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IN THE FIFTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

FILED
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RICHARD R. ROOKER, CLERK
D.C.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, Petitioner, v. DWAYNE KEMP a.ka. DEWAYNE KEMP; LAVITA ROCHELLE BAYS-KEMP f.k.a. LAVITA KEMP; U.S. TRUST MORTGAGE, INC.; KENNETH THOMAS SIDWELL as trustee for U.S. TRUST MORTGAGE, INC.; JPMORGAN CHASE BANK N.A. as servicer for U.S. Bank National Association as trustee for J.P. MORGAN MORTGAGE ACQUISITION CORP. 2006-HE1, ASSET BACKED PASS-THROUGH CERTIFICATES SERIES 2006-HE1; J.P. MORGAN MORTGAGE ACQUISITION CORP.; WILSON & ASSOCIATES PLLC as trustee for J.P. MORGAN MORTGAGE ACQUISITION CORP. 2006-HE1, ASSET BACKED PASS-THROUGH CERTIFICATES SERIES 2006-HE1; GEORGE AVERY MOTT; SUNTRUST BANK, INC.; MARLENE ESKIND MOSES; SANTIAGO SEGOVIA MONROY; and STEVEN KUPECZ, Respondents.	)	Case No. 12C-4558

ORDER OF CONDEMNATION AND POSSESSION

On January 8, 2013, this matter came before the Court for a hearing on Petitioner, the Metropolitan Government of Nashville and Davidson County, Tennessee's ("Metropolitan Government") Petition for Condemnation to determine whether the Metropolitan Government should be granted possession of property at 3404 Hobbs Road Nashville, Tennessee 37215 ("the property"), under applicable eminent domain laws of the state of Tennessee. Present at the hearing were counsel for the Petitioner and attorney Jerry

BILL GARRETT, Davidson County
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Morgan representing Wilson & Associates, PLLC and JP Morgan Chase Bank N.A. Appearing *pro se* were Santiago Segovia Monroy and Steven Kupecz. Santiago Segovia Monroy was also accompanied by his pastor, who served as Mr. Monroy's Spanish interpreter. Upon a brief inquiry, Mr. Monroy's pastor possessed the ability to interpret Spanish to English to the satisfaction of the Court.

Based upon the representations of counsel at the hearing, the pleadings, exhibits, as well as the entire record, the Court finds as follows: Under the applicable laws of the State of Tennessee, Petitioner has the right to condemn the property and the property rights described in the Petition for the public purposes set forth in the petition, and that this cause is a lawful exercise of the power of eminent domain by the Petitioner. Petitioner has complied with all of the requirements of Tenn. Code Ann. §§ 29-16-101 *et seq.*; 29-17-701 *et seq.*; 29-17-801 *et seq.*; and 29-17-901 *et seq.* to take possession of the property rights sought in the Petition. All Respondents identified by Petitioner have been given proper notice of the Petition for Condemnation and of the January 8, 2013 hearing on the petition.

No opposition to possession has been filed with this Court or served upon Petitioner, and no opposition to possession was asserted by any party at the January 8, 2013 hearing. No opposition to the amount of just compensation has been filed by any party, but Answers to the Petition have been filed by Respondents Wilson & Associates, PLLC; JP Morgan Chase Bank, N.A.; Marlene Eskind Moses, and George Avery Mott asserting their respective interests in the amount of just compensation Petitioner tendered with the Court Clerk's Office.

It is therefore **ORDERED** that this cause be sustained as a lawful exercise of the power of eminent domain by the Petitioner and that the property and property rights

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described in the Petition for Condemnation be condemned as of the date of the entry of this Order under pursuant to the applicable eminent domain laws of the state of Tennessee.

It is further **ORDERED** that all rights, title, and interest in fee simple of the property and property rights sought in the Petition are hereby appropriated to the Petitioner, which is the property located at 3404 Hobbs Road in Nashville and Davidson County, Tennessee and said property being more particularly described as follows:

FEE SIMPLE **MAP & PARCEL NO.: 131-01-0-006.00**

Land in Davidson County, Tennessee, being Lot No. 35 on the plan of Wallace Subdivision, Part Three of record in Book 1130, page 82, Register's Office for said county.

Said Lot No. 35 fronts 100 feet on the northerly margin of Hobbs Road and extends back between parallel lines 229.8 feet to a dead line.

Being the same property conveyed from Iraj Barahimi and wife Houri Tahvildari Barahimi by deed to Dwayne Kemp and spouse, Lavita Kemp, dated March 31, 2003 and recorded April 2, 2003, of record as Instrument No. 20030402-0043788, Register's Office for Davidson County, Tennessee.

It is further **ORDERED** that upon entry of this order, the Petitioner shall have immediate legal possession of the property and property rights, and that a writ of possession shall issue, if necessary, in order to put Petitioner in possession of said property and property rights.

It is further **ORDERED** that this Order is without prejudice to any of the Respondents' rights to timely contest or assert an interest in the amount of just compensation or fair market value for the property rights taken herein, and that issue shall be reserved for a further proceedings by this Court.

This Order shall be deemed entered as of the date indicated by the file stamp of the Clerk of this Court affixed to the top of the first page.

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It is so **ORDERED**.

JUDGE JOE P. BINKLEY, JR.

APPROVED FOR ENTRY:

THE DEPARTMENT OF LAW OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY
SAUL SOLOMON, #11689
DIRECTOR OF LAW

Andrew D. McClanahan, # 23772
James E. Robinson, # 24680
Patrick J. Bradley, # 31039
Assistant Metropolitan Attorneys
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Telephone: (615) 862-6341
Email: andrew.mcclanahan@nashville.gov

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent via U.S. Mail, postage prepaid, to the following on this the 10th day of January 2012.

Dwayne Kemp 4065 Merriweather Woods Alpharetta, GA 30022	**LaVita Rochelle Bays –Kemp** 973 Village Hills Drive Nashville, TN 37217
JPMorgan Chase Bank, N.A. **J.P. Morgan Mortgage Acquisition Corp.** **Wilson & Associates, PLLC** c/o Jerry Morgan, Esq. 8 Cadillac Drive, Ste. 120 Brentwood, TN 37027	**Kenneth Thomas Sidwell** Sidwell, Barrett and Welch 121 1st Avenue South, #200 Franklin, TN 37064
U.S. Trust Mortgage, Inc. **c/o Monty Moore** 6398 Highway 41A Pleasant View, TN 37146-8178	**SunTrust Bank, Inc.** **c/o Susan S. Craft** 5350 Popular Avenue, Suite 100 Memphis, TN 38119-3662
Marlene Eskind Moses 205 23rd Avenue North Nashville, TN 37203	**George Avery Mott** 121 21st Avenue North, Suite 212 Nashville, TN 37203
Santiago Segovia Monroy 315 Dover Glen Antioch, TN 37013	**Steven Kupecz** 3145 Appian Way Spring Hill, TN 37174

Andrew D. McClanahan, # 23772
Assistant Metropolitan Attorney

STATE OF TENNESSEE

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the order heretofore entered in the FIFTH Circuit Court for Davidson County, Tennessee, on the 16 day of JANUARY , 2013 , in the Case Number 12C4558 between THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE Pla KEMP, DWAYNE A/K/A KEMP, DEWAYNE ET.AL Defendant, as same remains of record in the Minutes of said Court.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 10 day of MAY in the year two thousand thirteen and in the 236th year of American Independence.

SEAL

RICHARD R. ROOKER, Clerk,

By _____
Deputy Clerk

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2013 APR 25 PM 12:34
RICHARD R. ROOKER, CLERK
D.C.

IN THE FIFTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, Petitioner, v. DWAYNE KEMP a.ka. DEWAYNE KEMP; LAVITA ROCHELLE BAYS-KEMP f.k.a. LAVITA KEMP; JPMORGAN CHASE BANK N.A. as servicer for U.S. Bank National Association as trustee for J.P. MORGAN MORTGAGE ACQUISITION CORP. 2006-HE1, ASSET BACKED PASS-THROUGH CERTIFICATES SERIES 2006-HE1; J.P. MORGAN MORTGAGE ACQUISITION CORP.; WILSON & ASSOCIATES PLLC as trustee for J.P. MORGAN MORTGAGE ACQUISITION CORP. 2006-HE1, ASSET BACKED PASS-THROUGH CERTIFICATES SERIES 2006-HE1; GEORGE AVERY MOTT; SUNTRUST BANK, INC.; MARLENE ESKIND MOSES; SANTIAGO SEGOVIA MONROY; and STEVEN KUPECZ, Respondents.	)	Case No. 12C-4558 Notice of Entry Requested

FINAL JUDGMENT AND DECREE

On April 5, 2013, this matter came before the Court upon Petitioner, the Metropolitan Government of Nashville and Davidson County's ("Metropolitan Government") motion for final judgment and decree and notice of hearing ("motion"). At the same time, the Court also heard Respondents, JPMorgan Chase Bank N.A.'s ("JPMorgan") and Wilson & Associates, LLC's motion to withdraw condemnation proceeds. The Court addressed JPMorgan's and Wilson & Associates' motion by separate order entered April 16, 2013.

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Based upon the entire record, the representations of counsel for the Metropolitan Government, and for the reasons stated in the Metropolitan Government's motion, the Court finds as follows: On November 8, 2012, the Metropolitan Government filed a Petition for Condemnation seeking to acquire all rights, title and interest in fee simple of property located at 3404 Hobbs Road, Nashville, Tennessee ("property") and more particularly described in paragraph 17 of the Petition. The Metropolitan Government conducted a title search on the subject property, and after reasonable inquiry named as respondents all persons and entities known to the Metropolitan Government that may have an interest in the property that could be ascertained from an appropriate title search and examination of available records at the Davidson County Register of Deeds of Office.

The Court further finds that proper service of process of the petition and the notice of the hearing on possession was made in accordance with Tenn. R. Civ. Proc. 4 and obtained on all named respondents. The Metropolitan Government filed appropriate returns of service with the Clerk of the Court. The Metropolitan Government had the property appraised by an appropriate real property appraiser who determined the fair market value of the property to be $469,000.00. The Metropolitan Government tendered $469,000.00 to the Court contemporaneously with the filing of the petition as just compensation for the property rights sought.

The Court further finds that on January 16, 2013, after conducting a hearing and finding that no opposition to possession of the property had been filed with the Court or raised at the hearing, this Court entered an Order of Condemnation and Possession finding that condemnation of the property was a lawful exercise of the Metropolitan

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Government's power of eminent domain under the applicable laws of the state of Tennessee. The Court awarded possession of the property and all rights, title and interest in fee simple interest to the Metropolitan Government.

The Court further finds that the Metropolitan Government filed a motion for final judgment and served notice of the motion and hearing on all Respondents. No acceptance of the amount deposited was filed by any Respondent pursuant to Tenn. Code Ann. § 29-17-904, nor was any objection or exception to the amount deposited filed by any Respondent pursuant to Tenn. Code Ann. § 29-17-905. Accordingly, the Court finds that the Metropolitan Government's initial tender of $469,000.00 is just compensation for the taking of the property rights acquired in this cause of action and any and all related damages. Further, and by separate order this Court found that Respondent JPMorgan Chase Bank N.A. has a superior interest in the condemnation proceeds. Accordingly, all other liens in the property are extinguished.

It is therefore **ORDERED** that all rights, title, claims and interests of the respondents in and to the condemned property more fully described in the Petition and the Court's Order of Possession entered on January 16, 2013, is hereby divested out of the respondents and fully vested in the Metropolitan Government free of all liens, claims and encumbrances.

It is further **ORDERED** that the $469,000.00 tendered to the Court by the Metropolitan Government is just compensation for the taking of the property rights acquired in this cause of action and any and all related damages, and these funds shall be distributed by separate court order. Any lien, claim or encumbrance held by any

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Respondent to this cause of action is hereby extinguished by this Order insofar as it secures an interest in the property.

It is further **ORDERED** that all parties shall bear their own discretionary costs, and court costs are hereby taxed to the Metropolitan Government. This Order shall be deemed entered as of the date indicated by the file stamp on the top of the first page.

JUDGE JOE P. BINKLEY, JR.

APPROVED FOR ENTRY:

THE DEPARTMENT OF LAW OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY
SAUL SOLOMON, #11689
DIRECTOR OF LAW

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent via facsimile or U.S. Mail, postage prepaid, to the following on this the 18th day of April, 2013.

DWAYNE KEMP 4117 Hillsboro Road Nashville, TN 37215	**LAVITA ROCHELLE BAYS –KEMP** 973 Village Hills Drive Nashville, TN 37217
JPMORGAN CHASE BANK, N.A. **J.P. MORGAN MORTGAGE ACQUISTION CORP.** **WILSON & ASSOCIATES, PLLC** c/o Jerry Morgan, Esq. 8 Cadillac Drive, Ste. 120 Brentwood, TN 37027	**SUNTRUST BANK, INC.** **c/o SUSAN S. CRAFT** 5350 Popular Avenue, Suite 100 Memphis, TN 38119-3662
MARLENE ESKIND MOSES 205 23rd Avenue North Nashville, TN 37203	**GEORGE AVERY MOTT** 121 21st Avenue North, Suite 212 Nashville, TN 37203
SANTIAGO SEGOVIA MONROY 315 Dover Glen Antioch, TN 37013	**STEVEN KUPECZ** 3145 Appian Way Spring Hill, TN 37174

Andrew D. McClanahan, # 23772
Assistant Metropolitan Attorney

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CERTIFICATE OF SERVICE

CASE NO. 12C4558

I hereby certify that I have mailed a copy of the foregoing Order to the parties/counsel listed below, this the 25th day of April, 2013.

RICHARD R. ROOKER, CLERK

By: _____, D.C.

cc:

Andrew D. McClanahan, Esq.
James E. Robinson, Esq.
Patrick J. Bradley, Esq.
Assistant Metropolitan Attorneys
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JP Morgan Chase Bank, N.A.
J.P. Morgan Mortgage Acquisition Corp.
Wilson & Associates, PLLC
c/o Jerry Morgan, Esq.
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Brentwood, TN 37027

SunTrust Bank, Inc.
c/o Susan S. Craft
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Memphis, TN 38119-3662

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Santiago Segovia Monroy
315 Dover Glen
Antioch, TN 37013

Steven Kupecz
3145 Appian Way
Spring Hill, TN 37174

STATE OF TENNESSEE

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the order heretofore entered in the FIFTH Circuit Court for Davidson County, Tennessee, on the 25 day of APRIL , 2013 , in the Case Number 12C4558 between THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE Pla KEMP, DWAYNE A/K/A KEMP, DEWAYNE ET.AL Defendant, as same remains of record in the Minutes of said Court.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 10 day of MAY in the year two thousand thirteen and in the 236th year of American Independence.

SEAL

RICHARD R. ROOKER
CIRCUIT COURT CLERK

RICHARD R. ROOKER, Clerk,

By _____
Deputy Clerk