

R E S O L U T I O N

WHEREAS, by an Agreement dated May 9, 1951, the City of Grand Junction has agreed to secure all of the right-of-way on the route of the East-West Expressway within the City;

WHEREAS, all of the owners of the property along such proposed right-of-way have conveyed or have agreed to convey such property to the City except Henry L. Price and Beatrice V. Price and the heirs and representatives of the Estate of Ted Hayashi, Deceased, who have failed and refused to execute such a conveyance;

AND WHEREAS, the City Council does now find and determine that it is necessary to condemn and take the following described property owned by said Henry L. Price and Beatrice V. Price:

All of Lots 1, 2, 3 and 4 of Block R, Keith's Addition to the City of Grand Junction, Mesa County, Colorado;

and the following described property owned by the Estate of Ted Hayashi, Deceased:

Beginning at the Northeast Corner of Lot 18, Block 143 of the City of Grand Junction, Mesa County, Colorado, thence along the North line of Lots 18, 19 and 20 of Block 143 due West a distance of 91.3 feet to the Easterly right of way of the D. & R. G. W. RR; thence along the Easterly right of way line of the D. & R. G. W. RR; South $41^{\circ}09'$ East a distance of 138.7 feet to the Southeast Corner of Lot 18, Block 143; thence along the East line of Lot 18, Block 143, due North a distance of 104.4 feet, more or less, to the point of beginning;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the right-of-way for such East-West Expressway on its route within the City be secured in accordance with said Agreement with the State Highway Department; that the above described property of Henry L. Price and Beatrice V. Price

and the Estate of Ted Hayashi, Deceased, shall be taken and condemned for such purpose at the cost of the City; and that the City Attorney shall be and is hereby authorized to file and prosecute to its completion any action or proceeding which is necessary to condemn and take the said land.

IN THE DISTRICT COURT IN AND FOR THE
COUNTY OF MESA AND STATE OF COLORADO

No. 9859

CITY OF GRAND JUNCTION, COLORADO,)
A Municipal Corporation,)

Petitioner)

vs.)

HENRY L. PRICE and BEATRICE V.)
PRICE,)

Respondents)

ORDER FOR POSSESSION

This matter coming before the Court upon the petition of the petitioner for immediate possession of certain property on the 8th and 9th days of November, 1954, the petitioner appearing by James K. Groves, its Attorney, and William H. Hyde, Deputy City Attorney, the respondents appearing by C. J. Moynihan of Moynihan-Hughes-Bjelland, and the Court having considered the evidence presented and the arguments of counsel, having made an inspection of the premises involved, and being fully advised in the premises,

DOTH FIND that on October 29, 1954 the petitioner filed herein its petition in condemnation with attached affidavits of value and lists of qualifications of appraisers making such affidavits and its petition for immediate possession of the premises involved; that thereupon the Court entered an order setting the petition for hearing and authorizing summons to be issued accordingly; that such summons was so issued and on October 29, 1954 there was served upon the respondents copies of the summons, petition in condemnation, petition for immediate possession and notice that the hearing

on the latter petition would be held before the Court at 10:00 o'clock a.m. on November 4, 1954; that on November 4, 1954, at the request of counsel for all parties, the hearing on the petition for immediate possession was continued until November 8, 1954 at 10:00 o'clock a.m.; and that since the filing of this proceeding the petitioner has acquired from respondents other than those above named property mentioned in the petition of such other respondents and these proceedings have been dismissed with respect to such other respondents;

That the premises sought to be acquired by condemnation in these proceedings are described, and were described in such petitions, as Lots 1, 2, 3 and 4 of Block R, Keith's Addition to the City of Grand Junction, Mesa County, Colorado, and are within the corporate limits of the City of Grand Junction, Colorado; that the City seeks to acquire by condemnation such property in connection with the contemplated construction by the State Highway Department of Colorado and the Bureau of Public Roads of the United States of a street or highway known as the East-West Expressway; that according to plans of the State Highway Department its requirements for such Expressway embrace that portion of the premises sought to be condemned lying south of the following described line, to wit:

Commencing on the west line of said Lot 1, 118.1 feet south of the northwest corner of said Lot 1, and proceeding thence in a straight line to a point on the east line of said Lot 4 at a point 98 feet south of the northeast corner of said Lot 4;

that according to such State Highway Department plans such portion of the premises constitute a part of the Expressway devoted to one-way traffic which lies a relatively short distance west of a point at which such Expressway will accommodate two-way traffic and will be divided for traffic proceeding the other way along Ute Avenue; that the north line of the

remaining portion of the property sought to be condemned, i.e. the portion lying north of the above described line, is the south line of such Ute Avenue; that the City now owns the premises which lie between the premises involved in this proceeding and such point of division into one-way streets, as well as property lying to the west of the property sought to be acquired by condemnation; that the City seeks to acquire such remaining or northerly portion of the premises involved in this proceeding in order to control traffic entering and leaving such Expressway at or near this division point, to eliminate traffic hazards that otherwise might arise and to provide for a better street system and street improvement system with relation to the Expressway; that under the holding in Swift v. Smith, 119 Colo. 126 at 139 (10), the Court determines it has not jurisdiction to determine the necessity for the taking of the property.

That the appraisements in the amount of \$1,675.00 as the value of the four lots of respondents is in excess of the majority of sales and purchase prices of comparable land in the vicinity; that such appraisements are liberal in their establishment of value; that the sum of \$1,675.00 is an adequate amount of deposit for protection of the respondents pending final disposition of these proceedings; and that the petitioner has heretofore deposited the sum of \$1,675.00 with the Clerk of this Court;

That each and all of the allegations contained in the petition for immediate possession are true;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the petitioner, and persons and agencies acting by, through and under it, may take possession of and use the following described premises situate in Mesa County, Colorado, to wit:

Lots 1, 2, 3 and 4 of Block R, Keith's Addition to the City of Grand Junction, Mesa County, Colorado,

during the pendency and until the final conclusion of these proceedings; that the respondents and each of them are hereby enjoined from interfering in any manner with the petitioner and persons and agencies acting by, through and under it in the possession and use of said premises; that such sum of \$1,675.00 so deposited by the City shall remain on deposit with the Clerk of this Court to pay compensation as provided in Section 6, Chapter 61, 1935 Colorado Statutes Annotated, and that the Court retains jurisdiction herein to stay any actions and proceedings against the petitioner on account of the possession and use permitted under this order; to all of which the respondents except.

DONE BY THE COURT on this 9th day of November, 1954.

Charles E. Blaine
Judge

STATE OF COLORADO }
COUNTY OF MESA } SS

I, Lucy E. Hogan, Clerk of the District Court in and for Mesa County, Colorado, do hereby certify that the foregoing is a full, true and correct copy of that certain Order entered by the Court and now on file in my office.

Witness my hand and the seal of said Court this 12th day of November, 1954.


Lucy E. Hogan
Clerk of the District Court

IN THE DISTRICT COURT IN AND FOR THE
COUNTY OF MESA AND STATE OF COLORADO

No. 9859

CITY OF GRAND JUNCTION, COLORADO,)	
A Municipal Corporation,)	
)	
Petitioner)	
)	
vs.)	STAY ORDER
)	
HENRY L. PRICE and BEATRICE V.)	
PRICE,)	
)	
Respondents)	

Upon the oral announcement of the Court of its order for possession herein on November 9, 1954, C. J. Moynihan, counsel for the respondents, asked for a stay of execution or enforcement of such order for possession in order that the respondents might apply to the Colorado Supreme Court for a writ of certiorari to review the authority of this Court to order possession in the petitioner of the portion, hereinafter referred to as the northerly portion, of Lots 1, 2, 3 and 4 of Block R, Keith's Addition to the City of Grand Junction, Mesa County, Colorado, which northerly portion lies north of a line described as follows, to wit:

Commencing on the west line of said Lot 1, 118.1 feet south of the northwest corner of said Lot 1, and proceeding thence in a straight line to a point on the east line of said Lot 4 at a point 98 feet south of the northeast corner of said Lot 4;

and the Court having considered the arguments of counsel and being advised in the premises,

DOTH FIND that, under the statement of counsel as to the question sought to be presented on application for writ of certiorari, there is no necessity of staying the enforce-

ment of such order for immediate possession as it relates to the property sought to be condemned other than the northerly portion;

NOW, THEREFORE, IT IS HEREBY ORDERED that the time of possession and use by the petitioner and persons and agencies acting by, through and under it of such northerly portion of such Lots 1, 2, 3 and 4 be stayed for a period of fifteen (15) days, but that the petitioner and persons and agencies acting by, through and under it are entitled to immediate possession of the remainder of such lots under such order for possession.

DONE BY THE COURT this 9th day of November, 1954.

Charles E. Blaine

Judge

STATE OF COLORADO }
COUNTY OF MESA } SS

I, Lucy E. Hogan, Clerk of the District Court in
and for Mesa County, Colorado, do hereby certify that the
foregoing is a full, true and correct copy of that certain
Order entered by the Court and now on file in my office.

Witness my hand and the seal of said Court this
12th day of November, 1954.

Lucy E. Hogan
Clerk of the District Court

[Handwritten notes and signatures on the left margin, including a vertical list of names and dates.]