

KNOW ALL MEN BY THESE PRESENTS:

THAT We, Melvin A. Brennfoerder and Ilah M. Brennfoerder, husband and wife, JointTenants each as his or her own interest may appear

of the County of and State of for and in consideration of the sum of Forty-one Thousand seventeen and 50/100-----(\$41,017.50)-----DOLLARS in hand paid do hereby grant, bargain, sell, convey and confirm unto THE STATE OF NEBRASKA the following described real estate situated in Douglas County, and State of Nebraska, to-wit:



A tract of land and all improvements thereon located in part of the North Half of the Northwest Quarter and in a triangular part of the Northeast Half of the Southeast Quarter of the Northwest Quarter of Section 9, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, described as follows:



Referring to the north quarter corner of said Section 9; thence westerly on the North line of the Northwest Quarter of said Section 9 a distance of 664.6 feet; thence southerly 89 degrees 48 minutes left a distance of 206.9 feet to the point of beginning; thence southwesterly 16 degrees 54 minutes right a distance of 854.0 feet; thence continuing southwesterly 02 degrees 18 minutes right a distance of 126.6 feet to a point of curvature; thence continuing southwesterly on a 616.2 foot radius curve to the right (initial tangent of which coincides with the last described course) a distance of 359.6 feet to a point on the northeasterly right of way line of West Maple Road; thence southeasterly along said northeasterly right of way line a distance of 703.9 feet to the southeast property corner; thence northerly 135 degrees 00 minutes left on the East property line a distance of 1,721.8 feet to the point of beginning, containing 8.37 acres, more or less, being the acreage hereby secured.



The above described tract shall be part of a controlled access facility as defined in Section 39-1302 (6) R.R.S. 1943, and the remainder of said North Half of the Northwest Quarter and said triangular part of the Northeast Half of the Southeast Quarter of the Northwest Quarter, which by reason of the taking herein described now abuts on a highway where none existed theretofore, is subject to the provisions of Section 39-1329, R.R.S. 1943.



restricts access

TO HAVE AND TO HOLD the premises above described, together with all the Tenements, Hereditaments and Appurtenances thereunto belonging, unto the said The State of Nebraska and to its successors and assigns forever.

And we do hereby covenant with the said Grantee and with its successors and assigns that we are lawfully seized of said premises; that they are free from encumbrance

that we have good right and lawful authority to sell the same; and we do hereby covenant to warrant and defend the title to said premises against the lawful claims of all persons whomsoever.

And the said Melvin A. Brennfoerder and Ilah M. Brennfoerder hereby relinquishes all their rights of every name and kind in and to the above described premises.

Signed this 21st day of September

A.D. 1961



Melvin A. Brennfoerder
Ilah M. Brennfoerder

STATE OF Nebraska }
Douglas County } ss.



On this 21st day of September, A.D. 1961, before me, the undersigned, a Notary Public, duly commissioned and qualified for and residing in said county, personally came Melvin A. Brennfoerder and Ilah M. Brennfoerder husband and wife

to me known to be the identical persons whose names are affixed to the foregoing instrument as grantors and acknowledged the same to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

Ruffia Cornstead Notary Public.

My Commission expires the 5th day of March, 1964.

STATE OF _____ }
_____ County } ss.

On this _____ day of _____, A.D. 19____, before me, the undersigned, a Notary Public, duly commissioned and qualified for and residing in said county, personally came _____

to me known to be the identical person whose name is affixed to the foregoing instrument as grantor and acknowledged the same to be _____ voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public.

My Commission expires the _____ day of _____, 19____.

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WARRANTY DEED NOV 27 AM 11 14

Melvin A. Brennfoerder
Ilah M. Brennfoerder
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

TO
The State of Nebraska }
STATE OF NEBRASKA } ss.
Douglas County

Entered in Numerical Index and filed for record in the office of the REGISTER OF DEEDS of said County, the _____ of _____ Deeds of said County and recorded in _____ of _____ and _____ at _____ Nebraska _____ and _____ 603
Page _____
duly returned in Book _____

Thomas J. Gorman
Deputy
Register of Deeds

MAILED
Dep. of Rec.
NOV 9-15-61
REGISTERED

9-15-61

39-1329. State highways; egress and ingress, when required; Department of Roads; prescribe access.

The right of reasonable convenient egress and ingress from lands or lots, abutting on an existing highway, street, or road, may not be denied except with the consent of the owners of such lands or lots, or with the condemnation of such right of access to and from such abutting lands or lots. If the construction or reconstruction of any highway, to be paid for in whole or in part with federal or state highway funds, results in the abutment of property on such highway that did not theretofore have direct egress and ingress to it, no rights of direct access shall accrue because of such abutment, but the department may prescribe and define the location of the privilege of access, if any, of properties that then, but not theretofore, abut on such highway.

Source: Laws 1955, c. 148, § 29, p. 430.

Annotations

There is no right of direct access to a highway constructed upon a new right-of-way where no highway previously existed if the new highway is designated a controlled access facility from the beginning. *Morehead v. State*, 195 Neb. 31, 236 N.W.2d 623 (1975).

Request for instruction relating to this section properly refused when other instructions impliedly excluded irrelevant items addressed thereby. *Thacker v. State*, 193 Neb. 817, 229 N.W.2d 197 (1975).

Evidence of the use of federal funds in a state road project is not admissible in an eminent domain proceeding, but its admission in this case was not prejudicial. *Y Motel, Inc. v. State*, 193 Neb. 526, 227 N.W.2d 869 (1975).

An abutting property owner is entitled to recover damages resulting from the destruction or material impairment by the state of his right of access to an existing highway or street, not to restoration of access. *Danish Vennerforming & Old Peoples Home v. State*, 191 Neb. 774, 217 N.W.2d 819 (1974).

Where there was no previous access to highway, landowner in eminent domain proceedings acquired no new access rights. *Frank v. State*, 176 Neb. 759, 127 N.W.2d 300 (1964).

Adjoining landowner cannot be denied reasonable means of egress and ingress. *Chaloupka v. State*, 176 Neb. 746, 127 N.W.2d 291 (1964).

39-1302. Terms, defined.

For purposes of sections 39-1301 to 39-1393, unless the context otherwise requires:

(1) Abandon shall mean to reject all or part of the department's rights and responsibilities relating to all or part of a fragment, section, or route on the state highway system;

(2) Alley shall mean an established passageway for vehicles and pedestrians affording a secondary means of access in the rear to properties abutting on a street or highway;

(3) Approach or exit road shall mean any highway or ramp designed and used solely for the purpose of providing ingress or egress to or from an interchange or rest area of a highway. An approach road shall begin at the point where it intersects with any highway not a part of the highway for which such approach road provides access and shall terminate at the point where it merges with an acceleration lane of a highway. An exit road shall begin at the point where it intersects with a deceleration lane of a highway and shall terminate at the point where it intersects any highway not a part of a highway from which the exit road provides egress;

(4) Arterial highway shall mean a highway primarily for through traffic, usually on a continuous route;

(5) Beltway shall mean the roads and streets not designated as a part of the state highway system and that are under the primary authority of a county or municipality, if the location of the beltway has been approved by (a) record of decision or finding of no significant impact by the federal highway administration and (b) the applicable local planning authority as a part of the comprehensive plan;

(6) Business shall mean any lawful activity conducted primarily for the purchase and resale, manufacture, processing, or marketing of products, commodities, or other personal property or for the sale of services to the public or by a nonprofit corporation;

(7) Channel shall mean a natural or artificial watercourse;

(8) Commercial activity shall mean those activities generally recognized as commercial by zoning authorities in this state, and industrial activity shall mean those activities generally recognized as industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) General agricultural, forestry, ranching, grazing, farming, and related activities, including wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three months of the year;

(d) Activities conducted in a building principally used as a residence;

(e) Railroad tracks and minor sidings; and

(f) Activities more than six hundred sixty feet from the nearest edge of the right-of-way of the road or highway;

(9) Connecting link shall mean the roads, streets, and highways designated as part of the state highway system and which are within the corporate limits of any city or village in this state;

(10) Controlled-access facility shall mean a highway or street especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason. Such highways or streets may be freeways, or they may be parkways;

(11) Department shall mean the Department of Roads;

(12) Displaced person shall mean any individual, family, business, or farm operation which moves from real property acquired for state highway purposes or for a federal-aid highway;

(13) Easement shall mean a right acquired by public authority to use or control property for a designated highway purpose;

(14) Expressway shall mean a divided arterial highway for through traffic with full or partial control of access which may have grade separations at intersections;

(15) Family shall mean two or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship;

(16) Farm operation shall mean any activity conducted primarily for the production of one or more agricultural products or commodities for sale and home

use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support;

(17) Federal-aid primary roads shall mean roads, streets, and highways, whether a part of the state highway system, county road systems, or city streets, which have been designated as federal-aid primary roads by the department and approved by the United States Secretary of Transportation and shown on the maps provided for in section 39-1311;

(18) Freeway shall mean an expressway with full control of access;

(19) Frontage road shall mean a local street or road auxiliary to an arterial highway for service to abutting property and adjacent areas and for control of access;

(20) Full control of access shall mean that the right of owners or occupants of abutting land or other persons to access or view is fully controlled by public authority having jurisdiction and that such control is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings or intersections at grade or direct private driveway connections;

(21) Grade separation shall mean a crossing of two highways at different levels;

(22) Highway shall mean a road or street, including the entire area within the right-of-way, which has been designated a part of the state highway system;

(23) Individual shall mean a person who is not a member of a family;

(24) Interchange shall mean a grade-separated intersection with one or more turning roadways for travel between any of the highways radiating from and forming part of such intersection;

(25) Map shall mean a drawing or other illustration or a series of drawings or illustrations which may be considered together to complete a representation;

(26) Mileage shall mean the aggregate distance in miles without counting double mileage where there are one-way or divided roads, streets, or highways;

(27) Parking lane shall mean an auxiliary lane primarily for the parking of vehicles;

(28) Parkway shall mean an arterial highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development;

(29) Relinquish shall mean to surrender all or part of the rights and responsibilities relating to all or part of a fragment, section, or route on the state highway system to a political or governmental subdivision or public corporation of Nebraska;

(30) Right of access shall mean the rights of ingress and egress to or from a road, street, or highway and the rights of owners or occupants of land abutting a road, street, or highway or other persons to a way or means of approach, light, air, or view;

(31) Right-of-way shall mean land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street, or highway;

(32) Road shall mean a public way for the purposes of vehicular travel, including the entire area within the right-of-way. A road designated as part of the state highway system may be called a highway, while a road in an urban area may be called a street;

(33) Roadside shall mean the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside;

(34) Roadway shall mean the portion of a highway, including shoulders, for vehicular use;

(35) Separation structure shall mean that part of any bridge or road which is directly overhead of the roadway of any part of a highway;

(36) State highway purposes shall have the meaning set forth in subsection (2) of section 39-1320;

(37) State highway system shall mean the roads, streets, and highways shown on the map provided for in section 39-1311 as forming a group of highway transportation lines for which the department shall be the primary authority. The state highway system shall include, but not be limited to, rights-of-way, connecting links, drainage facilities, and the bridges, appurtenances, easements, and structures used in conjunction with such roads, streets, and highways;

(38) Street shall mean a public way for the purposes of vehicular travel in a city or village and shall include the entire area within the right-of-way;

(39) Structure shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location;

(40) Title shall mean the evidence of a person's right to property or the right itself;

(41) Traveled way shall mean the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes;

(42) Unzoned commercial or industrial area for purposes of control of outdoor advertising shall mean all areas within six hundred sixty feet of the nearest edge of the right-of-way of the interstate and federal-aid primary systems which are not zoned by state or local law, regulation, or ordinance and on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located thereon, the area between such activity and the highway, and the area along the highway extending outward six hundred feet from and beyond each edge of such activity and, in the case of the primary system, may include the unzoned lands on both sides of such road or highway to the extent of the same dimensions if those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the department. In determining such an area, measurements shall be made from the furthest or outermost edges of the regularly used area of the commercial or industrial activity, structures, normal points of ingress and egress, parking lots, and storage and processing areas constituting an integral part of such commercial or industrial activity;

(43) Visible, for purposes of section 39-1320, in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read;

(44) Written instrument shall mean a deed or any other document that states a contract, agreement, gift, or transfer of property; and

(45) Zoned commercial or industrial areas shall mean those areas within six hundred sixty feet of the nearest edge of the right-of-way of the Highway Beautification Control System defined in section 39-201.01, zoned by state or local zoning authorities for industrial or commercial activities.

Source: Laws 1955, c. 148, § 2, p. 415; Laws 1969, c. 329, § 1, p. 1174; Laws 1972, LB 1181, § 1; Laws 1975, LB 213, § 4; Laws 1983, LB 120, § 2; Laws 1993, LB 15, § 4; Laws 1993, LB 121, § 211; Laws 1993, LB 370, § 39; Laws 1995, LB 264, § 21; Laws 2005, LB 639, § 1; Laws 2016, LB1038, § 8.

Effective Date: July 21, 2016

Annotations

Legislature gave to the Department of Roads complete administration of the state highway system. *Vap v. City of McCook*, 178 Neb. 844, 136 N.W.2d 220 (1965).

Term highway was not used in the sense of highway designated as a part of the state highway system. *School Dist. No. 228 v. State Board of Education*, 164 Neb. 148, 82 N.W.2d 8 (1957).