

Decision No. 24911

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FARNETTA DAVIS JOHNSON)
 to buy the property known as Melrose)
 Boulevard Tract Water Plant, and)
 GEORGE KERRY to sell the same to her,)
 and for an order authorizing and)
 approving the said purchase and sale.)

Application No. 18233

Wm. F. Rose for applicants

ORIGINAL

BY THE COMMISSION:

OPINION AND ORDER

In this application George Kerry asks permission to sell to Farnetta Davis Johnson the following described properties:

All of Lots Numbered 74 and 75, as said lots are delineated and so designated upon that certain map entitled, "MELROSE BOULEVARD TRACT, BROOKLYN TWP. ALAMEDA COUNTY, CAL. 1909", filed November 26, 1909 in Liber 25 of Maps, at page 16, in the office of the County Recorder of Alameda County.

Together with an Easement over the Northwestern 2 feet of Lots Numbered 82, 42 and 35, per map aforesaid, for the purposes of laying, using or maintaining water supply pipes or mains with the right of ingress or egress from said Lots Nos. 82, 42 and 35 or any part of any of them, as granted in the Deed from Fred H. Brown, single, S. A. Potter and Georgia Potter, his wife, to Charles Olsen, single man, dated April 29, 1911 and recorded January 31, 1912 in Liber 2043 of Deeds, at page 49, Alameda County Records, and subsequent Deeds.

The so-called Melrose Boulevard Tract Water Plant located on and operated at and about the aforesaid lots, together with its wind-mills, tanks, supply pipes, pumping plants and other apparatus of every kind, character and description.

TOGETHER with the tenements, hereditaments, and appurtenances thereunto belonging or appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof.

It appears that Farnetta Davis Johnson, on November 1, 1928, loaned to George Kerry \$4,000.00. The payment of this loan is secured by deed of trust, the lien of which covers the above mentioned properties. The issue of the note and the execution of the deed of trust were authorized by Decision No. 20423, dated November 1, 1928, in Application No. 15161. It further appears that George Kerry is unable to pay the loan and desires to transfer the said properties to Farnetta Davis Johnson as a consideration for the release of his obligation. She will assume the payment of the liens of taxes on the properties, amounting to about \$285.33 to June 25, 1932.

Farnetta Davis Johnson also asks that she be permitted to issue a \$1,000.00 seven percent note payable on or before two years after date and execute a deed of trust to secure the payment of such note. The moneys realized from the issue of the note will be used to install a new pump and make repairs and other improvements to the public utility water system. The deed of trust she desires to execute will be in form similar to that filed in Application No. 15161.

The Commission has considered the requests of applicants and believes that this application should be granted, that the money, property or labor to be procured or paid for through the issue of the aforesaid \$1,000.00 note is reasonably required by Farnetta Davis Johnson, therefore,

IT IS HEREBY ORDERED, that George Kerry be, and he is hereby, authorized to sell and transfer to Farnetta Davis Johnson the public utility properties described in this opinion and order.

IT IS HEREBY FURTHER ORDERED, that Farnetta Davis Johnson be, and she is hereby, authorized to issue a \$1,000.00 note payable on or before two years after date, with interest at not to exceed seven percent per annum, and use the proceeds to pay for a new pump, repairs and improvements to the public utility properties referred to herein,

and to execute a deed of trust to secure the payment of such note, said deed of trust to be substantially in the same form as that filed in Application No. 15161, provided that the authority herein granted to execute a deed of trust is for the purpose of this proceeding only, and is granted 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 and provided further that if said Farnetta Davis Johnson issues a note for a term of less than two years, she may renew the same from time to time, provided that the maturity date of any renewal note may not be later than June 30, 1934.

IT IS HEREBY FURTHER ORDERED, that the authority herein granted to transfer properties will become effective upon the date hereof and that the authority to issue the aforesaid \$1,000.00 note will become effective when applicant Farnetta Davis Johnson has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

IT IS HEREBY FURTHER ORDERED, that within thirty (30) days after the execution of the aforementioned deed of trust, Farnetta Davis Johnson shall file with the Commission a true and correct copy of said deed of trust, and from time to time reports such as are required by the Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

DATED at San Francisco, California, this 27th day of June, 1932.



C. C. Seawey
Leon O'Whalley
W. J. [unclear]
W. B. Hayes
Fred G. Stewart
Commissioners.