

Decision No. 20979.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of the City of Burlingame for per-
mission to construct a pedestrian
path over Southern Pacific and
Market Street Railway tracks at
Morrell Avenue, Burlingame, California.

Application No. 15270.

John F. Davis, for City of Burlingame, Applicant.
E. H. McElroy, for Southern Pacific Company, Protestant.
K. W. Cannon, for Market Street Railway Company, Protestant.

BY THE COMMISSION:

O P I N I O N

In this application the City of Burlingame requests permission to construct a pedestrian pathway at grade across the tracks of Southern Pacific Company and Market Street Railway Company opposite Morrell Avenue in that city. A public hearing was held before Examiner Cannon on February 23, 1929.

The crossing requested in this application is proposed as a substitute for the pedestrian crossing over the tracks of Southern Pacific Company heretofore granted by the Commission in its Decision No. 19603, dated April 13, 1928, in Application No. 14100, and for a general description of the territory to be served and other attendant conditions reference is made to the file in that proceeding. In Application No. 14100 it was

requested that a crossing be established at the same location as is proposed in the instant application. From the record in the former proceeding it was concluded that a crossing at Park Avenue, one block southeasterly from Morrell Avenue, would better serve the public need, since it appeared that the primary purpose of the crossing was to reach the cars of the Market Street Railway Company from the district known as Villa Park and Corbitt Subdivisions, lying northeast of the Southern Pacific Company right of way.

It was stipulated by the parties that the record in Application No. 14100 be considered in evidence in the present proceeding insofar as relevant. Some additional evidence was introduced to show that a crossing at Morrell Avenue would better serve the public than the one heretofore granted. It was claimed that a new residence tract known as the Burlingame Shore Land Company Subdivision No. 1 had been plotted and some twenty-nine new houses erected in this tract. It appears, however, that this new subdivision is more accessible from Oak Grove Avenue which at present crosses the tracks of both railway companies and at which there is also a stop for Market Street Railway cars and that, as far as this new subdivision is concerned, no additional crossing is required.

It was also claimed by the City that one of the chief purposes of the new crossing is to furnish the residents of the Villa Park and Corbitt Subdivisions better access to Southern Pacific Station at Broadway and the retail district adjacent thereto.

There may be some merit in this contention, but the Commission is still of the opinion that a crossing at Park Avenue would better serve the public, in so far as access to and from the car stop of Market Street Railway is concerned. We presume, however, that the City authorities have properly weighed the question as to whether convenience to the public in reaching the Southern Pacific Station and retail district at Broadway is of more importance than convenience to the residents of this district in reaching the cars of Market Street Railway Company and, since it is apparent that public convenience and necessity require an additional pedestrian outlet from the district involved in this proceeding and the City Council has gone on record as favoring a crossing at Morrell Avenue over one at Park Avenue, an order will be entered in this proceeding granting the authority sought and the authority heretofore granted in Application No. 14100 will be rescinded.

From the record in this proceeding it appears that there is a possibility that when the so-called Winchester Tract, lying between Morrell Avenue and Broadway on the northeasterly side of the railroad track, is subdivided a public thoroughfare may be constructed northeast of and parallel to the track, which would furnish the residents of Villa Park as good, if not better, access to Broadway District than the crossing herein authorized. On the other hand the subdivision and building up of this tract may increase the public need for access to the car stops of Market Street Railway from the northeasterly side of Southern Pacific Company track and create a further need for the crossing herein authorized.

O R D E R

The City Council of the City of Burlingame having made application for permission to construct a public pedestrian pathway at grade across the tracks of Southern Pacific Company and across the tracks of Market Street Railway Company at Morrell Avenue, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

It is hereby found as a fact that public convenience and necessity justify the establishment of a public pedestrian crossing at grade at the point above indicated, therefore,

IT IS HEREBY ORDERED, that permission and authority be and it is hereby granted to the City Council of the City of Burlingame, County of San Mateo, State of California, to construct a pedestrian pathway at grade across the tracks of Southern Pacific Company and at grade across the tracks of Market Street Railway Co. opposite the westerly terminus of Morrell Avenue in said city as shown by the map (Proposed Morrell Ave. Foot Path) attached to the application.

The above crossing of Southern Pacific Company tracks shall be identified as Crossing No. E-15.6-D and that of Market Street Railway tracks shall be identified as Crossing No. 65-7.9-D.

Said crossings shall be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossings shall be borne by applicant. The cost of maintenance of those portions of said crossings up to lines two (2) feet outside of the outside rails shall be borne by applicant. The maintenance of Crossing No. E-15.6-D between lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company and

the maintenance of that portion of Crossing No. 65-7.9-D between lines two (2) feet outside of the outside rails shall be borne by Market Street Railway Company. No portion of the cost herein assessed to applicant for the construction or maintenance of said crossings shall be assessed by applicant, in any manner whatsoever, to the operative property of Southern Pacific Company or Market Street Railway Company.

(2) The crossings shall be constructed of a width not greater than ten (10) feet and at an angle of ninety (90) degrees to the railroads and with grades of approach not greater than six (6) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereon of pedestrians. Posts shall be erected and maintained on the northeasterly right of way line of Southern Pacific Company's operative right of way and on the southwesterly line of Market Street Railway Company's right of way in such a manner as to effectively prevent the passage of automobiles or other road vehicles.

(3) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(4) If said crossings shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission, if in its judg-

ment, the public convenience and necessity demand such action.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 17th day of April, 1929.

Thos D. Loring

C. J. Lanning

Ernest C. Lott

Leon Whitely

W. J. Carr

Commissioners.