

CONDEMNATION PETITION AND REQUEST FOR TRANSFER OF TITLE AND POSSESSION UNDER MINN. STAT. §117.042

STATE OF MINNESOTA
COUNTY OF SHERBURNE
DISTRICT COURT
TENTH JUDICIAL DISTRICT
2-Condemnation
Court File No. 71-CV-18-1088
 Cty. Atty. File No. 200512
Sherburne County,
Petitioner,
vs.

Mortgage Electronic Registration System as nominee for Nationstar Mortgage LLC dba Mr. Cooper; Nationstar Mortgage LLC dba Mr. Cooper; Wells Fargo Bank N.A.; Kevin MacDonald; John Frank Schmidt; Mary T. Schmidt; Village Bank; Wells Fargo Home Mortgage, Inc.; Mortgage Electronic Registration Systems, Inc. as nominee for Alerus Financial, N.A. dba Alerus Mortgage; Alerus Financial, N.A. dba Alerus Mortgage; Christopher William Meyer; Kamee Jo Meyer; Mortgage Electronic Registration Systems, Inc. as nominee for Topflite Financial, Inc.; Topflite Financial, Inc.; David Bernard; Bonnie J. Anderson; Loring K. Anderson, deceased; Lisa A. Bekius; Karl R. Bekius; U.S. Bank National Association; Joshua A. Deziel; Jennifer M. Deziel; Brad L. George; Angela J. George; Gregory S. Tronson; Sandra L. Tronson; Mortgage Electronic Registration Systems, Inc. as nominee for JPMorgan Chase Bank, National Association; JPMorgan Chase Bank, National Association; TCF National Bank; NationsCredit Financial Services Corporation dba EquiCredit; Fairview Health Services; Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass Through Certificates, Series 2006-M1; Ocwen Loan Servicing, LLC; Mortgage Electronic Registration Systems, Inc. as nominee for Nationstar Mortgage LLC; Nationstar Mortgage LLC; and all other persons unknown claiming any right, title, interest or lien in the real estate described herein, Respondents.

PETITION

IN THE MATTER OF THE CONDEMNATION OF CERTAIN REAL PROPERTY LOCATED IN SECTIONS 13, 14, 15 and 16, TOWNSHIP 35N, RANGE 26W, COUNTY OF SHERBURNE, STATE OF MINNESOTA FOR SHERBURNE COUNTY HIGHWAY 38 PROJECT. TO THE DISTRICT COURT AND ALL RESPONDENTS ABOVE NAMED:

The County of Sherburne, a political subdivision of the State of Minnesota ("Sherburne County"), brings this Petition for Condemnation and respectfully states and alleges as follows:

I.

This proceeding is taken pursuant to law in the name of and on behalf of the County of Sherburne, State of Minnesota, by Kathleen A. Heaney, the Sherburne County Attorney, at the request of the Sherburne Board of County Commissioners, as evidenced by the certified copy of the County Board Resolution No. 082118-AD-1853, dated August 21, 2018, attached hereto as Exhibit B and incorporated herein by reference.

II.

The Sherburne County Board of Commissioners deems it necessary, expedient, and for a public use and purpose for the County of Sherburne to acquire by condemnation permanent and/or temporary easements in Parcel Numbers 2, 14, 16, 19, 25, 27, 29, 32, 40, 44, 46, 48, 54 and 55 of Sherburne County Right-Of-Way Plat No. 82, together with the following rights:

To acquire all structures, trees, shrubs, grass, aggregate, and herbage within the right-of-way. Said taking is subject to existing highways, easements and right-of-way of record. Such interest shall be in easement form.

A copy of the Right of Way map is attached hereto and incorporated herein as Exhibit C.

Further, it is the intention of the above-named petitioner to move the court for an order transferring title and possession of the parcels described herein, prior to the filing of an award by the Court appointed commissioners, pursuant to Minnesota Statutes §117.042 at midnight on February 2, 2019. The Petitioner shall, as a condition precedent, tender to the owner(s) of the Parcels the appraised value or shall tender the appraised value with the Court.

The Petitioner reserved its right to recover costs of clean up and testing and all other damages resulting from the presence of pollutants, contaminants, or hazardous materials on the property described herein, from all potential responsible parties in a separate legal action.

III.

The lands as Parcel Numbers in the attached Exhibit A in these proceedings being condemned are situated in the County of Sherburne, State of Minnesota; that the names of all persons appearing of record or known to your Petitioner to be the owners of said lands or interested therein, including all whom your Petitioner has been able by investigation and inquiry to discover, together with the nature of ownership of each, as nearly as can be ascertained are set forth in Exhibit A and made part of this Petition. Further, if there are any occupants who are not owners, their interest in the lands to the extent Petitioner has been able to ascertain is set forth in Exhibit A.

IV.

Pursuant to Minnesota Statute 117.036:

A. The properties sought to be condemned have been appraised;

B. Attempt has been made to contact and confer with the fee owner by the appraiser regarding the appraisals;

C. Good faith attempt has been made by Sherburne County Public Works to contact each owner and try to negotiate personally with each landowner to acquire the property by direct purchase instead of the use of condemnation;

D. Each owner has been provided a copy of the appraisal and has been given information on right to obtain their own appraisal (Affidavit of Service on file with the Court) at a cost borne by the Petitioner. The date of the last appraisal and notice mailed was the 6th day of June, 2018.

E. Sixty (60) or more days have elapsed between the provision of the appraisal and the presentation of this Petition for condemnation for the District Court pursuant to Minnesota Statute 117.036(2);

F. The Petitioner shall provide Affidavits of Service to this Court of service of the Petition being effectuated at least twenty (20) days prior to the time of the request for Quick Take scheduled for December 20, 2018, at 8:00 a.m.

Respondents are placed on notice that if they seek to challenge a Court determination on public use, public purpose, necessity or authority to take the lands by condemnation, the Respondent is required to appeal the Court's determination within 60 days of the service of the Court Order making such findings.

WHEREFORE, Petitioner prays for an Order of this Court as follows:

1. Adjudging that said taking is for a public purpose, is necessary, and is such as is authorized by law and prerequisites under Minnesota Statute 117.036 have been met;

2. Appointing three (3) disinterested commissioners, and at least two (2) alternates to ascertain and report the amount of damages that will be sustained by the several owners on account of the taking; fixing the time and place of the first meeting of the three commissioners; prescribing their compensation which is to be paid by the County of Sherburne as the Petitioner; and requiring the commissioners to file their report with the District Court Administrator in accord with the law;

3. To authorize a taking of the easement on the lands as set forth in Exhibit A pursuant to Minnesota Statute 117.042 at midnight on February 2, 2019 and to have the Court accept deposit of the appraised damages if the owner has not yet received the monies; and,

4. For such other and further relief as may be proper and pursuant to law.

Dated at Elk River, Minnesota, this 21st day of August, 2018.

KATHLEEN A. HEANEY
SHERBURNE COUNTY ATTORNEY
Kathleen A. Heaney, I.D. 167642
Sherburne County Attorney
13880 Business Center Drive
Elk River, MN 55330-4601
(763) 241-2565
ATTORNEY FOR PETITIONER

EXHIBIT A

PARCEL 2	
PID No. 01-016-1410 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 12216 305th Ave NW, Princeton	
Party Name	Nature of Interest
Mortgage Electronic Registration System as nominee for Nationstar Mortgage LLC dba Mr. Cooper*	Mortgage
Nationstar Mortgage LLC dba Mr. Cooper*	Mortgage
Collin J. Berger-Fick	Landowner
Milton C. Fick	Landowner
PARCEL 14	
PID No. 01-015-2302 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 11848 305th Ave NW, Princeton	
Party Name	Nature of Interest
Wells Fargo Bank, NA*	Mortgage
Kevin MacDonald*	Landowner
PARCEL 16	
PID No. 01-015-2400 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 11720 305th Ave NW, Princeton	
Party Name	Nature of Interest
U.S. Bank National Association	Mortgage
John Frank Schmidt*	Landowner
Mary T. Schmidt*	Landowner
PARCEL 19	
PID No. 01-015-3105 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 30428 116th St NW, Princeton	
Party Name	Nature of Interest
Village Bank*	Mortgage
Donald A. Hanson	Landowner
Kathleen M. Hanson	Landowner

PARCEL 25	
PID No. 01-015-4102 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 11333 305th Ave NW, Princeton	
Party Name	Nature of Interest
Wells Fargo Home Mortgage, Inc. *	Mortgage
Mortgage Electronic Registration Systems, Inc. as nominee for Alerus Financial, N.A. dba Alerus Mortgage*	Mortgage
Alerus Financial, N.A. dba Alerus Mortgage*	Mortgage
Christopher William Meyer*	Landowner
Kamee Jo Meyer*	Landowner
PARCEL 27	
PID No. 01-014-2315 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 11142 305th Ave NW, Princeton	
Party Name	Nature of Interest
Mortgage Electronic Registration Systems, Inc. as nominee for Topflite Financial, Inc. *	Mortgage
Topflite Financial, Inc. *	Mortgage
Spire Federal Credit Union	Mortgage
David Bernard*	Landowner
PARCEL 29	
PID No. 01-014-2310 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 11040 305th Ave NW, Princeton	
Party Name	Nature of Interest
Swain Wudtke	Landowner
Lisa Wudtke	Landowner
Wells Fargo Bank, N.A. *	Mortgage
PARCEL 32	
PID No. 01-014-2403 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10928 305th Ave NW, Princeton	
Party Name	Nature of Interest
Bonnie J. Anderson*	Contract for Deed Vendor
Loring K. Anderson, deceased	Contract for Deed Vendor
Lisa A. Bekius*	Contract for Deed Vendee
Karl R. Bekius*	Contract for Deed Vendee
PARCEL 40	
PID No. 01-014-1315 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10618 305th Ave NW, Princeton	
Party Name	Nature of Interest
U.S. Bank National Association*	Mortgage
Joshua A. Deziel*	Landowner
Jennifer M. Deziel*	Landowner
PARCEL 44	
PID No. 01-014-4200 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10701 305th Ave NW, Princeton	
Party Name	Nature of Interest
Sherburne State Bank	Mortgage
Brad L. George*	Landowner
Angela J. George*	Landowner
PARCEL 46	
PID No. 01-014-4100 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10525 305th Ave NW, Princeton	
Party Name	Nature of Interest
Gregory S. Tronson*	Landowner
Sandra L. Tronson*	Landowner
*Note: Temporary easement only	
PARCEL 48	
PID No. 01-013-2300 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10231 305th Ave NW, Princeton	
Party Name	Nature of Interest
Mortgage Electronic Registration Systems, Inc. as nominee for JPMorgan Chase Bank, National Association*	Mortgage
JPMorgan Chase Bank, National Association*	Mortgage
TCF National Bank*	Mortgage
Donna M. Holm	Landowner
PARCEL 54	
PID No. 01-013-3200 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10231 305th Ave NW, Princeton	
Party Name	Nature of Interest
NationsCredit Financial Services Corporation dba EquiCredit*	Mortgage
Fairview Health Services*	Judgment Holder
Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass Through Certificates, Series 2006-M1*	Mortgage
Ocwen Loan Servicing LLC*	Mortgage
Daniel W. Moore	Landowner
Kelly K. Moore	Landowner
PARCEL 55	
PID No. 01-013-3104 of Sherburne County Right of Way Plat No. 82 Abstract Property Address: 10143 305th Ave NW, Princeton	
Party Name	Nature of Interest
Mortgage Electronic Registration Systems, Inc. as nominee for Nationstar Mortgage LLC*	Mortgage
Nationstar Mortgage LLC*	Mortgage
Eugene G. Boyle	Landowner
Phyllis D. Boyle	Landowner

NOTICE OF INTENT TO TAKE POSSESSION OF LANDS AT MIDNIGHT FEBRUARY 2, 2019

2-Condemnation
Sherburne County,
Petitioner,
vs.

Mortgage Electronic Registration System as nominee for Nationstar Mortgage LLC dba Mr. Cooper; et al., Respondents.

Court File No. 71-CV-18-1088
 Cty. Atty. File No. 200512
TO: Respondents above named.

YOU ARE NOTIFIED, the Petitioner County of Sherburne intends to take an easement interest and possession of certain property, the complete description of which is attached hereto as Exhibit A, prior to the filing of the award by the court-appointed condemnation commissioners. Therefore, Petitioner seeks to possess said property at midnight on February 2, 2019, pursuant to Minnesota Statute §117.042 for purposes of commencement of construction of a highway over the described lands.

YOU ARE FURTHER NOTIFIED, that before taking an easement to and possession of said property, Petitioner will pay to the owner(s) or deposit with the Court an amount equal to Petitioner's approved appraisal of value of said property.

YOU ARE FURTHER NOTIFIED, that the Petitioner herein will seek an Order of the Court vesting in Petitioner the right to an easement and possession at the hearing on the Petition herein. A Notice of Hearing on the Petition is served upon you.

A party wishing to challenge the public use or public purpose, necessity, or authority for a taking must appear at the Court hearing and state the objection or must appeal the decision of the Court within 60 days. Failure to appeal the decision in the appeal time will result in the Court's decision becoming final.

Dated: August 21, 2018

KATHLEEN A. HEANEY
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