

STATE OF INDIANA
LAKE COUNTY
FILED

STATE OF INDIANA 026582)
) SS:
COUNTY OF LAKE)

2000 APR 18 10 51 AM
IN THE LAKE SUPERIOR COURT
SITTING AT GARY, INDIANA
CAUSE NO. 45D04-9212-CP-1266

STATE OF INDIANA,)

Plaintiff,)

v.)

GAINER BANK, N.A., as Trustee under)
Trust No. A-990; ELLEN WADE, Beneficiary of)
Trust No. A-990; and LAKE COUNTY,)
INDIANA,)

Defendants)

Filed in Open Court

MAR 30 2000

Arnold H. Avetianoff
JUDGE
SUPERIOR COURT OF LAKE COUNTY

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SPLIT 13-112-4
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AGREED FINDING AND JUDGMENT

Plaintiff, State of Indiana, by Jeffrey A. Modisett, Attorney General of Indiana, and Marcia Avery Hanley, Deputy Attorney General, and the Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990 and Ellen Wade, Beneficiary of Trust No. A-990, by counsel, David Saks, concur in the findings set forth below and move the Court for judgment in this case.

The Court, having examined the record of this case and being duly advised, now FINDS:

1. Plaintiff filed its Complaint for Appropriation of Real Estate in this eminent domain case on December 15, 1992, and all Defendants were served with notice as provided by statute.
2. On December 28, 1992, Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990 and Ellen Wade, Beneficiary of Trust No. A-990, appeared by counsel in this case.
3. On February 16, 1993, Defendant, Lake County, Indiana, appeared by counsel in this case.
4. On March 8, 1993, those real estate described in rhetorical paragraph IV of the Plaintiff's complaint were ordered appropriated and appraisers were appointed to assess the benefits and damages, if any, resulting from the Plaintiff's appropriation.

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PETER BENJAMIN
LAKE COUNTY AUDITOR

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*N/C
PK*

5. On May 17, 1993, the court-appointed appraisers reported to the Court that total just compensation was due in the amount of One Hundred Twenty- four Thousand Five Hundred Seventeen Dollars (\$124,517.00) due to the Plaintiff's appropriation.

6. Timely Exceptions to the Report of Appraisers were filed by Plaintiff on June 1, 1993.

7. On July 2, 1993, Plaintiff, State of Indiana, paid to the Clerk of the Court the court-appointed appraisers' award in the amount of One Hundred Twenty-four Thousand Five Hundred Seventeen Dollars (\$124,517.00) and the appraisers' fees.

8. Thereafter, on May 20, 1997, the court-appointed appraisers filed with the Court their Revised Report of Appraisers in which they reported that the total just compensation due were Ninety-three Thousand Seventeen Dollars (\$93,017.00) due to the Plaintiff's appropriation.

9. Timely Exceptions to the Revised Report of Appraisers were filed by Plaintiff on June 10, 1997.

10. On March 31, 1998, Defendants' Request For Payment of Proportionate Share of the court-appointed appraisers' award in the amount of Ninety Three Thousand Seventeen Dollars (\$93,017.00) was filed.

11. On April 13, 1998, the State filed it's Response to Defendant's Request for Proportionate Share of Damages.

12. On July 2, 1998, the Court entered an Order granting Defendant's Request For Payment of Proportionate Share of Damages in the amount of Ninety Three Thousand Seventeen Dollars (\$93,017.00).

13. Plaintiff and Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990, and Ellen Wade, Beneficiary of Trust No. A-990, agree to the Plaintiff's appropriation of the real estate described below and further agree that Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990, and Ellen Wade, Beneficiary of Trust No. A-990, shall recover for the real estate acquired by Plaintiff and any and all damages resulting from that acquisition, as total just compensation, Fifty Thousand Dollars (\$50,000.00), and that no other Defendant is entitled to recover any damages due to Plaintiff's acquisition.

14. Defendant, Ellen Wade shall return to the State, Forty-three Thousand Seventeen Dollars (\$43, 017.00), a portion of the court-appointed appraisers' award previously withdrawn by her on July 2, 1998.

15. The Clerk of Court shall return to the State, the balance of all funds deposited by the State on July 2, 1993, plus any and all interest earned on the funds, to be made payable to the State of Indiana and forwarded to the undersigned Deputy Attorney General.

16. On June 17, 1998, Defendant, Lake County, Indiana filed its Disclaimer and Motion to be Dismissed.

17. On June 18, 1998, the Court issued its Order granting Defendant, Lake County, Indiana Disclaimer and Motion to be Dismissed.

18. All parties who requested trial by jury withdraw their request.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, State of Indiana, has acquired those real estate improvements and interests, including all immediate rights of possession, to the real estate described as:

A part of the Northwest Quarter of the Northeast Quarter of Section 17, Township 35 North, Range 9 West, Lake County, Indiana, described as follows: Commencing at the northwest corner of said quarter section; thence South 03 degrees 45 minutes 59 seconds East 906.65 feet along the western line of said quarter section to the north boundary of U.S. 30; thence South 88 degrees 56 minutes 21 seconds East 230.73 feet along the boundary of said U.S. 30; thence along said boundary Easterly 116.87 feet along an arc to the left and having a radius of 17,589.47 feet and subtended by a long chord having a bearing of South 89 degrees 07 minutes 46 seconds East and a length of 116.87 feet to the western line of the owner's land and the point of beginning of this description: thence North 03 degrees 45 minutes 59 seconds West 10.03 feet along said western line; thence Easterly 99.18 feet along an arc to the left and having a radius of 17,579.47 feet and subtended by a long chord having a bearing of South 89 degrees 28 minutes 44 seconds East and a length of 99.18 feet to the eastern line of the owner's land; thence South 03 degrees 45 minutes 59 seconds East 10.03 feet along said eastern line to the north boundary of said U.S. 30; thence along said boundary Westerly 99.18 feet along an arc to the right and having a radius of 17,589.47 feet and subtended by a long chord having a bearing of North 89 degrees 28 minutes 53 seconds West and a length of 99.18 feet to the point of beginning and containing 0.023 acres, more or less.

The following described right of way is temporary right of way for the purpose of constructing a driveway for service to the owner's private property and will revert to

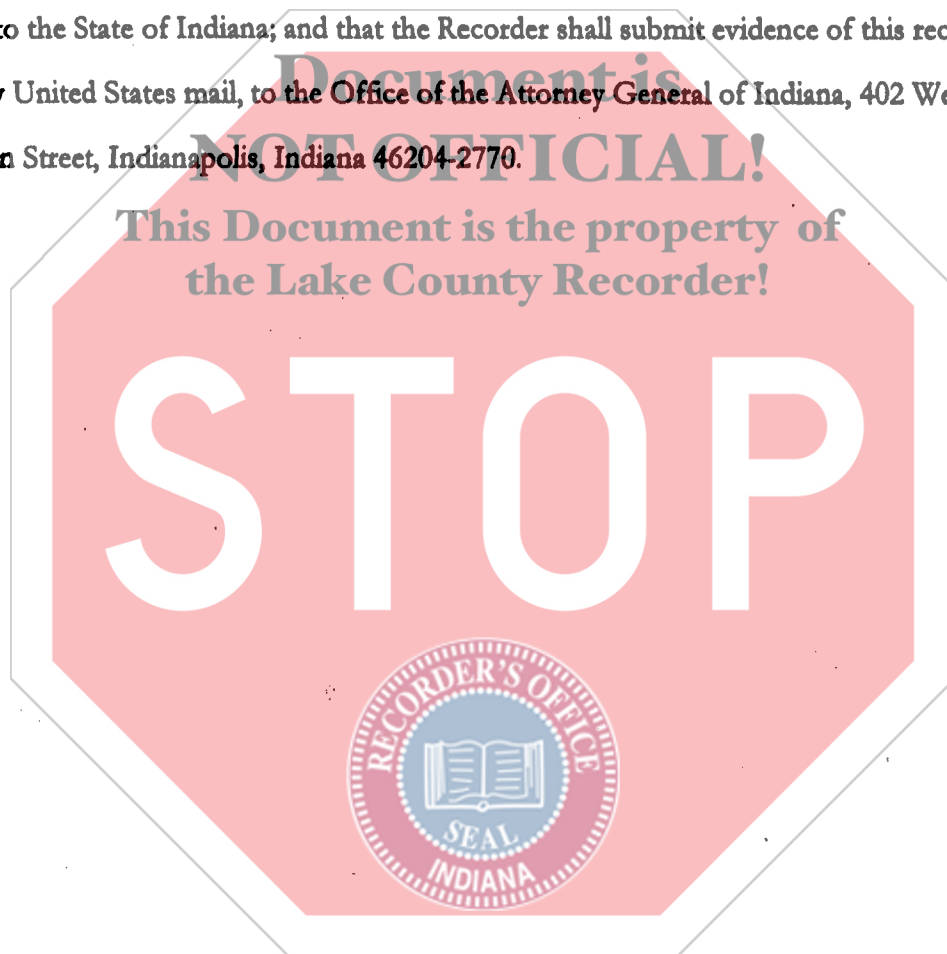
the owner on December 31, 1996: A part of the Northwest Quarter of the Northeast Quarter of Section 17, Township 35 North, Range 9 West, Lake County, Indiana, described as follows: Commencing at the northwest corner of said quarter section; thence South 03 degrees 45 minutes 59 seconds East 906.65 feet along the western line of said quarter section to the north boundary of U.S. 30; thence South 88 degrees 56 minutes 21 seconds East 230.73 feet along the boundary of said U.S. 30; thence along said boundary Easterly 216.04 feet along an arc to the left and having a radius of 17,589.47 feet and subtended by a long chord having a bearing of South 89 degrees 17 minutes 28 seconds East and a length 216.04 feet to the eastern line of the owner's land; thence North 03 degrees 45 minutes 59 seconds West 10.03 feet along said eastern line to the point of beginning of this description: thence Westerly 32.45 feet along an arc to the right and having a radius of 17,579.47 feet and subtended by a long chord having a bearing of North 89 degrees 35 minutes 16 seconds West and a length of 32.45 feet; thence North 00 degrees 27 minutes 55 seconds East 15.00 feet; thence South 89 degrees 35 minutes 09 seconds East 31.34 feet to the eastern line of the owner's land; thence South 03 degrees 45 minutes 59 seconds East 15.04 feet along said eastern line to the point of beginning and containing 0.011 acres, more or less.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Defendant, Lake County, Indiana, has disclaimed any interest in this case and shall take nothing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990, Ellen Wade, Beneficiary of Trust No. A-990 and Lake County, Indiana, shall have and recover for Plaintiff's appropriation in this case as total just compensation the sum of Fifty Thousand Dollars (\$50,000.00); that the Clerk of Court is not required to pay Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990, Ellen Wade, Beneficiary of Trust No. A-990 any additional funds or any interest earned on the funds on deposit; that the Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990, and Ellen Wade, Beneficiary of Trust No. A-990, has received Fifty Thousand Dollars (\$50,000.00) in full satisfaction of this judgment and all claims in this case.

IT IS FURTHER ORDERED that Defendants, Gainer Bank, N.A., as Trustee under Trust No. A-990, and Ellen Wade, Beneficiary of Trust No. A-990 shall return Forty-three Thousand Seventeen Dollars (\$43,017.00) to the State of Indiana; that the Clerk of Court shall also return to the State of Indiana the balance of all funds deposited by the State on July 2, 1993, plus any and all interest earned, made payable to the State of Indiana and forwarded to the undersigned Deputy

Attorney General to the address below; that the Clerk of the Court shall promptly send a certified copy of this Agreed Finding and Judgment to the Auditor and Recorder of Lake County, Indiana; that the Auditor shall remove the above-described fee simple real estate from the tax records and rolls of the county and cancel all 1992 and subsequent years' taxes thereon; that the Recorder shall, pursuant to IC 8-23-7-31 and without payment of fee, record the transfer of the above described real estate to the State of Indiana; and that the Recorder shall submit evidence of this recorded transfer, by United States mail, to the Office of the Attorney General of Indiana, 402 West Washington Street, Indianapolis, Indiana 46204-2770.



AGREED TO AND APPROVED BY:

JEFFREY A. MODISETT
Attorney General of Indiana
Attorney Reg. No. 14704-49





David Saks, Attorney for Defendants,
Gainer Bank, N.A., as Trustee under Trust
No. A-990, and Helen Wade as Beneficiary
of Trust No. A-990
Attorney No. _____

By: 

Marcia Avery Hanley
Deputy Attorney General
Attorney Reg. No. 16988-49

Bank One, N.A as Trustee under Trust #1484 State of Indiana
formerly known as
Gainer Bank, N.A., as Trustee under Trust
No. A-990

By: 
Title: Vice President
Printed Name: David W. LeBar

By: 
Kevan L. McClure, Chief
Division of Land Acquisition
Indiana Department of Transportation

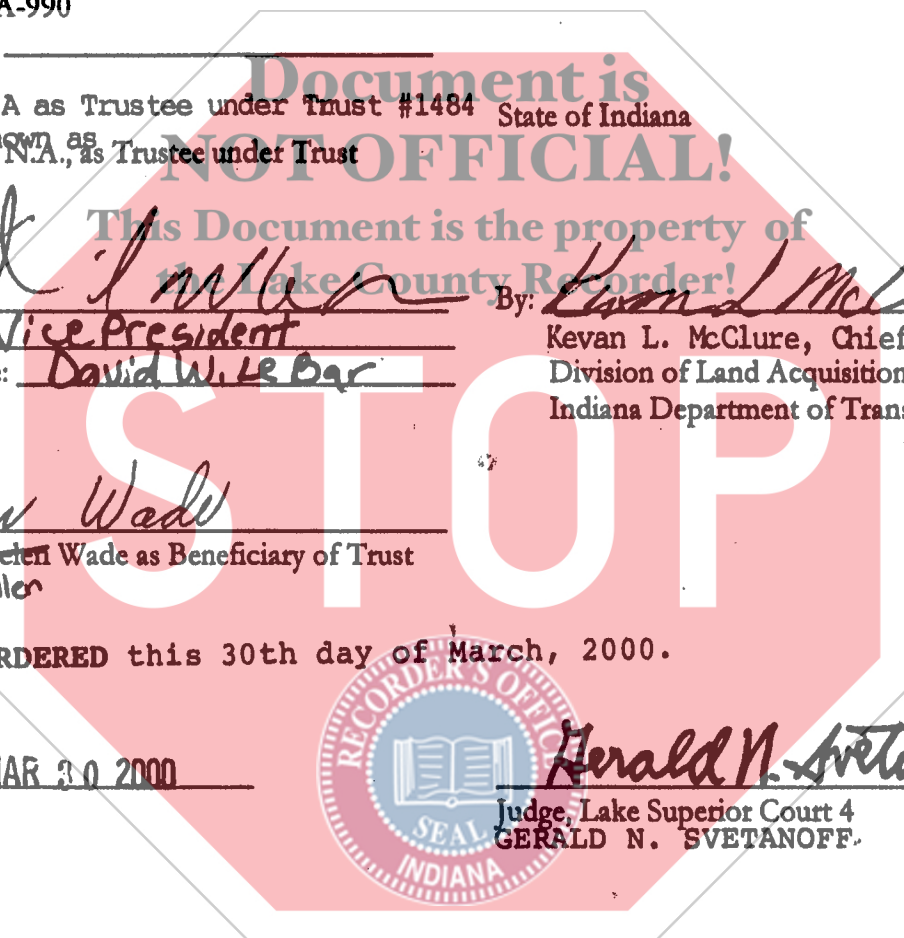

Defendant, ~~Helen~~ Wade as Beneficiary of Trust
No. A-990 Ellen

SO ORDERED this 30th day of March, 2000.

Date: MAR 30 2000




Judge, Lake Superior Court 4
GERALD N. SVETANOFF



Copies to:

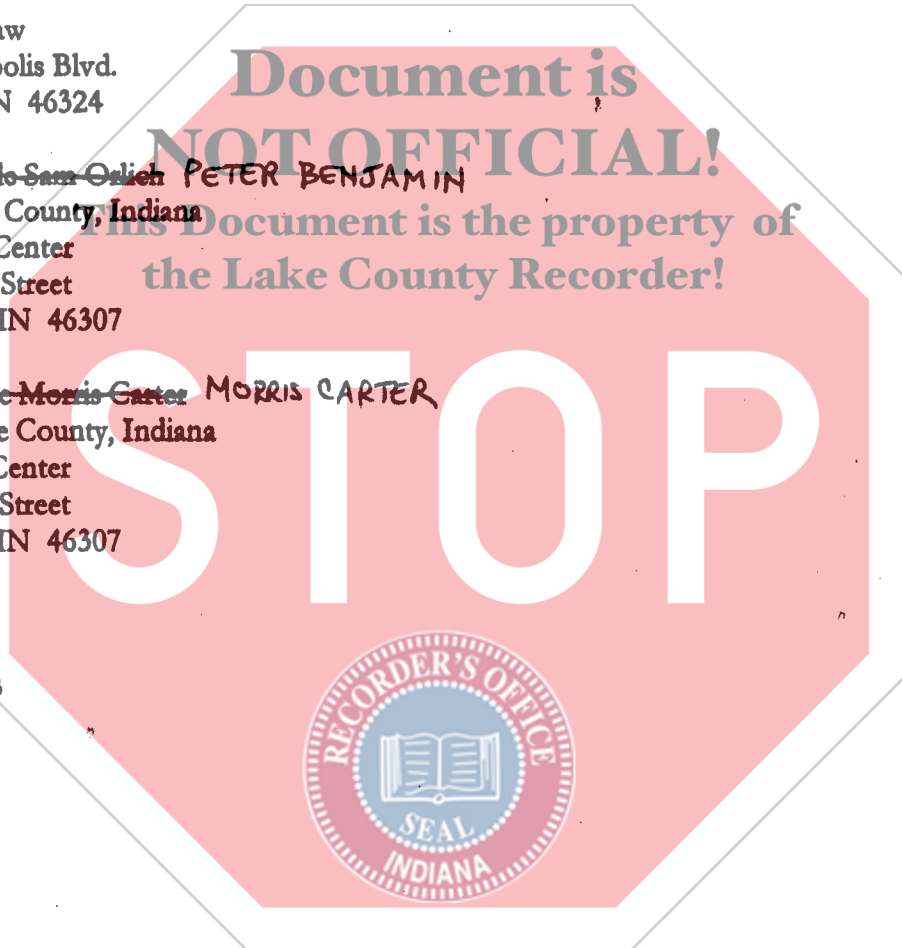
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David Saks
Attorney at Law
6936 Indianapolis Blvd.
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~~The Honorable Sam Osliech~~ PETER BENJAMIN
Auditor, Lake County, Indiana
Government Center
2293 N. Main Street
Crown Point, IN 46307

~~The Honorable Morris Carter~~ MORRIS CARTER
Recorder, Lake County, Indiana
Government Center
2293 N. Main Street
Crown Point, IN 46307

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I, the undersigned, Clerk of the Lake SUPERIOR Court of Lake County, and the keeper of the records and files thereof, in the State aforesaid, do hereby certify, that the above and foregoing is a full, true, correct and complete copy of the Order of Court dated MARCH 30, 2000 in Case No. 45D04-9212CP01266 entitled STATE OF INDIANA VS GAINER BANK N.A. ET AL as fully as the same appears of record in my office as such Clerk.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at my office in GARY, IN in the said County, this 12TH day of APRIL, A.D. 2000

Anna M. Antonio
 Clerk/Lake SUPERIOR Court,

By Lauritha Jackson
 Deputy