

HOUSING AUTHORITY OF THE CITY
OF JEFFERSON, MISSOURI,

Plaintiff,

Case No. 21AC-CC00277

V.

BARBARA BUESCHER
407 East Capitol Avenue
Jefferson City, MO 65101,

Defendant.

JUDGMENT AND ORDER IN EMINENT DOMAIN

WHEREAS NOW on this 13th day of December 2021 at 1:30 o'clock in the p.m., this cause is called for hearing on Plaintiff's Verified Petition in Eminent Domain pursuant to the Land Clearance for Redevelopment Authority Law, and Chapter 523 RSMo, and Missouri Supreme Court Rule 86, and The Housing Authorities Law. Plaintiff, Housing Authority of the City of Jefferson, Missouri, appears in person by its authorized representative and with its attorney of record. Defendant, Barbara Buescher although having been timely notified of the proceedings and having been personally served, appears not and makes default and having not filed responsive pleadings in this matter. The Court considered the evidence adduced and entered into the record, and finds that:

FINDINGS

1. Plaintiff, the Housing Authority of the City of Jefferson, Missouri, is and was at all times herein material, a municipal corporation with powers granted to it pursuant to Section 99.080 RSMo, with its principal offices located at 1040 Myrtle, P.O. Box 1029, Jefferson City, Cole County, State of Missouri 65102, (hereinafter, “Plaintiff” or “Authority”).

2. Pursuant to Section 99.080 RSMo, Plaintiff shall exercise public and essential governmental functions and have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of The Housing Authorities Law, Sections 99.010 to 99.230 RSMo.

3. Plaintiff is and was at all times herein material acting in its capacity as the Land Clearance for Redevelopment Authority of the City of Jefferson, Missouri, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Land Clearance for Redevelopment Authority Law, Sections 99.300 to 99.660 RSMo and Section 21 of Article VI of the Missouri Constitution.

4. Pursuant to Section 99.420, RSMo, the Authority has the power to acquire by eminent domain any real or personal property, or any interest therein, including fee simple absolute title, together with any improvements thereon, necessary, or incidental to a land clearance project.

5. Pursuant to Section 99.460 RSMo, the Authority exercises herein its powers of eminent domain in the manner and under the procedure provided for corporations in Chapter 523 RSMo and acts amendatory thereof or supplementary thereto.

6. Defendant, Barbara Buescher is an individual residing at, or whose usual place of abode is, 407 East Capitol Avenue, Jefferson City, Cole County, Missouri 65101, (hereinafter, "Defendant").

7. By Warranty Deed found at Book 270, Page 187 in the records of the Cole County Missouri Recorder's office, Defendant is the record owner in fee of a parcel of real property located within the East Capitol Avenue Urban Renewal Area, as defined by City Ordinance 15065 (hereinafter referred to as "East Capitol Avenue Urban Renewal Area" or "Project Area" or "Project"), commonly known by street address 413-415 East Capitol Avenue, Jefferson City, Missouri 65101, and more specifically described in Paragraph 27 of this petition. The Authority

desires and intends to acquire 413-415 East Capitol Avenue, Jefferson City, Missouri 65101, (hereinafter, "413-415 East Capitol Avenue"), by condemnation.

8. By Warranty Deed found at Book 270, Page 187 in the records of the Cole County Missouri Recorder's office, Defendant is the record owner in fee of a parcel of real property located within the East Capitol Avenue Urban Renewal Area, commonly known by street address 417 East Capitol Avenue, Jefferson City, Missouri 65101, and more specifically described in Paragraph 27 of this petition. The Authority desires and intends to acquire 417 East Capitol Avenue, Jefferson City, Missouri 65101, (hereinafter, "417 East Capitol Avenue"), by condemnation.

9. By Warranty Deed found at Book 270, Page 187 in the records of the Cole County Missouri Recorder's office, Defendant is the record owner in fee of a parcel of real property located within the East Capitol Avenue Urban Renewal Area, commonly known by street address 419 East Capitol Avenue, Jefferson City, Missouri 65101 and more specifically described in Paragraph 27 of this petition. The Authority desires and intends to acquire 419 East Capitol Avenue, Jefferson City, Missouri 65101, (hereinafter, "419 East Capitol Avenue"), by condemnation.

10. By Warranty Deed found at Book 313, Page 128 in the records of the Cole County Missouri Recorder's office, Defendant is the record owner in fee of a parcel of real property located within the East Capitol Avenue Urban Renewal Area, commonly known by street address 517 East Capitol Avenue, Jefferson City, Missouri 65101 and more specifically described in Paragraph 27 of this petition. The Authority desires and intends to acquire 517 East Capitol Avenue, Jefferson City, Missouri 65101, (hereinafter, "517 East Capitol Avenue"), by condemnation.

11. By Warranty Deed found at Book 357, Page 349 in the records of the Cole County Missouri Recorder's office, Defendant is the record owner in fee of a parcel of real property located within the East Capitol Avenue Urban Renewal Area, commonly known by street address 519 East

Capitol Avenue, Jefferson City, Missouri 65101 and more specifically described in Paragraph 27 of this petition. The Authority desires and intends to acquire 519 East Capitol Avenue, Jefferson City, Missouri 65101, (hereinafter, "519 East Capitol Avenue"), by condemnation.

12. Section 99.310 RSMo of the Land Clearance for Redevelopment Authority Law declares that property that is in insanitary, blighted, deteriorated and deteriorating areas may be acquired as set out in said law and that the "elimination or prevention of the detrimental conditions in such areas, the acquisition and preparation of land in or necessary to the development, renewal or rehabilitation of such areas and its sale or lease for development, renewal or rehabilitation in accordance with general plans and redevelopment or urban renewal plans of communities and any assistance which may be given by any public body in connection therewith are public uses and purposes for which public money may be expended and private property acquired."

13. In accordance with Ordinance 6615 of the City of Jefferson, a copy of which is attached as **Exhibit "1"** and incorporated herein by reference as if more fully set forth, which was passed in compliance with the provisions of Section 99.330 RSMo on or about June 2, 1958, the Plaintiff is transacting business and exercising all the powers granted by said Land Clearance Redevelopment Authority Law, by and with the prior approval of the City Council of the City of Jefferson upon the finding made thereof that one or more blighted or insanitary areas, as defined in said Land Clearance for Redevelopment Authority Law, exist in the City of Jefferson, Missouri, and the redevelopment of such areas is necessary in the interest of public health, safety, morals, and welfare of the residents of the City of Jefferson.

14. Following the approval of Ordinance 6615 by the Mayor of the City of Jefferson, the Mayor did appoint five (5) duly qualified Commissioners to constitute, and who, upon taking the oath of office, became the Board of Commissioners of the Authority for the purpose of conducting

the business and exercising the powers of the Authority and for all other purposes, and that said Board as so composed and duly appointed and the qualified successor members thereof are, and at all times herein mentioned, were so engaged.

15. The Authority caused to be prepared, an Urban Renewal Plan for the East Capitol Avenue Urban Renewal Area, in conformity and compliance with the requirements and provisions of Section 99.430.1(4), RSMo; and said plan was duly approved by the Board of Commissioners of the Authority on or about October 25, 2016, and an amended plan was duly approved by the Board of Commissioners on or about November 22, 2016, (hereinafter referred to as "Urban Renewal Plan" or "Plan").

16. On or about November 23, 2016, the Authority recommended, to the City Council of the City of Jefferson, the Urban Renewal Plan for renewal of the Project Area, and in compliance with the provisions of Section 99.430.1(5), RSMo, accompanied the same with the written recommendations of the Planning and Zoning Commission to which body said Urban Renewal Plan has been previously submitted for review and recommendation as to its conformity with the general plan for development of the City of Jefferson, Missouri as a whole.

17. Before recommending the Urban Renewal Plan to the City Council of the City of Jefferson for approval, the Authority did give due consideration to and did find that the proposed Urban Renewal Project Area land uses and building requirements comply with the provisions and requirements of Section 99.430.1(6) RSMo.

18. In accordance with the requirements of Section 99.430.1(7) RSMo, the recommendation of the Urban Renewal Plan for the Project Area by the Authority, made to the City Council of the City of Jefferson, was accompanied by the written recommendation of the Planning and Zoning Commission concerning said Urban Renewal Plan, and also by a statement

about the proposed method and estimated cost of the acquisition and preparation for redevelopment of the said East Capitol Avenue Urban Renewal Area, the estimated proceeds or revenue to be expected from its disposal to redevelopers, a statement about the proposed method of financing the Project, and a statement about a feasible method proposed for relocation of families to be displaced from the Project.

19. Thereafter, in compliance with the provisions of Section 99.430.1 (8) RSMo, after due notice of a public hearing on the Urban Renewal Plan, the City Council of the City of Jefferson did, on or about December 19, 2016, at the time and place set forth in said notice and on the day named therein, hold a hearing upon said Plan at which public hearing all interested parties were afforded a reasonable opportunity to express their views respecting the proposed Urban Renewal Plan.

20. Following the December 19, 2016 public hearing, the City Council of the City of Jefferson, by Ordinance 15605, in conformity with the requirements of Section 99.430.1(9), RSMo, did approve, on or about December 19, 2016, said East Capitol Avenue Urban Renewal Plan, and declared in said Ordinance that said Project Area is blighted and that parcels therein should if deemed necessary or otherwise appropriate be acquired by the Land Clearance Authority. Said Ordinance 15605 included all such findings, orders, and declarations required of it to be made by the Land Clearance for Redevelopment Authority Law. The ordinance authorized the Land Clearance Authority to proceed with the execution of the East Capitol Avenue Urban Renewal Plan as to the Project Area described in Ordinance 15605.

21. In and by Resolution No. 4773, Resolution No. 4774, Resolution No. 4775, Resolution No. 4776 and Resolution No. 4777, adopted by the Board of Commissioners of the Land Clearance Authority on or about April 20, 2021, true and accurate copies of which are attached hereto as

Exhibits “2 through 6” and incorporated by reference as if more fully set forth, and in accordance with the requirements of Section 99.460.1 RSMo, the Authority declared that the acquisition of certain real property described in said Resolutions was and is deemed necessary for the East Capitol Avenue Project and further declared that the said real properties shall be acquired by the Authority by eminent domain, if the Authority is unable to acquire them otherwise.

22. Pursuant to Section 523.250 RSMo, on or about May 5, 2021, at least sixty (60) days before filing this petition, the Authority provided Defendant with written notices of the intended acquisition of the fee simple interest in 413-415 East Capitol Avenue, 417 East Capitol Avenue, 419 East Capitol Avenue, 517 East Capitol Avenue, and 519 East Capitol Avenue. True and correct copies of the notices of intended acquisition are attached hereto as **Exhibit “7 through 11,”** and incorporated by reference herein as if more fully set forth.

23. Pursuant to Section 523.253 RSMo, on or about May 19, 2021, at least thirty (30) days before filing this petition, the Authority presented to Defendant written offers setting out the compensation the Authority would agree to pay for the fee simple interest in 413-415 East Capitol Avenue, 417 East Capitol Avenue, 419 East Capitol Avenue, 517 East Capitol Avenue, and 519 East Capitol Avenue, and enclosed an appraisal with each written offer supporting the compensation offered to the Defendant for 413-415 East Capitol Avenue, 417 East Capitol Avenue, 419 East Capitol Avenue, 517 East Capitol Avenue, and 519 East Capitol Avenue. True and accurate copies of the written offers are attached hereto as **Exhibit “12 through 16,”** and are incorporated by reference herein as if more fully set forth.

24. The Authority has made good faith offers to Defendant for acquisition of the fee simple interest in 413-415 East Capitol Avenue, 417 East Capitol Avenue, 419 East Capitol Avenue, 517 East Capitol Avenue, and 519 East Capitol Avenue, but the Authority has not received a response

to any of the offers. The Authority has been unable to agree with Defendant upon the proper compensation to be paid for the fee simple interest in 413-415 East Capitol Avenue, 417 East Capitol Avenue, 419 East Capitol Avenue, 517 East Capitol Avenue, and 519 East Capitol Avenue, the real property specifically described in Paragraph 27 herein, though the Authority, in good faith, has endeavored and tried to so agree.

25. It is necessary for the proper completion of the East Capitol Avenue Urban Renewal Project that the Authority acquire the lands, properties, interests, and rights hereinafter described and that such lands, properties, interests, and rights be acquired in fee simple absolute under the Land Clearance for Redevelopment Authority Law of the State of Missouri.

26. The following are descriptions of lands, properties, interests, and rights to be taken and the names of all parties holding or claiming interests therein:

1. (413-415 East Capitol Avenue):

Part of Inlot No. 119, in the City of Jefferson, Missouri, more particularly described as follows:

Beginning at the southeasterly corner of said Inlot; thence westerly along the southerly line thereof, 60 feet 2-1/2 inches; thence northerly parallel with the easterly line thereof, 198 feet 9 inches, to a public alley; thence easterly along said public alley, 60 feet 2-1/2 inches, to the easterly line of said Inlot; thence southerly along the easterly line of said Inlot, 198 feet 9 inches, to the point of beginning.

Subject to Deed of Trust in favor of City National Savings & Loans Association recorded in Book 153, at page 983, Cole County Recorder's Office, covering this and other real estate.

Party holding or claiming interest therein:

Barbara Buescher
407 E. Capitol Avenue
Jefferson City, Missouri 65101

2. (417 East Capitol Avenue):

The westerly half of Inlot No. 120, in the City of Jefferson, Cole County, Missouri, and more particularly described as follows:

Beginning at the southwesterly corner of said Inlot 120; thence northerly along the westerly line of said Inlot, 198 feet 9 inches, to the public alley; thence easterly along said alley, 52 feet 2 1/4 inches; thence southerly parallel with the westerly line of said Inlot, 198 feet 9 inches, to the southerly line of said Inlot; thence westerly along Main Street and the southerly line of said Inlot, 52 feet 2 1/4 inches, to the point of beginning.

Party holding or claiming interest therein:

Barbara Buescher
407 E. Capitol Avenue
Jefferson City, Missouri 65101

3. (419 East Capitol Avenue):

The easterly half of the Inlot numbered One Hundred Twenty (120), of the City of Jefferson, Missouri, and the same is more particularly described as follows:

Beginning at the southeasterly corner of said Inlot 120; thence northerly along the easterly line thereof, 198 feet 9 inches, to the northerly line thereof; thence westerly along the northerly line of said Inlot, 52 feet 2-1/4 inches; thence southerly parallel with easterly line thereof, 198 feet 9 inches, to the southerly line of said Inlot; thence easterly along said southerly line, 52 feet 2-1/4 inches, to the place of beginning.

Subject to Deed of Trust in favor of City National Savings & Loans Association recorded in Book 149, at page 435, Cole County Recorder's Office.

Party holding or claiming interest therein:

Barbara Buescher
407 E. Capitol Avenue
Jefferson City, Missouri 65101

4. (517 East Capitol Avenue):

Subdivision No. 12 of Inlot No. 127 and Subdivision No. 13 of Inlot No. 128, of the City of Jefferson, Missouri, more particularly described as follows:

Beginning at the southwesterly corner of Inlot No. 128; thence easterly along Main Street (now Capitol Avenue), 27 feet 3 inches; thence northerly parallel with Jackson Street, 198 feet 9 inches, to a public alley; thence westerly along and with said alley, 50 feet; thence southerly parallel with Jackson Street, 198 feet 9 inches, to Main Street (now Capitol Avenue); thence easterly along Main Street (now Capitol Avenue), 22 feet 9 inches, to the point of beginning.

Party holding or claiming interest therein:

Barbara Buescher
407 E. Capitol Avenue
Jefferson City, Missouri 65101

5. (519 East Capitol Avenue):

Lots Nos. 14 and 15 of a subdivision of Inlots 126, 127, 128 and 129, in the City of Jefferson, Missouri, according to the subdivisions made by the Jefferson City Home Land Company; each lot fronting 25 ½ feet more or less, on Main Street (now Capitol Avenue) and running back 198 feet 9 inches, the public alley.

Party holding or claiming interest therein:

Barbara Buescher
407 E. Capitol Avenue
Jefferson City, Missouri 65101

IT IS, THEREFORE, ORDERED, DECREED AND ADJUDGED, the Petition being verified, and the Court being fully advised in the premises, finds the issues in favor of Plaintiff and against Defendant as follows:

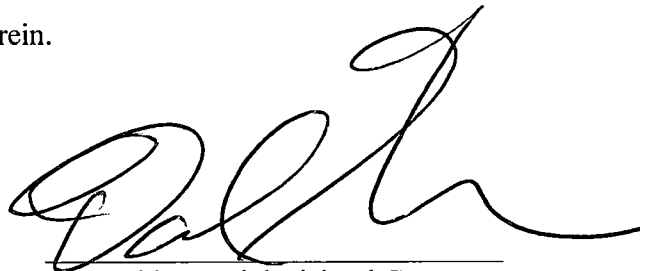
A. That the lands, properties, interests, and rights herein described as 413-415 East Capitol Avenue, 417 East Capitol Avenue, 419 East Capitol Avenue, 517 East Capitol Avenue, and 519 East Capitol Avenue be and stand condemned for the purposes and uses and in fee simple absolute title as set out in Plaintiff's petition; and

B. That three (3) disinterested freeholders, residents of the County of Cole, State of Missouri, namely Bill Gratz, David Nunn and Ken Otke, be appointed as Commissioners to ascertain and assess the damages, if any, that the owners of the said parcels of land or interest therein may severally sustain and just compensation, if any, to which they may be entitled in consequence of the appropriation of the said parcels of land or interest therein, and

C. That upon Plaintiff's compliance with the orders entered herein, vesting title in Plaintiff to the lands, properties, interests and rights described herein.

D. Costs of the matter assessed to Defendant.

Date: 12/17/21



Honorable, Daniel Richard Green