

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the)
 BOARD OF SUPERVISORS of Contra Costa)
 County, California, for the opening of)
 certain public roads in said County in)
 the vicinity of the city of Richmond,)
 said roads to cross the track and right)
 of way of The Atchison, Topeka & Santa)
 Fe Railway Company and the lands of the)
 East Bay Realty Company.)

Application No. 1040.

A P P E A R A N C E S

- A. B. McKenzie, District Attorney, for Board of Supervisors, of Contra Costa County, California.
- M. W. Reed, for The Atchison, Topeka & Santa Fe Railway Co.
- L. D. Manning, for the East Bay Realty Company.

O P I N I O N

GORDON, Commissioner.

This proceeding was instituted under Section 1. Section 2694 of the Political Code of the State of California, which reads as follows:

2694. Whenever the general route of the road to be abandoned, altered, laid out or constructed is shown by the petition provided for by section 2682 of this code to cross the track or right of way of any railroad or street railroad, the county clerk of the county wherein said petition is filed shall immediately upon the appointment of viewers by the board of supervisors transmit to the railroad commission a certified copy of the petition and of the order appointing viewers. Said commission shall thereupon fix a day for the hearing of said petition, and shall give notice thereof to said viewers, to the district attorney and clerk of the board of supervisors of the county wherein said petition is filed, and to the resident owner or agent of the owner of the land over which the proposed road is to run and said hearing shall be held at the rooms of the board of supervisors of said county. At said hearing the said commission shall hear the evidence offered as to the crossing of said track or right of way by said proposed road, and shall thereupon determine whether said proposed road shall, if constructed, be constructed across said track at grade or otherwise, and shall determine and prescribe the manner, including the particular point

of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing. The said conclusions of said commission shall thereupon be reported to the board of supervisors, and in its order fixing a day for hearing the viewers' report, the said board shall include therein an order fixing a day for hearing said conclusions which shall be the same day fixed for hearing the said viewers' report. Notice of said hearing shall be given in the manner and for the time prescribed by section 2688 of this code, and, in addition to said notice, the county clerk shall notify said commission of the time and place of said hearing, and at said hearing the board of supervisors shall first proceed to the consideration of said conclusions of said commission, and if the same be rejected, no further proceeding shall be had in said matter. If the same be approved, said board shall proceed in the manner provided by law to act upon said viewers' report. The board shall have no power to change or modify said conclusions except by and with the consent of said commission.

It is an application by the Board of Supervisors for the opening of certain public roads in Road District No. 1, Supervisor District No. 1, in Contra Costa County, California, across the track and right of way of The Atchison, Topeka & Santa Fe Railway Company, said roads being particularly described as follows:

First: A public road known as "Richmond Boulevard," Commencing on the west right of way line of the San Francisco-Oakland Terminal Railways, and thence southwesterly along Richmond Boulevard and its direct production southwesterly across the right of way of The Atchison, Topeka & Santa Fe Railway Company, and thence southwesterly along said Richmond Boulevard to the northeasterly line of San Pablo Avenue.

Second: A public road known as "Cutting Boulevard," Commencing on the southwesterly line of the right of way of the San Francisco-Oakland Terminal Railways, and running thence southwesterly along said Cutting Boulevard and its direct production southwesterly across the right of way of The Atchison, Topeka & Santa Fe Railway Company, and thence along said Cutting Boulevard to the northeasterly line of San Pablo Avenue.

Third: A strip of land twenty (20) feet in width, along the northwesterly line of Hill Street, or Road No. 5, extending from the southwesterly line of the right of way of the San Francisco-Oakland Terminal Railways to the northeasterly line of San Pablo Avenue, and extending over the right of way of The Atchison, Topeka & Santa Fe Railway Company.

All of the above as shown by the maps and profiles attached to the application.

These roads were laid out and constructed by the East Bay Realty Company to afford ingress and egress to and from two subdivisions recently put upon the market by this company, and named "Richmond Junction, Contra Costa County, California," and "Richmond Junction Heights, Contra Costa County, California."

The roads are intended to cross the main line track of The Atchison, Topeka & Santa Fe Railway Company, which latter company objects to these crossings and refused an easement over its right of way.

A hearing was held in Martinez on April 2, 1914, at which the three interested parties were represented. It developed that the railway company based its objections solely on the added hazard to the operation of its trains and the danger to the public created by the installation of three crossings in relatively close proximity to each other.

An investigation into the physical conditions shows that a separation of grades at these proposed crossings is impracticable. Only a very small population lives in this territory at the present time, but I am of the opinion that provision should be made to serve the reasonable future needs of the people who will undoubtedly soon occupy these subdivisions. Without roads at frequent intervals this country cannot build up, and some of these roads must of necessity cross The Atchison, Topeka & Santa Fe Railway Company's track at grade.

I believe, however, that a need for three railroad crossings within a distance of less than thirteen hundred (1300) feet does not now exist, and I recommend that the crossing on Richmond Boulevard should not be granted.

Hill Street, which is now known as County Road No. 5, is at present an established road crossing, and the proposed

widening of this street from forty (40) to sixty (60) feet seems desirable, and permission for the installation of this crossing should be granted. I am also in favor of permitting a crossing at Cutting Boulevard, which street is located approximately in the middle of the territory in question.

Subsequent to the hearing, negotiations were carried on between the East Bay Realty Company and The Atchison, Topeka & Santa Fe Railway Company with a view of settling the questions of cost of construction and maintenance of the crossings and of the installation and division of cost of safety devices; and I understand that a conclusion has been reached satisfactory to both parties.

I recommend that the application be granted in a modified form, and submit herewith the following order.

O R D E R

Application having been made by the Board of Supervisors of Contra Costa County, California for the opening of certain public roads in said county, in the vicinity of the city of Richmond, said roads to cross the right of way of The Atchison, Topeka & Santa Fe Railway Company and the lands of the East Bay Realty Company; and a hearing having been duly held; and it appearing to the Commission that it is desirable for the use and convenience of the public to have two (2) of the above named roads constructed across the track of The Atchison, Topeka & Santa Fe Railway Company, and that it is not reasonable nor practicable to avoid grade crossings with said railroad, and that the application, to that extent, should be granted subject to the conditions hereinafter specified; but that it is not necessary or desirable to have a crossing at grade with Richmond Boulevard, and that the application, to that extent, should be denied;

IT IS HEREBY ORDERED. That permission be hereby granted the Board of Supervisors of Contra Costa County, California to construct the following roads at grade across the track of The Atchison, Topeka & Santa Fe Railway Company:

First. A public road known as "Cutting Boulevard," Commencing at the southwesterly line of the right of way of the San Francisco-Oakland Terminal Railways, and running thence southwesterly and across the track and right of way of The Atchison, Topeka & Santa Fe Railway Company.

Second. A strip of land twenty (20) feet in width, along the northwesterly line of Hill Street, or County Road No. 5, extending from the southwesterly line of the San Francisco-Oakland Terminal Railways to the northeasterly line of San Pablo Avenue, and over and across the track and right of way of The Atchison, Topeka & Santa Fe Railway Company.

The above crossings as shown by the map and profiles attached to the application and subject to the following conditions, viz:

- (1) The entire expense of constructing the crossings shall be borne by the East Bay Realty Company.
- (2) The expense of maintaining the crossings thereafter in good and first-class condition for the safe and convenient use of the public, up to within two (2) feet on each side of the rails of The Atchison, Topeka & Santa Fe Railway Company, shall be borne by applicant. The Atchison, Topeka & Santa Fe Railway Company shall maintain said crossings across its track and to within two (2) feet on the outside thereof.
- (3) Said crossings shall be constructed with grades of approach not exceeding six (6) per cent, and shall be ballasted with first-class stone or gravel ballast to a depth of not less than

six (6) inches, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) The Atchison, Topeka & Santa Fe Railway Company shall construct at the expense of the East Bay Realty Company and maintain at its own expense for the protection of Crossing No. 1 (Cutting Boulevard) a first-class standard automatic flagman which, upon the approach of a train, shall display a red light, said light to have the motion of an inverted pendulum, and which shall at the same time sound an automatic warning bell. Attached to the support of this device, or one of equal efficiency, shall be a first-class standard highway crossing sign, marked with appropriate black letters, not less than six (6) inches in height, on a white background.

The crossing on Richmond Boulevard, as hereinabove described, is hereby denied, and the application to that extent be, and the same is hereby dismissed without prejudice.

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.

Dated at San Francisco, California, this 18th day of May, 1914.

John W. Eschleman

H. B. Loveland

Alfred Gordon

Max Thelen

Edwin O. Edgerton

Commissioners.