

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
96 CVS 340

TOWN OF CAROLINA BEACH,
000186 Plaintiff,

FILED :
BY :
:

'96 AUG 6 PM 4 17

v.

RECORDED AND VERIFIED
MARY SUE OOTS
REGISTER OF DEEDS
NEW HANOVER CO. NC

M. L. WINNER ESTATE, and
any and all persons or
entities claiming an
interest in that certain
real property located at
Block 158, Lots 1 through 4,
Carolina Beach, North
Carolina, including
MARTIN T. WINNER, CAPTAIN
DAVID CARL ("CARL") WINNER,
M. L. WINNER, II, JAY W.
WINNER, and CAPTAIN WALTER
W. ("SKEETS") WINNER,

Defendants.

FINAL JUDGMENT
PURSUANT TO G.S. § 40A-46

THIS CAUSE coming on to be heard before the Honorable Superior
Court Judge Presiding, upon Motion by Plaintiff for Final Judgment
pursuant to G.S. § 40A-46, and it further appearing to the Court
and the Court finding as fact that:

1. This action was duly instituted on the 2nd day of
February, 1996, by the issuance of Summons and the filing of a
Complaint, Declaration of Taking, and Notice of Deposit, along with
the Deposit into the Court of \$800.00, the sum estimated by the
Plaintiff to be just compensation for the taking of an easement on
the Defendants' property.

2. The Summons, together with a copy of the Complaint,
Declaration of Taking, and Notice of Deposit were duly served upon
each of the Defendants as they appear of record on or before the
9th day of February, 1996.

RECORDED & VERIFIED
[Signature]
Mary Sue Oots, Clerk Superior Court

Kenneth D. Davis
772-9960

3. More than 120 days have elapsed since the date of service of process, during which time no Answer has been filed.

4. On March 4, 1996, Defendant Captain Walter W. Winner filed a Motion for Extension of Time in which he requested the ability to file an answer on or before April 4, 1996. This extension was granted by an Order dated March 4, 1996. Despite this extension, Defendant Captain Walter W. Winner has elected not to file an answer. Counsel for Plaintiff has spoken with Dean R. Davis, counsel for Captain Walter W. Winner, and Mr. Davis has informed Plaintiff's counsel that Captain Walter W. Winner has no intention of filing an answer in this matter.

WHEREUPON, THE COURT CONCLUDES AS A MATTER OF LAW THAT:

1. The Plaintiff was entitled to acquire and did acquire on the 2nd day of February, 1996, an easement on the property of the Defendants as described herein.

2. The failure of the Defendants to answer the Complaint within 120 days constitutes an admission that the sum deposited with the Court is just compensation, as provided in G.S. § 40A-46.

3. These proceedings as appears from the pleadings are regular in all respects, and no reason exists for not granting the Plaintiff's Motion that Final Judgment be entered.

4. Except as expressly set forth herein, the Defendants are not entitled to any further relief from the Plaintiff as a result of the taking.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Plaintiff Town of Carolina Beach, on the 2nd day of February, 1996, by filing of a Complaint, Declaration of Taking, and Notice of Deposit, has condemned and shall be permanently vested with an easement on and across the subject property for the purpose of installing and maintaining sewer and water lines and conducting associated construction activities on the property described as follows:

BEGINNING at a point where the northern line of Rocky Mount Avenue intersects with the western line of Lot 50R, Section 1 of Ocean Ridge as the same is shown on that plat entitled Revision of Lot 50, Section 1 Ocean Ridge and recorded in Map Book 32, Page 307 of the New Hanover County Registry. Thence, with the northern line of said Rocky Mount Avenue, North 73 degrees 42 minutes 08 seconds West 30 feet to a point; thence, North 16 degrees 36 minutes 41 seconds East 198.60 feet to a point in the southern line of Tarboro Avenue; thence, South 73 degrees 42 minutes 08 seconds East 30 feet to a point; thence, South 16 degrees 36 minutes 41 seconds West 198.38 feet to the point of beginning.

Said property being a portion of Lots One (1), Two (2), Three (3) and Four (4) of Block 158, as shown on a survey recorded in Deed Book 307, at Page 294-1/2 of the New Hanover County Registry.

2. By the failure of any party to file an Answer to the Complaint within 120 days, Final Judgment in favor of the Plaintiff is hereby entered and the amount of Eight Hundred and No/100 Dollars is determined to be just compensation for the interest condemned.

3. Pursuant to N.C. Gen. Stat. § 40A-55, this Court retains this cause for the sole and only purpose of making a later determination of who is entitled to the Eight Hundred and No/100 Dollars (\$800.00) deposited by the Plaintiff.

4. A copy of this Judgment and Order shall be certified under the seal of the Court of the Register of Deeds of this County, and the Register of Deeds is ordered to record this Judgment among the land records of the County.

5. Each party shall bear their costs in this action.

This 5th day of August, 1996.



Judge Presiding