

Decision No. 22643

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

THE CITY OF OCEANSIDE, a municipal corporation, and H. D. BRODIE, WALTER L. CLAPHAM, BERNARD MACDONALD, C. D. MERRILL and E. A. WALSH, as Councilmen of said City, Complainants,

-vs-

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, a corporation, Defendant.

APPLICATION NO. 16456

J. C. Hizar, City Attorney, for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION:

OPINION

The City Council of the City of Oceanside has petitioned the Commission for authority to widen Wisconsin Avenue, Short Street and Cassidy Street and to construct Cleveland Street at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company in said City.

A public hearing on this proceeding was conducted by Examiner Williams at Oceanside, on June 4, 1930, the matter being duly submitted is now ready for decision.

Wisconsin Avenue, Short Street and Cassidy Street, located in the southerly portion of the City and extending in a general easterly and westerly direction, have been constructed at grade across the Railroad Company's tracks for more than thirty years. At the present time, the width of the crossings is less than the approach width of

these streets, and it is the desire of the City to widen the crossings to correspond to the approach widths of the streets.

The railroad involved is the single track, main line of The Atchison, Topeka and Santa Fe Railway Company between Los Angeles and San Diego, over which operate eight passenger trains and five freight trains daily. At the crossing of Short Street, the Escondido branch of the Santa Fe, over which operate two mixed trains daily, is also involved.

Wisconsin Avenue, Short Street and Cassidy Street, extending through a rapidly developing residential district east of the tracks, serve as an access to the property west of the tracks and along Pacific Avenue, which is parallel to and one block east of the beach of the Pacific Ocean. Wisconsin Street extends as far west as Strand Paso Del Mar, which is a street constructed parallel to and along the beach.

The amount of traffic over the crossings, as shown by a traffic check made on June 2, 1930, is as follows:

<u>Crossing</u>	<u>Time of Check</u>	<u>Vehicles</u>	<u>Pedestrians</u>
Wisconsin Ave.	6:30 A.M. - 2:30 P.M.	177	7
Short St.	5:30 A.M. - 2:30 P.M.	4	1
Cassidy St.	1:00 P.M. - 6:00 P.M.	69	4

It may be seen from the above tabulation that the traffic over the Short Street crossing is very light. The crossing of Short Street at the present time is approximately twenty-five feet in width, which, in our opinion, is adequate to efficiently and safely accommodate the amount of traffic using the crossing.

The corner views at the three crossings are clear in all directions.

Cleveland Street, extending in a general north and south direction, is constructed parallel to and one block east of the Santa Fe's main line. At the present time, Cleveland Street is constructed as far south as Short Street. The City now proposes to construct

Cleveland Street southerly across the Santa Fe's Escondido Branch which also serves as the northerly leg of a wye track. The record shows that the only purpose of extending Cleveland Street across the Branch line track is to afford the owners of seven or eight lots located between the two legs of the wye tracks ingress and egress to the property. The record shows that there has been no development on these lots, or any likelihood of any immediate development. The matter of affording ingress and egress to private property over a railroad track is not one requiring the opening of a public crossing, but is one whereby the owners of such property should arrange with the Railroad Company for a private crossing to afford access to their property.

The Santa Fe protested the construction of the Cleveland Street crossing and the widening of the Short Street crossing, and also requested that the crossing of Tyson Street, which is constructed across their Oceanside yard, be closed.

Tyson Street is located approximately 1600 feet south of Third Street and approximately 2100 feet north of Wisconsin Street. A traffic check, taken on June 2, 1930, between 6:00 A.M. and 2:30 P.M., shows that sixty-five vehicles and twenty-nine pedestrians passed over the crossing. The City Council of Oceanside is opposed to the closing of the Tyson Street crossing, as shown by the testimony of two members of that body. After carefully considering the evidence in this proceeding, we are of the opinion that the record does not justify the closing of the Tyson Street crossing.

Inasmuch as the crossings at Wisconsin Avenue and Cassidy Street have been in existence for a great number of years, and public convenience and necessity require their widening, it would appear reasonable to require the Railroad Company to bear the cost of widening the crossing between the rails and two (2) feet outside thereof.

After carefully considering all of the evidence in this proceeding, we are of the opinion, and hereby find, that public convenience and necessity require the widening of the crossings at Wisconsin Avenue and Cassidy Street, but do not require the construction of the crossing at Cleveland Street. We are also of the opinion that the crossing of Short Street needs no correction at this time, as the improvement of Wisconsin Avenue, 2200 feet north, will provide amply for the traffic seeking that part of the beach. The application in this regard will be denied.

ORDER

A public hearing having been held on the above entitled application, the matter having been duly submitted, and the Commission being now fully advised,

IT IS HEREBY ORDERED that permission and authority be, and it is, hereby granted to the City Council of the City of Oceanside, County of San Diego, State of California, to widen Wisconsin Avenue and Cassidy Street at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company, at the locations as shown by the maps attached to the application.

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

(1) The cost of constructing and thereafter maintaining those portions of said crossings outside of lines two (2) feet outside of the rails shall be borne by applicant. The cost of constructing and thereafter maintaining those portions of said crossings between lines two (2) feet outside of the rails shall be borne by The Atchison, Topeka and Santa Fe 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 The Atchison, Topeka and Santa Fe Railway Company.

(2) The crossings shall be widened to a width of not less than the widths of the streets and at the angles as shown on the blue print maps attached to the application, and with grades of approach not greater than five (5) per cent; shall be constructed substantially in accordance with Standard No. 2, as specified in General Order No. 72 of this Commission; shall be protected by Standard No. 1 crossing signs, as specified in General Order No. 75 of this Commission, and shall in every way be made suitable for the passage thereon of vehicles and other road traffic.

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

(4) If said crossings shall not have been widened 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 judgment, the public convenience and necessity demand such action.

IT IS HEREBY FURTHER ORDERED that those portions of the above entitled application concerning Cleveland Street and Short Street, be, and the same are, hereby denied.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 9th day of

July, 1930.

Edward A. Kelly
Leon A. Whittell
John D. Curtis

Commissioners.