

Decision No. 37381

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of Application of Sidney Smith, owner of HOME GARDENS WATER CO. (not incorporated) and Frank Gillelen, for permission to sell Home Gardens Water Co. to said Frank Gillelen and also APPLICATION of said Frank Gillelen, in event of granting said permission to sell, for authorization to mortgage said property.

Application
No. 25890

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

The Commission by Decision No. 37042, dated May 9, 1944, authorized Sidney Smith, owner of Home Gardens Water Co., to sell said properties to Frank Gillelen for \$125,000 plus the cost of additions and betterments installed subsequent to July 1, 1943. The purchaser asked permission to issue a note for \$137,000 to pay, in part, the purchase price of such properties and the cost of installing additions and betterments estimated at \$26,736. The Commission in said Decision No. 37042 found that the purchaser should not issue a note in excess of \$90,000. Inasmuch as he had not then completed his negotiations for a loan, the Commission authorized

Sidney Smith to sell his public utility properties on or before September 30, 1944, provided that the authority so granted would not become effective until the Commission had authorized the purchaser to issue a note and execute a deed of trust or mortgage to secure the payment of such note. The Commission has not entered an Order authorizing the purchaser to issue a note and, therefore, the authority granted by Decision No. 37042 is not now in effect. However, Frank Gillelen still holds an option to purchase Home Gardens Water Co. properties.

As said in Decision No. 37042, the public utility properties of Sidney Smith, operated under the name of Home Gardens Water Co., are situate in the City of South Gate and immediate vicinity and in Tract 9095, M-155; Tract 1056, H-183; Tract 8128, M-101, in Los Angeles County near Pico. The location of the properties is shown on a map in Exhibit 5.

The price which Frank Gillelen has agreed to pay for the properties is not segregated between the properties situate in South Gate and the properties situate in the vicinity of Pico.

On August 4, 1944, Frank Gillelen filed an amended application in which he reports that the City of South Gate has agreed to purchase from him at a cost of \$134,478 the properties situate in South Gate and vicinity. Sidney Smith has advised the Commission that he has no objection to the sale of the properties to the City of South Gate and has no interest in that transaction.

Frank Gillelen and the Valuation Division of the Railroad Commission have submitted appraisals of the properties which Sidney Smith has agreed to sell to Frank Gillelen. In Decision No. 37042, the Commission refers to the appraisals in the following language:

"The Purchaser estimates the Reproduction Cost of the properties, as of January 1, 1941, at \$210,057 and the accrued depreciation at \$41,333, leaving a Reproduction Cost New less depreciation of \$168,724. The Valuation Division estimates the Reproduction Cost New of the properties, as of December 31, 1940, at \$217,395 and the Reproduction Cost New less depreciation at \$123,354. To these figures it adds the cost of additions and betterments installed during 1941, 1942, and 1943 less retirements. As of December 31, 1943, it estimates the Reproduction Cost New of the properties at \$230,066 and the Reproduction Cost New less depreciation at \$136,172. The Valuation Division also submitted an estimate of the Historical Cost New of the properties to be transferred. This estimate is \$186,208. Its estimate of the historical cost of the properties less depreciation, calculated on a straight line basis, is \$118,798. The Valuation Division estimates the accrued depreciation, calculated on a straight line basis, at \$67,410 and at \$32,952, if calculated on a 5½% sinking fund basis. The cost and accrued depreciation estimates submitted by the Valuation Division were not questioned by the Seller or the Purchaser.

"The testimony shows that the owner of the property should immediately expend \$26,736 to increase the water supply and improve service to consumers."

The issues raised by this application as originally filed did not call for a segregation of the appraisal figures between the properties situate in South Gate and those situate in the Pico area. But the appraisals by the Valuation Division are in sufficient detail to make the segregation of the total appraisal figures. The Division allocates, as of December 31, 1943, to South Gate the following costs:

Reproduction Cost New	\$182,922
Reproduction Cost New less Depreciation Calculated on a 5½% Sinking Fund Basis	148,879
Reproduction Cost New less Depreciation Calculated on a Straight Line Basis	108,270
Historical Cost New	144,884
Historical Cost New less Depreciation Calculated on a 5½% Sinking Fund Basis	122,702
Historical Cost New less Depreciation Calculated on a Straight Line Basis	91,597

Sidney Smith has installed in the City of South Gate since the appraisal of the properties, additions and betterments costing about \$3,300.

As said, Frank Gillelen in the amended application asks permission to sell the properties in the City of South Gate and adjacent area to the City of South Gate at \$134,478. A resolution adopted by the City Council of the City of South Gate at its meeting on July 31, 1944, a copy of which is on file in this application, shows that the City had Henry B. Lynch and Donald M. Baker, Consulting Engineers, make an appraisal of the properties and that the City Council had before it the appraisal made by them as well as the report of the engineers of the Railroad Commission. The resolution shows that the City Council considered those appraisals and other sources of information and data available to it in arriving at its conclusion to pay \$134,478 for the properties.

Because of the sale of the properties to the City of South Gate, it is not necessary for Frank Gillelen to negotiate any loan and, therefore, he asks that his application for permission to issue a note and execute a deed of trust be dis-

missed.

FIRST SUPPLEMENTAL ORDER

The Commission has considered applicant's request and is of the opinion that no hearing is necessary on the amended application and that such amended application should be granted as herein provided, therefore,

IT IS HEREBY ORDERED that paragraph one of the Order in Decision No. 37042, dated May 9, 1944, reading:

"IT IS HEREBY ORDERED that Sidney Smith, owner of Home Gardens Water Co., be, and he is hereby, authorized to sell to Frank Gillelen, after the effective date of this Order and on or before September 30, 1944, his public utility water properties described in Exhibit 1 on file in this application, said sale to be made subject to the conditions of said Exhibit 1."

be, and the same is hereby, amended as follows:

IT IS HEREBY ORDERED that Sidney Smith, owner of Home Gardens Water Co., be, and he is hereby, authorized to sell to Frank Gillelen, on or before December 31, 1944, his public utility water properties described in Exhibit 1 on file in this application, said sale to be made subject to the conditions of said Exhibit 1.

IT IS HEREBY FURTHER ORDERED that paragraph two of the Order in Decision No. 37042, dated May 9, 1944, reading:

"IT IS HEREBY FURTHER ORDERED that the authority herein granted will not become effective until the Commission has authorized Frank Gillelen to issue a note and execute a deed of trust or mortgage to secure the payment of such note."

be, and the same is hereby, amended so as to read:

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof.

IT IS HEREBY FURTHER ORDERED that Application No. 25890 insofar as it involves the issue of a note and the execution of a deed of trust be, and the same is hereby, dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED that Frank Gillelen be, and he is hereby, authorized to sell, on or before December 31, 1944, to the City of South Gate, California, a municipal corporation, the public utility water properties situate in the City of South Gate and area adjacent thereto which he is acquiring from said Sidney Smith, provided said City of South Gate will supply water to the consumers residing in, and in the vicinity of said City of South Gate and now served by Home Gardens Water Co. properties.

IT IS HEREBY FURTHER ORDERED that the action taken herein shall not be construed to be a finding of value for any purpose.

IT IS HEREBY FURTHER ORDERED that the Order in Decision No. 37042, dated May 9, 1944, shall remain in full force and effect except as modified by this First Supplemental Opinion and Order.

Dated at San Francisco, California, this 3rd day of
October, 1944.

Justin F. Coleman
Francis R. Havenue

W. H. Powell
Commissioners.