

NO. 13279CV

THE STATE OF TEXAS § CONDEMNATION PROCEEDING FILED
 §
vs. § IN THE COUNTY COURT AT LAW
 §
HAVEN AT M LLC, a Delaware §
Limited Liability Company, et al. § OF WALKER COUNTY, TEXAS

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Not
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AGREED FINAL JUDGMENT

BE IT REMEMBERED that on this day came on to be heard the above-entitled and numbered cause between the State of Texas (referred to as “Plaintiff”) and Haven at M LLC (hereinafter “Haven”), a Delaware limited liability company; Origin Bank and Lamar Advantage Outdoor Company d/b/a The Lamar Companies (referred to collectively as “Defendants”). Plaintiff and Defendant Haven at M LLC announced a settlement of all matters in dispute.

Defendant Origin Bank filed a disclaimer of interest in this lawsuit, which is attached as Exhibit B, and therefore are entitled to take nothing from this judgment.

Defendant Lamar Advantage Outdoor Company d/b/a The Lamar Companies settled all matters related to this case and evidence of the same is attached as Exhibit C.

I.

Defendants do not challenge that Plaintiff has the right to condemn the property described in Plaintiff’s *Second Amended Petition for Condemnation* filed June 16, 2023 and attached as Exhibit A (referred to as “the Property”); that all prior steps and due processes of law were duly, legally, and timely performed; that all legal prerequisites for trial of this cause by this Court had been duly complied with; that the only issue remaining in this cause to be tried by this Court is the amount of compensation due to the Defendants as a result of the condemnation of the Property; and that this Court has jurisdiction of such issue and this cause of action.

II.

From the papers filed in this cause and the agreements and stipulations made by the parties, the Court finds:

(1) Through its *Second Amended Petition for Condemnation* filed with the clerk of this Court Plaintiff sought the acquisition, for highway purposes, from Defendants, through condemnation of the Property located in this county; save and except the oil, gas, and sulfur which can be removed from beneath the Property without any right of ingress or egress to or from the surface of the Property for the purpose of exploring, developing, drilling, or mining of the same.

(2) Plaintiff, in the exercise of the police power for the preservation of human life and safety and under existing laws, has designated said highway as a controlled access highway pursuant to Title 6 of the Texas Transportation Code, in accordance with Texas Transportation Code Section 203.031. Where there is adjoining real property remaining after the acquisition of a parcel, the roads are to be constructed, reconstructed, or improved as a part of the highway facility with the right of ingress to and egress from the remaining real property adjoining the highway facility to be permitted unless specifically denied, as designated on Exhibit A.

(3) The Court appointed three disinterested real property owners of this county as special commissioners. The special commissioners subsequently met, took their oaths of office, set a date of hearing, and caused notice of hearing to be served as prescribed by law. The special commissioners held the hearing.

(4) All parties appeared at the hearing, either in person or by their attorneys, or after being served with proper notice of hearing declined to appear. After the hearing, the special commissioners rendered their decision and Award in writing and filed the Award with the judge of this Court.

(5) By written Award, the special commissioners awarded to Defendants the sum of **FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00)**.

(6) Plaintiff and/or Haven timely filed objections to the Award of Special Commissioners and caused all parties to be cited accordingly.

III.

The parties have agreed that the sum of **FIFTEEN MILLION THREE HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$15,350,000.00)** is the sum to which Haven is entitled by virtue of the condemnation of the Property on the date the Property was condemned and for damages, if any, to the remainder of Haven's lands lying adjacent to the Property condemned (the "Haven Remainder") as of the date the Property was condemned. Upon due consideration, the Court finds the following:

(1) All proceedings necessary to vest this Court with jurisdiction of the parties and the subject matter of this cause have been instituted, maintained, and complied with as required by law; therefore, this Court has jurisdiction of the parties and of the subject matter of this case.

(2) Haven at M LLC, a Delaware limited liability company is the owner in fee simple title of the Property. Plaintiff is condemning and acquiring the fee simple title to the Property by virtue of these condemnation proceedings. Plaintiff is authorized to condemn the Property.

(3) From the pleadings and agreement of the parties, Haven should recover from Plaintiff the sum of **FIFTEEN MILLION THREE HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$15,350,000.00)**, inclusive of prejudgment interest.

(4) Plaintiff should have from Haven as more specifically set forth in Plaintiff's *Second Amended Petition for Condemnation*, fee simple title to the Property.

(5) Plaintiff did on January 13, 2021, deposit into the Registry of this Court the sum of **FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00)** for the use and benefit of Defendants, and after making application of such amount there remains an unpaid balance of **THREE HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$350,000.00)** due and payable by Plaintiff to Haven.

(6) Plaintiff discloses that Defendants, or Defendants' heirs, successors, or assigns may be entitled to repurchase from Plaintiff the Property described in Exhibit A, according to the terms of Chapter 21, Subchapter E of the Texas Property Code, and that the repurchase price is the price paid to Defendants at the time Plaintiff acquired the Property through eminent domain.

(7) Defendants Origin Bank and Lamar Advantage Outdoor d/b/a The Lamar Companies, each are entitled to take nothing from this judgment.

(8) All costs of Court shall be taxed against the party incurring said costs.

IV.

It is therefore ORDERED that:

- (1) Plaintiff recovers from Defendants fee simple title to the Property.
- (2) Haven recovers from Plaintiff judgment in the amount of **FIFTEEN MILLION THREE HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$15,350,000.00)** for the interests in the Property and for damages, if any, to Haven's remaining lands.
- (3) The fee simple title to the Property is decreed to and vested in Plaintiff; however, there is excluded from said estate vested in Plaintiff all the oil, gas, and sulfur which can be removed from the Property. The owners of such oil, gas, and sulfur shall not have any right of ingress or egress to or from the surface of the Property for the purpose of

exploring, drilling, developing, or mining of the same and, as stated above, access will be permitted only as specified in Exhibit A.

- (4) Haven recover from Plaintiff, and Plaintiff is hereby directed to pay to Haven, the unpaid balance of **THREE HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$350,000.00)** as the remaining full compensation for the condemnation of the Property described in Exhibit A. Plaintiff shall make such payment by delivering a warrant made payable to Porter Hedges LLP IOLTA Account to counsel for Haven Clay Steely, at Porter Hedges LLP, 1000 Main Street, 36th Floor, Houston, Texas 77002 no later than sixty (60) days from the date of this Judgment.
- (5) Post-judgment interest is tolled for a period of sixty (60) days after the Court signs this Judgment. If Plaintiff fails to pay the additional sums owed within sixty (60) days, Defendants shall be entitled to post-judgment interest at the statutory rate of 8.0% per annum, compounded annually, from the date of judgment until payment is made.
- (6) Upon payment by Plaintiff of the additional sum of **THREE HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$350,000.00)**, Plaintiff shall stand **RELEASED** and **DISCHARGED** of its constitutional obligation to pay adequate compensation for the condemnation for public use of the Property described in Exhibit A.
- (7) Origin Bank and Lamar Advantage Outdoor d/b/a The Lamar Companies are entitled to take nothing from this judgment.
- (8) that all costs of Court are hereby adjudged against the party incurring said costs.

9) that this judgment disposes of all parties and all claims raised in this cause and is final.

All relief not expressly granted is denied.

SIGNED this 29 day of JUNE, 2023.

FILED FOR RECORD
At 1:25 o'clock P M

JUN 29 2023

KARI FRENCH, COUNTY CLERK
WALKER COUNTY, TEXAS
By [Signature] Deputy

[Signature: Tracy Sorensen]
JUDGE PRESIDING

APPROVED AS TO SUBSTANCE AND FORM AND ENTRY REQUESTED:

[Signature: Hunter McKinley]

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