

ORIGINAL

Decision No. 22082 .

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of the
 City of Burbank, a Municipal Corpora-
 tion, and County of Los Angeles, a Body
 Politic, for an Order authorizing the
 separation of grades at Victory Place,
 in the City of Burbank, County of Los
 Angeles, State of California, under
 the Southern Pacific Coast Line Rail-
 road, and allocating the expense of
 the construction thereof.

Application No. 15838.

Mr. James H. Mitchell, City Attorney, for
the City of Burbank.

Mr. Everett W. Mattoon, County Counsel of
the County of Los Angeles, by Robert W.
Kenny, Deputy County Counsel, for the
County of Los Angeles.

Mr. R. E. Wedekind, for Southern Pacific
Company.

SEAVEY, COMMISSIONER:

O P I N I O N

This is a joint application, filed with the Commission
by the City of Burbank and the County of Los Angeles, seeking
permission to construct Victory Place at separated grades under
the tracks of the Southern Pacific Company (Coast Line), in the
City of Burbank.

Public hearings were held in this proceeding at Los
Angeles on October 29th, November 5th and December 10th, 1929, and
January 3rd, 1930, and it is now ready for decision. At the hear-
ing on October 29th, the City Attorney of Burbank made a motion,
requesting permission to modify the application, to the effect that
authority be granted to construct and maintain a temporary grade

crossing pending the time the City is in a position to finance a grade separation, which was estimated to be about five years. Southern Pacific Company took exception to the request for permission to modify the application; however, the City was permitted to introduce certain testimony, showing the necessity for a temporary grade crossing, with the understanding, which was agreeable to all parties, that ruling on its motion for a modification of the application would be referred to the entire Commission after formal submission of the proceeding.

It was stipulated by all parties that if the Commission granted the motion to modify the application to seek a temporary grade crossing, the respective records in Applications Nos. 12434 and 13920 would be considered as evidence in this proceeding in so far as relevant. In each of these two applications, the City of Burbank sought to construct Victory Place over Southern Pacific Company's tracks at grade and by Decision No. 16760, dated May 25th, 1926, and Decision No. 19106, dated December 8th, 1927, respectively, these applications were denied, not, however, for lack of public necessity for a crossing over the railroad at this location but, on the other hand, due to the importance of the highway and railroad, together with the fact that conditions here lend themselves favorably to a grade separation, the Commission pointed out that the crossing should initially be constructed at separated grades. Notwithstanding the fact that the Commission made its order in Decision No. 19106, denying the City's application for a grade crossing, it proceeded to pave Victory Place up to the right-of-way on each side of the tracks, which required a considerable fill to bring the highway up to the grade of the tracks and must be removed if an undergrade crossing is effected at this location.

In the instant case, as well as in the case of the two applications referred to above, there is a voluminous record show-

ing the necessity for a public crossing between Southern Pacific Company's Coast Line tracks and Victory Place, as applied for herein. An important public benefit to be derived from constructing this crossing results from the fact that it will provide the connecting link between San Fernando Road, on the north, and the newly constructed Riverside Drive, on the south. The connection of these important highway arteries would afford a direct route between the business center of the City of Los Angeles and the San Fernando Valley and points north thereof. The record shows that through the construction of this link, a large volume of traffic, travelling between San Fernando and points north, and the business center of Los Angeles, which now follows the existing route along San Fernando Road through Burbank and Glendale, will be attracted along the Riverside Drive route. The point of diversion of this traffic southbound will be at the so-called "Turkey Crossing" over Southern Pacific Company's tracks, located in the northwesterly portion of the City of Burbank. The traffic, instead of crossing the railroad at this point and again at some other grade crossing to the south, to reach Los Angeles, will be afforded a direct route into Los Angeles without the necessity of crossing any steam railroad tracks at grade. It has been estimated that seventy-five (75) per cent of the southbound traffic, which now passes over the railroad at "Turkey Crossing," will be attracted by the Riverside Drive Route, if the proposed crossing is constructed.

The track involved in this application is Southern Pacific Company's Coast Line between Los Angeles and San Francisco. At Victory Place, there are normally fourteen (14) passenger trains and twelve (12) freight trains operated per day over this line and, in addition, a number of extra trains. These trains operate at a moderate speed in the vicinity of the proposed crossing. At this time

there is a single track constructed over the proposed extension of Victory Place. The record shows, however, that the company plans to construct additional tracks over this highway in connection with a major track expansion program between Los Angeles and Burbank. The new track plan presented by Southern Pacific Company provides for three tracks over Victory Place. The existing track at this point is constructed on a fill some three or four feet above the natural ground level.

All the parties to this proceeding agree that there is a necessity for a crossing of Southern Pacific Company's tracks at Victory Place and all parties further agree that the expense of a grade separation is justified at this point. The City of Burbank takes the position, however, that its portion of financing a separation must be raised through a district assessment and that the district could better stand such an assessment if a temporary crossing were constructed and permitted to remain for a period of not to exceed five years, during which time development would take place in this section and thereby increase the tax value of the property in the district. To carry out such a program would result in the total loss of the cost of a grade crossing, the estimates of which range from \$7,500. to \$10,000. Following the usual procedure of the Commission, this total amount would be assessed to the political bodies. Also, the adjacent territory, which is potentially industrial property, is not now developed and property damages, due to the construction of the subway, will be at a minimum. The proposed suggestion to delay construction for five years or until this property is developed, undoubtedly would result in a substantial increase in this property damage.

It should also be pointed out that applicants would be required to advance the amount to cover the cost of a temporary crossing at grade before work would be started; on the other hand, a plan

could be worked out whereby applicants' portion of the expense of a crossing at separated grades could be spread over a period of time.

The Commission has given careful consideration to the request of the City of Burbank to modify its original application in this proceeding, to the effect that the City be permitted to construct a temporary grade crossing to be replaced with a grade separation, and the conclusion has been reached that this request should be denied, as nothing has been presented which leads the Commission to the conclusion that further consideration should be given to a grade crossing at this location, temporary or otherwise.

After carefully considering the record in this proceeding, I arrive at the same conclusion as was reached in the two former proceedings referred to above, that a crossing immediately should be effected between Victory Place and Southern Pacific Company's Coast Line and that the proper method of effecting this crossing is by means of an underpass; therefore, there remains only to be determined the character of structure to be employed in this separation and apportionment of cost of the same.

A number of plans of separation, with their respective estimates of cost, were presented, all of which provided for carrying the highway under the tracks. Southern Pacific Company's original plans, introduced as Exhibit No. 3, provided for a clear span of forty (40) feet for the driveway, with five (5) per cent grades of approach, one sidewalk, and with a fourteen (14) foot overhead clearance in one case and a twelve (12) foot overhead clearance in another. These plans were later replaced with another one, which was introduced as Exhibit No. 7, contemplating a clear span of forty-one (41) feet for the driveway, with five (5) per cent grades of approach, and one sidewalk. The estimated cost of this structure, with one track and including property damage but excluding paving of

Victory Place within the limits of the approaches, is shown to be \$61,111. The cost of the two additional tracks add \$26,791. to the estimate, or approximately \$13,500. per track.

Applicants introduced a plan of separation and estimates of cost, identified as Exhibit No. 5. This plan shows two twenty (20) foot roadways, separated by a center pier, with four (4) per cent grades of approach and an overhead clearance of fourteen and five-tenths (14.5) feet, and two (2) sidewalks. The estimated cost of constructing this project, with one track and including property damage but excluding paving, is \$87,219; two additional tracks are estimated to cost \$34,216.

Estimates on property damage on the various plans were introduced by the Commission's witness, E. P. McAuliffe. The estimates of cost for the various plans of a grade separation presented, including property damage but excluding the cost of paving Victory Place within the limits of the approaches and removing the fill placed by the City, referred to above, range from \$73,126. to \$124,111. The wide variation in estimates is due, largely, to the fact that some plans contemplate one sidewalk and one track while others contemplate two sidewalks and three tracks. In the Southern Pacific plan the property to the south of the railroad and west of Victory Place, within the limit of the approach grade, is afforded street access through the construction of a side street; otherwise, no side streets are proposed in any of the plans to serve property fronting on Victory Place within the limits of the approaches.

While there is some difference of opinion between applicants and the railroad, as to the need for more than one sidewalk through the structure, this is a comparatively small item. The additional cost of constructing a second sidewalk, if built at the time of the original construction of the underpass, is estimated at some \$4,000., whereas, if constructed later, said additional cost

will be about \$15,000; therefore, it would seem desirable to include a second sidewalk in the original constructions, if there is a public need for the same within the near future, which appears to be somewhat of a debatable question. The estimates show that the construction of a side street will add slightly to the total cost of the project. This, however, is a matter which will be left to the parties for determination in the plan to be submitted. In view of the fact that the parties are not far apart on a plan of separation, the order will provide that they file with the Commission, for its approval, a plan of separation which shall, among other things, provide for a vertical clearance of not less than fourteen (14) feet, a clear roadway width of not less than forty (40) feet and grades of approach of five (5) per cent.

Now considering the question of apportionment of the cost of the construction of this separation; the testimony introduced on this subject varied considerably, depending, largely, upon the number of railroad tracks included in the project. The minimum proposed assessment to the railroad, according to this testimony, is twenty-five (25) per cent, while the maximum was approximately thirty-seven (37) per cent for the two-track plan and forty-six (46) per cent for the three-track plan. In considering an equitable apportionment of cost between the parties, of such an improvement as we have here under consideration, due weight must be given to all the elements affecting this particular case.

The record shows that if this separation is effected, it will attract a large volume of vehicular traffic which otherwise is required to cross the railroad tracks at two locations in traveling between San Fernando and the business center of Los Angeles; also, that some consideration has been given to the matter of closing the so-called "Turkey Crossing" if and when a highway is constructed

along the northeasterly side of Southern Pacific Company's tracks between Burbank and San Fernando.

Applicants, City of Burbank and County of Los Angeles, have requested that the apportionment of cost to the political subdivisions not be divided; in other words, it is desired by applicants that the expense should be apportioned between the railroad and applicants jointly, it being implied that these parties will reach an agreement between themselves as to such division of cost. This request appears reasonable and the order will so provide. It may be understood, however, that if the City and County are unable to reach an agreement on division of cost, the Commission will, by supplemental order, apportion the amount between the two parties.

In view of the fact that the plans presented provide for future expansion of highway traffic, it would seem reasonable to make a similar provision for railroad traffic. Testimony was introduced to the effect that the railroad contemplates the immediate installation of a track expansion program, which provides for three tracks over Victory Place. The file shows that the construction of this work will not go forward as fast as was originally contemplated. It appears reasonable, however, to include in this improvement the expense of constructing one additional track, said track to be apportioned between the parties, and if the railroad desires to construct the third track over Victory Place at this time, it should bear the entire expense thereof. It also appears reasonable that the railroad should not be assessed any portion of the expense in connection with the paving of Victory Place, within the limits of the approaches, or removing the existing paving and fill, placed by the City within this area in connection with the paving of Victory Place up to the railroad.

After carefully considering the record in this proceeding, it seems reasonable that the expense of effecting this separation,

including the above provisions, should be borne one-third by the railroad and two-thirds by the political subdivisions and an order so providing is recommended.

O R D E R

The City of Burbank and the County of Los Angeles, having filed the above entitled proceeding with this Commission, seeking permission to construct Victory Place across Southern Pacific Company's Coast Line tracks at separated grades, in the City of Burbank, County of Los Angeles, State of California, public hearings having been held, the matter having been submitted and being now ready for decision,

It is Hereby Found as a Fact that public convenience and necessity require the construction of Victory Place across Southern Pacific Company's tracks at separated grades and not otherwise; therefore,

IT IS HEREBY ORDERED that the City of Burbank and the County of Los Angeles be and they are hereby authorized to construct Victory Place under Southern Pacific Company's Coast Line tracks at the location described in the application and as shown on the map attached thereto.

This undergrade crossing shall be identified as Crossing No. E-482.3-B.

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

(1) The expense of constructing this undergrade crossing shall be borne two-thirds by the City of Burbank and the County of Los Angeles, applicants herein, and one-third by Southern Pacific Company, provided, however, that the expense of paving Victory Place and the cost of removing the fill and pavement placed by the City of Burbank, within the limits of the approaches, subsequent

to the time the Commission made its order in Decision No. 16760, dated May 25th, 1926, in Application No. 12434, shall be borne exclusively by the applicants; and provided, further, that if the railroad elects to construct more than two tracks across Victory Place at the present time, the cost of any additional tracks shall be borne exclusively by said railroad.

(2) The expense of maintaining the track supporting structure shall be borne by Southern Pacific Company. The expense of maintaining pumping equipment, lights and pavement, together with any other expense incident to the maintenance of this undergrade crossing, shall be borne by the applicants.

(3) Applicants shall file with this Commission, for its approval, within a period of one hundred and twenty (120) days of the date of this order and before the commencement of work, a plan showing, in detail, how the said undergrade crossing shall be effected, this plan to have the approval of Southern Pacific Company, and to embody the features set forth in the foregoing opinion. Applicants shall also file with the Commission, for its approval, within a period of one hundred and twenty (120) days, an agreement, entered into between the parties, including Southern Pacific Company, showing how the actual work of constructing said undergrade crossing shall be performed. In the event Southern Pacific Company refuses to approve said plan and/or enter into said agreement, a statement shall be furnished the Commission, setting forth the reasons for such action on the part of the railroad; thereupon, the Commission will dispose of these matters by supplemental order.

(4) Said undergrade crossing shall be constructed with clearances conforming to the provisions of this Commission's General Orders Nos. 26-C and 64-A.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the con-

struction of said undergrade crossing.

(6) The terms and conditions of this order are contingent upon the undergrade crossing being constructed within one year from the date of the order; otherwise, the authorization herein granted shall lapse and become void, unless further time is granted by subsequent order.

IT IS HEREBY FURTHER ORDERED that the motion of the City of Burbank, to modify its original application, to the effect that the Commission grant the City the right to construct a temporary grade crossing over Southern Pacific Company's tracks at Victory Place, to be replaced at a later date with a grade separation, be and it is hereby denied.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3rd day of February, 1930.

C. Seaver
George C. ...
...

Commissioners.