

ORIGINAL

Decision No. 57898

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GRANT E. WEISE,

Complainant,

vs.

Case No. 6021

LOS ANGELES & SALT LAKE RAILROAD
COMPANY, a corporation, UNION
PACIFIC RAILROAD COMPANY, a cor-
poration, and SOUTHERN PACIFIC
COMPANY, a corporation,

Defendants.

Glenn C. Ames and John McCann, for complainant.
E. D. Yeomans and Walt A. Steiger, by Walt A.
Steiger, for Southern Pacific Company;
Malcolm Davis, for Union Pacific Railroad Com-
pany and Los Angeles & Salt Lake Railroad
Company, defendants.

O P I N I O N

Public hearing was held in this matter on September 30, 1958, before Examiner Grant E. Syphers, in Los Angeles. The parties were given permission to file briefs, the last of which was filed on November 20, 1958, and the matter now is ready for decision.

Violet Alley runs in a northerly-southerly direction from Seventh Street in the City of Los Angeles to 38th Street in the City of Vernon, paralleling Santa Fe Avenue approximately 150 feet to the east thereof. Along the center of this alley runs an industrial track of the defendant railroads.

Complainant owns a building fronting on Santa Fe Avenue between Modoc and 15th Streets in the City of Los Angeles. The ✓

rear of the building is flush with the property line of Violet Alley. In his complaint he alleges that the tenants of this building have been denied the use of Violet Alley as a means of egress and ingress to the property because the defendant railroads place freight cars upon the track, which freight cars block the alley to vehicular traffic.

The record discloses that Violet Alley was dedicated as a public street on September 14, 1904. Defendant railroads were given a franchise to construct and operate a railroad in Violet Alley in 1906. Thereafter the track was constructed and operations thereover began July 1, 1909. Since then the track has been continuously operated under successive franchise ordinances, the existing one being Ordinance No. 94292 granted by the City of Los Angeles on January 1, 1949.

In 1929 this Commission, in Case No. 2758, instituted an investigation "into clearance conditions and safety of operations over the track land in Violet Alley in the City of Los Angeles and the City of Vernon." Thereafter, by Decision No. 21914, dated December 16, 1929, the defendant railroads were ordered to cease and desist operating over the track located in Violet Alley past any point at which there was an impaired clearance in violation of General Order No. 26-C of this Commission.^{1/} A series of orders followed and finally, on February 14, 1938, a letter from this Commission to the Union Pacific Railroad Company indicated that all of the impaired clearances had been corrected.

^{1/} General Order No. 26-C was superseded by General Order No. 26-D on February 1, 1948.

As a result of Commission Decision No. 21914, supra, the City of Los Angeles instituted a condemnation suit in the Superior Court of the County of Los Angeles, No. 308976. This suit resulted in the condemnation of sufficient additional land along the length of Violet Alley to increase its width from 15 to 17 feet. The railroads then moved the track into the center line of the alley so that thereafter the clearances amounted to 8 feet 6 inches from the center line of track to either side, in conformity with the Commission requirements.

The track along the alley is owned and operated jointly by the Southern Pacific Company and the Union Pacific Railroad Company, and its affiliate the Los Angeles and Salt Lake Railroad Company, and it is used for switching and delivering cars to customers located along the track. The switching is performed on alternate years by the Southern Pacific and the Union Pacific. For the year July 1, 1958 to June 30, 1959, the Southern Pacific does the switching.

Exhibit No. 11 shows that for the year July 1957 to June 1958 there were 55 industries along Violet Alley who received or delivered freight via railroad. Between 23rd and 15th Streets there were two shippers, one of which handled a total of 11 cars, and the other a total of 344 cars during that year.

The complainant's building is divided into 10 sections and is occupied by five tenants. All of these tenants are in the machine tool business and handle heavy pieces of equipment. Three of the tenants testified and complained that they could not receive deliveries by means of trucks in Violet Alley since the alley was

usually blocked by rail cars and also by parked automobiles. However, two of the tenants do receive truck deliveries from the sides of the building. One of them occupies the five southerly bays and receives his truck deliveries on 16th Street, while the other occupies the two northerly bays and receives truck deliveries on Modoc Street. Both of these tenants stated that there were occasions when it would be more convenient to have deliveries made through Violet Alley.

The problem presented in this investigation is whether or not this Commission should restrict the use of the track in Violet Alley by the defendant railroads. There is no question but that if railroad cars are spotted on this track during business hours, it will be impossible for the alley to be used for truck deliveries in those segments where railroad cars are parked. There is a further problem presented by this evidence in that many private automobiles are parked in this alley during the daytime, thereby effectively blocking it for any truck use. However, this is a problem which could more properly be resolved by the local traffic authorities.

Based upon this record and all of the briefs filed herein, we now find that the defendants have an existing right to use the track along Violet Alley. They have exercised this right under a valid franchise since 1909. It is unfortunate that the physical facts are such as to prevent joint simultaneous use by trucks and rail; however, it is obvious that the use of this track must be reasonable and in the public interest. If it is possible to so arrange the rail deliveries as to permit the use of the alley by trucks on certain occasions then such arrangements should be made. To this end the railroad is admonished to make every effort to reduce to a minimum the time cars are left standing in the alley.

We are aware that the evidence herein discloses that the complainant would not receive frequent truck deliveries which would necessitate or make desirable deliveries from the alley entrance to complainant's building. Also the complainant does have access to his building on three sides thereof. Therefore, it may be possible in those instances when complainant does desire an alley delivery to give reasonable notice to the railroad thereof. If the defendant railroads receive such notice, they are directed to give every reasonable consideration thereto.

With these findings, therefore, the complaint will be dismissed.

O R D E R

Complaint as above entitled having been filed, public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding it to be not adverse to the public interest,

IT IS ORDERED that the complaint in this matter be and it hereby is dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of January, 1959.

E. L. Fox
President
Edw. E. Mitchell
William H. Gale
Theodore J. Jenner
Commissioners