

The property to be transferred is located in Contra Costa County, near Concord, and is described in Application No. 15358 as follows;-

BEING lots Forty-six(46), Forty-seven (47), forty-eight (48), forty-nine (49), fifty (50) and fifty-one(51) as said lots are laid down, delineated and so designated upon that certain map entitled "Ridge Park Tract, being a subdivision of Lots Nos. 21 and 22 of Rancho Monte Del Diablo, near Concord, Contra Costa County, Calif.," and which said map was filed October 11,1912, in the office of the County Recorder of the County of Contra Costa, State of California. (Consisting of 15 acres, more or less.)

It is recited in the application that a portion of said real property was and is necessary and useful in the operation of a public utility and that the portion and extent thereof is set forth and described in that certain proceeding heretofore instituted before the Commission and entitled and numbered as follows;-

"Robert A. Priest, John F. Williams and M.E.Finn, complainants, vs. Thomas Parkhill and Ridge Park Improvement Company, a corporation, defendants- Case No. 2138."

Applicants refer to said proceeding and the decision therein and make it a part of these present applications for all purposes.

Reference to Decision No. 15932, entered February 5, 1926 in Case No. 2138, indicates that the public utility system involved in these proceedings was started about 1913 by Ridge Park Improvement Company, a corporation, for the purpose of supplying water in a subdivision located near the town of Concord, Contra Costa County. Thereafter Thomas Parkhill acquired certain property within the subdivision including two lots on which the wells and tanks included

in the water system were located, although it appears that Ridge Park Improvement Company reserved title to the wells, pumping plant, tank and other water system properties. It further appears from the aforesaid decision that in 1920 Thomas Parkhill, following certain financial difficulties in which Ridge Park Improvement Company became involved, secured permission from the company to operate the water plant, and that later, in 1924, he bought the system from the company for \$250.00.

In 1925 certain consumers filed a complaint, Case No. 2138, against Thomas Parkhill and Ridge Park Improvement Company, alleging that service had been discontinued, and asking the Commission to adjudge the defendants to be a public utility and compelling them to furnish water. In passing on the complaint the Commission found that Ridge Park Improvement Company clearly had dedicated the water system to the public use, and that the attempted transfer of the system in 1924 from the company to Thomas Parkhill was void, for the reason that the transfer was not authorized by the Commission. The decision of the Commission, No. 15932, reads in part as follows:-

".....it appears evident that the original owners of this system did so dedicate this water service to the public and it is also equally clear that this burden of public servitude was not and could not have been terminated by the alleged sale of the property to Parkhill, who as the present operator of the plant, owes the duty to the public of continuing the supply until properly relieved by order of this Commission."

The Commission accordingly in the order in said decision, ordered Ridge Park Improvement Company and Thomas Parkhill as agent and assignee of said Ridge Park Improvement Company, to resume the service of water. Subsequently, by Decision No. 17827, entered January 12, 1927, in Application No. 13192, the Commission established a schedule of rates to be charged on the system. That decision, it might be added, shows that at that time there were but six consumers and that the estimated cost of the water properties was \$2,545.00.

It appears that Thomas Parkhill is now deceased and that his estate desires to dispose of the properties referred to herein, including the water system, for \$8,000.00, to A.O. Donogh and Marion E. Donogh, who desire, in financing the purchase price, to execute a trust indenture on such properties and on certain lots now owned by them to secure the payment of a note for \$6,000.00 payable as indicated hereinabove. Arrangements have been made to borrow the money from Pacific Coast Joint Stock Land Bank of San Francisco.

Counsel for applicants contends that Robert Parkhill as administrator can convey a good merchantable title to A.O. Donogh and Marion E. Donogh, if these applications are granted. While it is not for this Commission to determine the validity of titles to property, we are, however, concerned with the security behind the \$6,000.00 loan. J. Edward Johnson, general counsel for the bank, has informed us that the bank "will require a title insurance policy insuring the title to the property in question to the extent of the loan, concurrently with making said loan."

As we have indicated in our former decision, the duty of operating the water system referred to in these proceedings cannot be terminated by a transfer, or attempted transfer of the properties comprising said system. In the event A.O. Donogh and Marion E. Donogh take possession of the water system the Commission will look to them to continue the public utility water service now being rendered by the present operators under the same rates, rules and regulations, unless hereafter changed by the Commission.

ORDER

Applications having been filed with the Railroad Commission, as indicated in the foregoing opinion, for authority to transfer properties and to execute a deed of trust, and the Commission

being of the opinion that these applications are not matters in which public hearings are necessary, and that the applications should be granted only as herein provided, and that the money, property or labor to be procured or paid for through the execution of said deed of trust, is reasonably required for the purpose specified herein,

IT IS HEREBY ORDERED that Robert Parkhill, administrator with the will annexed of the estate of Thomas Parkhill, deceased, be, and he hereby is, authorized to transfer, for \$6,000.00, to A.O. Donogh and Marion E. Donogh, such interest as he might have in the properties referred to in the foregoing opinion and described in Application No. 15358.

IT IS HEREBY FURTHER ORDERED that A.O. Donogh and Marion E. Donogh be, and they hereby are, authorized to execute to Pacific Coast Joint Stock Land Bank of San Francisco a farm loan amortization deed of trust substantially in the same form as that filed with Application No. 15359, and to issue a promissory note secured thereby in the principal amount of \$6,000.00, with interest at the rate of six percent per annum, both principal and interest to be paid in semi-annual installments on or before December 1, 1948, and to use the moneys received through the issue of the note to finance in part the cost of the properties herein referred to, provided that prior to or concurrently with the issue of the note, there be delivered to the bank or its representative a title insurance policy insuring the title to the property in question to the extent of its loan.

The authority herein granted is subject to further conditions as follows:-

(1) The authority herein granted to execute a deed of trust, is for the purpose of this proceeding only, and is granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which it may be subject.

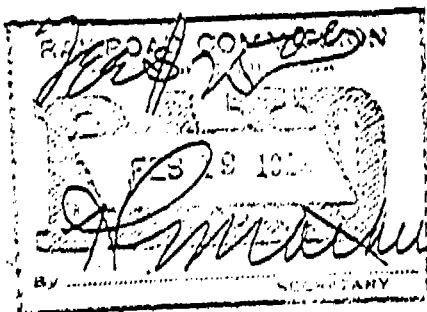
(2) Robert Parkhill shall file with the Commission within thirty days after execution, a certified copy of the deed of conveyance to A.C. Donogh and Marion E. Donogh.

(3) A.C. Donogh and Marion E. Donogh shall file a certified statement indicating the exact date upon which they took possession of and commenced operating the water system referred to herein, such statement to be filed within ten days after such date.

(4) A.C. Donogh and Marion E. Donogh shall keep such record of the issue of the \$6,000.00 note as will enable them to file, within thirty days thereafter, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

(5) The authority herein granted to execute a deed of trust and note shall become effective when A.C. Donogh and Marion E. Donogh have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars. In other respects the authority granted will become effective ten days from the date hereof.

DATED at San Francisco, California, this 18th day of February, 1929.



Fee # 26187

Thos. Parkhill

Al. Sawyer

Ernest

Leon Whitehall

Commissioners.