

ORIGINALDecision No. 48961

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOHN A. RAGGHIANI for permission to)
 construct a private road across the)
 tracks of the Sacramento Northern) Application No. 34282
 Railway, in Contra Costa County,)
 under the provisions of Section 7537)
 of the Public Utilities Code.)

John A. Nejedly, for applicant.
E. L. Van Dellen, for Sacramento Northern
 Railway, protestant.
R. H. Pulford, in propria persona, protestant.
Robert Coles, in propria persona, protestant.
M. E. Getchell, for the Commission staff.

O P I N I O N

John A. Ragghianti seeks an order authorizing him to construct a private crossing at grade over the tracks of the Sacramento Northern Railway near Lafayette in the manner delineated on a map attached to the application.

Public hearings were held at Lafayette before Examiner Silverhart on June 23 and July 20, 1953, on which latter date the matter was submitted.

Applicant's property, consisting of approximately two acres divided into four irregularly shaped lots, is situated westerly of and abuts upon the railroad right of way. Such property is distant 192 feet westerly from Los Palos Drive, a public road some 132 feet easterly of the railroad tracks. Los Palos Drive runs generally in a northerly and southerly direction through Glenside Estates. Los Tramos Creek flows along and over the rear boundary line. St. Mary's Road is distant approximately 300 feet westerly from applicant's westerly property line. It appears from the record that applicant's property is completely enclosed by

other private property with no access to a public highway. Ingress to and egress from Los Palos Drive can be accomplished only by crossing the railroad tracks and continuing over land located in Glenside Estates. Egress from and ingress to St. Mary's Road can only be obtained by crossing the creek and passing over private property.

At a cost of \$3,300 applicant has acquired an easement for a right of way 30 feet wide over the southerly 15 feet of Lot 39 and the northerly 15 feet of Lot 40 in Glenside Estates extending from the railroad right of way to Los Palos Drive. He does not possess any rights permitting passage from his property to St. Mary's Road.

The road commissioner of the County of Contra Costa testified that the Streets and Highways Code requires all county highways to be at least 40 feet in width and would therefore prohibit the acceptance of the above-described 30-foot easement as a county road. The witness stated that the construction of a bridge and the acquisition of a right of way would be required in order to utilize St. Mary's Road as an outlet from or inlet to applicant's property. He estimated the cost of such a bridge, without provision for right of way or contingencies, at \$7,500 to \$12,000.

Applicant's agent, a real estate broker, testified that without access to Los Palos Drive the lots here involved could be valued only on the basis of \$250 per acre. With such access, he stated, each lot would be worth from \$5,000 to \$6,000 each. The witness stated that only one residence is to be constructed on each lot. According to the witness, the proposed crossing and the right of way to Los Palos Drive will be used only by the owners of such residences, their families, guests, and tradespeople having business with them, and not by the general public.

The Sacramento Northern Railway did not testify or call any witnesses.

The record indicates that the proposed crossing is a private one within the purview of Section 7537 of the Public Utilities Code and is reasonably necessary for ingress to and egress from applicant's property. The record further demonstrates that economically it would not be practicable to utilize St. Mary's Road as a means of access to and from such property. The application will be granted as set forth in the ensuing order.

O R D E R

Public hearings having been held and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That John A. Ragghianti is authorized to construct a private crossing at grade with the tracks of the Sacramento Northern Railway at the location more particularly outlined and in the manner delineated upon the drawings attached to the application subject to and only upon the following conditions:

- (a) The entire expense of constructing the crossing shall be borne by applicant.
- (b) Said crossing shall be constructed equal or superior to type shown as Standard No. 2 in General Order No. 72 and shall be identified in the manner provided by Section IV of General Order No. 75-B.
- (c) Applicant shall erect a sign, 2 feet by 2 feet, fastened to a suitable post 5 feet in height, bearing the legend "Private Road - Not for Public Use", on Los Palos Drive at the northeasterly corner of the 30-foot right-of-way easement depicted in the drawings referred to in paragraph (1) hereof.
- (d) The cost of maintaining those portions of the crossing up to lines 2 feet outside of the outside rails should be borne by applicant. The cost of maintenance between said lines shall be borne by the Sacramento Northern Railway.

(2) Within thirty days thereafter applicant shall give the Commission written notice of the completion of the installation of said crossing and of his compliance with the conditions hereof.

(3) The authorization herein granted shall lapse if not exercised within one year from the date hereof, unless further time is granted by subsequent order.

This order shall become effective twenty days after the date hereof.

Dated at Los Angeles, California, this 10th day of August, 1953.

A. J. ...
 President

Justus F. ...

Harold ...

...

...
 Commissioners