2014.

15                 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF  
16 CONDEMNATION:

17                 The interest of defendants Apolinar M. Murillo, Mortgage Electronic Registration  
18 Systems, Inc., Specialized Loan Servicing LLC, and CTC Real Estate Services (collectively  
19 "Defendants") in the real property described in Exhibit "A" as to Assessor's Parcel Number  
20 147-251-016 is hereby condemned for the public use and purposes described in the Complaint as  
21 widening approximately one mile of Tyler Street between Hole and Wells Avenues. Plaintiff  
22 City of Riverside to take title to the interests of Defendants in said real property, together with  
23 all improvements thereon in which said Defendants have an interest, free and clear of any and all  
24 liens, encumbrances, easements, and leaseholds, of whatever kind or nature.

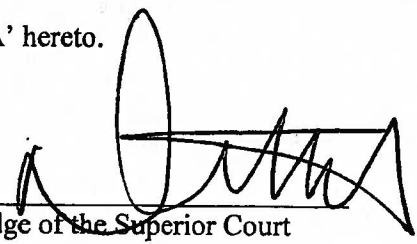
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The interests condemned to the City of Riverside in and to Assessor's Parcel Number  
147-251-016 are legally described in Exhibit 'A' hereto.

DATED:

7-18-17



Judge of the Superior Court

**Daniel A. Ottolia**

L14-0033.08



EXHIBIT A

POR. APN: 147-251-016  
Street & Highway Easement

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

All that portion of Lots 9 and 10 in Block 10 of La Granada, as shown by map on file in Book 12, Pages 42 through 51 of Maps, records of said Riverside County, lying northeasterly of 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;

**EXCEPTING THEREFROM** that portion of said Lot 9, described as follows:

**BEGINNING** at the most northerly corner of said Lot 9;

THENCE southeasterly along the northeasterly line of said Lot 9, a distance of 112.00 feet;

THENCE southwesterly and parallel with the northwesterly line of said Lot 9, to the southwesterly line of said Lot 9;

THENCE northwesterly along the southwesterly line of said Lot 9, to the most westerly corner of said Lot 9;

THENCE northeasterly along the northwesterly line of said Lot 9, to the **POINT OF BEGINNING**;

**ALSO EXCEPTING THEREFROM** that portion of said Lots 9 and 10 described as follows:

**BEGINNING** at a point on the southeasterly line of said Lot 10, distant 80.00 feet northeasterly from the most southerly corner thereof;

THENCE northeasterly along the southeasterly line of said Lot 10, a distance of 80.00 feet;

THENCE northwesterly and parallel with the southwesterly line of said Lot 10, a distance of 212.69 feet, more or less, to the southeasterly line of that certain tract of land conveyed to James W. Sweaney and Wanda Jo Sweaney by deed dated March 8, 1946;

THENCE southwesterly along the southeasterly line of said tract of land so conveyed, 80.00 feet;

THENCE southeasterly and parallel with the southwesterly line of said Lots 9 AND 10, a distance of 212.69 feet to the **POINT OF BEGINNING**;

**ALSO EXCEPTING THEREFROM** that portion of said Lots 9 and 10, described as follows:

**BEGINNING** at the most southerly corner of said Lot 10;

THENCE northeasterly along the southeasterly line of said Lot 10, a distance of 80.00 feet;

THENCE northwesterly and parallel with the southwesterly line of said lots 9 and 10, a distance of 212.69 feet, more or less, to the southeasterly line of that certain tract of land conveyed to James W. Sweaney and Wanda Jo Sweaney by deed dated March 8, 1946;

THENCE southwesterly along the southeasterly line of said tract of land so conveyed, 80.00 feet, more or less, to the southwesterly line of said Lot 9;

THENCE southeasterly along the southwesterly line of said Lots 9 and 10, a distance of 212.69 feet, more or less, to the **POINT OF BEGINNING**;

**ALSO EXCEPTING THEREFROM** that portion of said Lot 10, described as follows:

**COMMENCING** at the most southerly corner of said Lot 10;

THENCE northeasterly along the southeasterly line of said Lot 10, a distance of 160.00 feet to the **TRUE POINT OF BEGINNING**;

THENCE continuing northeasterly along the southeasterly line of said Lot, a distance of 137.64 feet to the most easterly corner thereof;

THENCE northwesterly along the northeasterly line of said Lot 10, a distance of 55.00 feet;

THENCE southwesterly and parallel with the southeasterly line of said Lot 10, a distance of 137.64 feet;

THENCE southeasterly and parallel with the northeasterly line of said Lot, a distance of 55.00 feet to the **TRUE POINT OF BEGINNING**;

FOR A.P.N. 147-251-016  
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 9 and 10 in Block 10 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 northerly corner of said Lot 9;

THENCE South  $30^{\circ}19'$  East, along the northeasterly line of said Lot 9, a distance of 112.00 feet;

THENCE parallel with the northwesterly line of said Lot 9, South  $45^{\circ}54'34''$  West, a distance of 25.74 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) and the POINT OF BEGINNING of the parcel of land being described;

THENCE continuing South  $45^{\circ}54'34''$  West, and parallel with the northwesterly line of said Lot 9, a distance of 15.44 feet to a line that is parallel with and distant 65.00 feet southwesterly, as measured at right angles, from said centerline of Tyler Street;

THENCE South  $30^{\circ}19'$  East, along said last mentioned parallel line, a distance of 166.90 feet, more or less, to the northwesterly line of Parcel 2 as described in deed to Charles A. Palmer, et ux., by deed recorded October 23, 1975, as Instrument No. 130615 of Official Records of Riverside County, California;

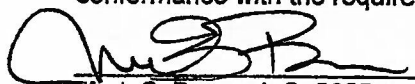
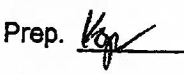
THENCE along said northwesterly line of Parcel 2, North  $47^{\circ}54'21''$  East, a distance of 15.32 feet to said line that is parallel with and distant 50.00 feet southwesterly from the centerline of Tyler Street;

THENCE North  $30^{\circ}19'$  West, along said last mentioned parallel line, a distance of 167.45 feet to the POINT OF BEGINNING.

Area - 2508 square feet, more or less.

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

 8/15/2012 Prep.   
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 3750 University Avenue, Suite 250, Riverside, CA 92501.

On July 17, 2017, I served the JUDGMENT AND FINAL ORDER OF CONDEMNATION on the interested parties in said action addressed as follows:

Mark F. Von Esch, Esq.  
VON ESCH & VON ESCH  
810 E. Commonwealth Avenue  
Fullerton, CA 92831  
Tel: (714) 879-5306  
Fax: (877) 640-4144

Attorneys for defendant:  
Apolinar M. Murillo

Nicolas Daluiso, Esq.  
Joe Solseng, Esq.  
ROBINSON TAIT, P.S.  
901 5<sup>th</sup> Avenue, Ste. 400  
Seattle, WA 98164  
Tel: (206) 676-9640

Attorneys for defendants:  
Mortgage Electronic Registration  
Systems, Inc.;  
Specialized Loan Servicing, LLC

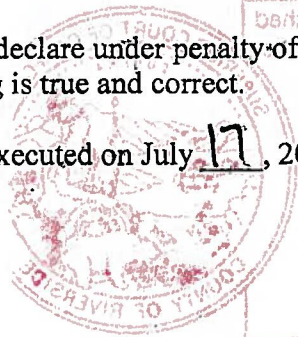
Alan S. Petlak, Esq.  
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2029 Century Park East, Ste. 800  
Los Angeles, CA 90067  
Tel: (424) 204-4320

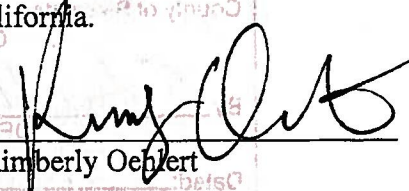
Attorneys for defendant:  
Mortgage Electronic Registration  
Systems, Inc.

(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.

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

Executed on July 17, 2017, at Riverside, California.



  
Kimberly Oehlert