

IN THE COMMON PLEAS COURT OF FAIRFIELD COUNTY, OHIO

Jack Marchbanks, Director
Ohio Department of Transportation
1980 West Broad Street
P.O. Box 899
Columbus, Ohio 43216-0899

Plaintiff,

v.

ACT Investments, LLC
c/o SAS Agent For Service, Inc., Registered Agent
109 N Broad St Ste 200
Lancaster OH 43130

Farm Credit Mid-America, FLCA
Legal Department
12501 Lakefront Place
Louisville, KY 40299

Jon A. Slater, Jr., or successor
Fairfield County Auditor
210 East Main Street, Suite 201
Lancaster, Ohio 43130

and

James N. Bahnsen, or successor
Fairfield County Treasurer
210 East Main Street, Room 206
Lancaster, Ohio 43130

Defendants.

CASE NO.

JUDGE

PETITION TO
APPROPRIATE
PROPERTY AND TO
FIX COMPENSATION

PETITION TO APPROPRIATE PROPERTY AND TO FIX COMPENSATION

1. Plaintiff is the duly appointed Director of the Ohio Department of Transportation and is authorized under Section 19, Article I of the Constitution of Ohio, Title 55 of the Ohio Revised Code and Chapter 163 of the Ohio Revised Code to bring this action to appropriate property for a public use and to determine compensation and damages, if any, to the residue for this appropriation.

2. Plaintiff intends to obtain and take possession of and enter upon the property being appropriated for the purposes of making, constructing, repairing or improving a state, U.S. or Interstate highway which shall be open to the public, without charge.

3. Attached hereto and incorporated herein by reference as Exhibit 1 is a copy of the *Findings, Declarations and Resolution to appropriate* of the Director of Transportation, wherein the following are disclosed:

- (a) A statement of the purpose of the appropriation.
- (b) The identity of the highway to be made, constructed, repaired or improved.
- (c) The names and addresses, so far as can be ascertained, of those persons or entities that are the owners, as defined in R.C. 163.01, of the property to be appropriated.
- (d) The description of the property, and the rights, titles, interests, and estates therein, to be appropriated.
- (e) The amount Plaintiff has determined to be the fair market value of the property, and the rights, titles, interests, and estates therein, to be appropriated, together with damages, if any, to the residue thereof.
- (f) The identity of the entities other than the State of Ohio, if any, in the name of which all or a part of the property is being appropriated.

4. Plaintiff has complied with the requirements of R.C. 163.04 and R.C. 163.041 by providing and delivering a written Notice of Intent to Acquire and Good Faith Offer at least thirty days prior the filing of this action. The requirements of R.C. 163.04 have been met in that Plaintiff has been unable to agree on a conveyance or the terms of a conveyance, for any reason, with any owner or the guardian or trustee of any owner unless each owner is incapable of contracting in person or by agent to convey the property and has no guardian or trustee, each owner is unknown, or the residence of each owner is unknown to the agency and the residence of no owner can with reasonable diligence be ascertained.

5. Prior to or at the time of filing this Petition, Plaintiff has deposited with the Clerk of this Court a sum of money equal to the amount that Plaintiff determined to be the fair market value of the property, and the rights, titles, interests and estates therein, to be appropriated, and damages, if any, to the residue thereof.

6. Plaintiff has filed with the Fairfield County Engineer, or made available to the owner, a copy of the highway plans for the purpose of making available a description of the nature of the improvement or use which requires the appropriation, including any specifications, elevations, and grade changes already determined at the time of the filing of this petition, in sufficient detail to permit a determination of the nature, extent, and effect of the taking and improvement.

WHEREFORE, Plaintiff prays the Court will:

A. Find that Plaintiff has complied with R.C. 163.01, *et seq.*, and is entitled to appropriate the subject property.

B. Enter a judgment ordering the appropriation and possession of the real property or interest in real property and for the conveyance of the title to or easement interest in such property to the State of Ohio and/or to the entities other than the State of Ohio, if any, identified in Exhibit 1.

C. Upon the failure of the owner to file an answer, pursuant to R.C. 163.09, declare the value of the property or property interest appropriated herein and of damages, if any, to the residue, to be in the sum stated in Plaintiff's Findings, Declarations and Resolution to Appropriate attached hereto as Exhibit 1.

D. Cause a jury to be impaneled to make inquiry into and assess compensation to be paid and damages, if any, to the residue, for the appropriation of the within described property or property interests.

E. Grant Plaintiff all such other relief to which Plaintiff might be entitled.

DAVE YOST
Ohio Attorney General

JUSTINE A. ALLEN (0097746)
Assistant Attorney General
Executive Agencies Section
Transportation Unit
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
(614) 466-5829 - FAX (866) 815-2731
Justine.Allen@OhioAGO.gov
Attorney for Plaintiff

FINDINGS, DECLARATIONS & RESOLUTIONS

WHEREAS, it is necessary for the public convenience and welfare to acquire certain property for highway purposes, namely **Parcel(s) 2-SH1 and 2-SH2**, which property is more particularly described below, to make, construct, repair or improve **State Route 37, Section 6.10, Fairfield County, Ohio; and**

WHEREAS, I have determined that **\$18,218** is the fair market value of the property, and the rights, titles, interests and estates therein, and the structures, if any, situated thereon, to be appropriated, together with damages, if any, to the residue thereof; and

WHEREAS, I have been unable to agree on a conveyance or the terms of a conveyance, for any reason, with any owner or the guardian or trustee of any owner unless each owner is incapable of contracting in person or by agent to convey the property and has no guardian or trustee, each owner is unknown, or the residence of each owner is unknown to the agency and the residence of no owner can with reasonable diligence be ascertained.

NOW, THEREFORE, BE IT DECLARED AND RESOLVED THAT:

1. I find it necessary to appropriate the property, and rights, titles, interests and estates therein, and the structures, if any, situated thereon, which is specifically described in Exhibit A attached hereto, for the purpose of making, constructing or improving the above- mentioned highway which shall be open to the public, without charge or one of the other statutory purposes for which the Director of Transportation may acquire property under Title LV of the Revised Code, such as, but not limited to, those purposes enumerated in Sections 5501.31 and 5519.01 of the Revised Code.

2. In accordance with R.C. 163.06(B), it is necessary and it is my intention to forthwith obtain and take possession of and enter upon and occupy the property appropriated.

3. Prior to or at the time of filing this action to appropriate property the sum of **\$18,218** which I had determined to be the value of the property appropriated and damages, if any, to the residue, shall be deposited with the Clerk of the court in which the action is brought.

4. The names and addresses of the owners, as defined in R.C. 163.01, of said of property, as far as can be ascertained, are:

ACT Investments, LLC
c/o SAS Agent For Service, Inc., Registered Agent
109 N Broad St Ste 200
Lancaster OH 43130

Farm Credit Mid-America, FLCA
Legal Department
12501 Lakefront Place
Louisville, KY 40299

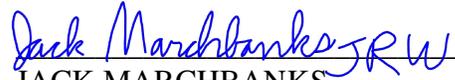
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210 East Main Street, Room 206
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The legal description(s) of the property, and rights, titles, interests and estates therein to be appropriated is (are):

See legal descriptions attached hereto as Exhibit A and incorporated herein by reference.

WITNESS my hand and seal given this 27th day of September, 2021, at Columbus,
Franklin County, Ohio.



JACK MARCHBANKS
Director
Ohio Department of Transportation