

Decision No. _____

61775

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THE CITY OF LOS ANGELES, a municipal
corporation, to construct PAXTON STREET
at grade across the tracks of the Valley
Line of the Southern Pacific Company.

Application No. 39389

In the Matter of the Application of G. C.
BREIDERT, MARGARET P. BREIDERT, and THE
G. C. BREIDERT COMPANY, a corporation, to
reopen the crossing of VAUGHN STREET at
grade across the tracks of the Valley Line
of the Southern Pacific Company.

Application No. 41674

Charles F. Reiche, for The G. C. Breidert Company,
applicant.

E. D. Yeomans and Walt A. Steiger, by Walt A. Steiger, for Southern Pacific Company, protestant.
Alan G. Campbell, for the City of Los Angeles; George D. Moe, for the State Department of Public Works;
interested parties.

W. F. Hibbard, for the Commission staff.

O P I N I O N

By Decision No. 56398, dated March 25, 1958, in Application No. 39389, this Commission authorized the City of Los Angeles to construct Paxton Street at grade across the main line track of Southern Pacific Company's Valley Line in the City of Los Angeles, subject to certain conditions, at a location to be identified as Crossing No. B-462.8. The decision further provided that "upon completion of the crossing at Paxton Street and its being opened to public travel, Crossing No. B-462.6 (Vaughn Street) shall be abandoned and closed."

On November 17, 1959, G. C. Breidert, Margaret P. Breidert, and The G. C. Breidert Company, a corporation, filed Application No. 41674, ✓

requesting that the crossing at Vaughn Street be reopened, alleging that the G. C. Breidert Company conducted a business on property located at the southeasterly corner of Vaughn Street and the Southern Pacific Company railroad right of way, and further alleging that the closing of Vaughn Street resulted in a hardship to the said company in that it deprived the company and its customers of an access road via the crossing at Vaughn Street. It was further alleged that the applicants were damaged by this denial of direct access to their property.

Subsequently, on February 1, 1960, this Commission issued an order reopening Application No. 39389 "for the specific purpose of inquiring into whether or not the former crossing at Vaughn Street should be reopened."

On May 27, 1960, a public hearing on Application No. 41674, and also on the order reopening Application No. 39389, was held in Los Angeles before Examiner Grant E. Syphers, and on that date evidence was adduced and the matter submitted subject to the filing of briefs. Briefs have been filed by G. C. Breidert, Margaret P. Breidert and The G. C. Breidert Company, the City of Los Angeles, and also by the Southern Pacific Company. The matter now is ready for decision.

The physical facts relative to the property of the G. C. Breidert Company are not in dispute. The property was purchased by G. C. and Margaret Breidert in 1953 and the building erected in January of 1954. The land is located at the intersection of Vaughn Street and the Southern Pacific tracks, on the southeasterly corner. At the time of the construction of the building and for some years prior thereto there had been a crossing over the railroad tracks at

Vaughn Street. As a result of this, the principal means of egress and ingress was via San Fernando Road and thence across the railroad tracks at Vaughn Street. The evidence also shows that the City of Los Angeles assisted in maintaining the crossing and on several occasions city crews repaired the asphalt pavement. When the crossing was closed it became necessary to go from San Fernando Road easterly on Paxton Street and thence northerly on Bradley Street, thence westerly on Vaughn Street to the Breidert plant. Bradley Street is unpaved and so narrow that it is difficult for two trucks to pass. Furthermore, the circuitous route is much longer, Paxton Street being about 1,360 feet south of Vaughn Street. While the city maps do not show any public crossing, the city, in 1942, did place a street sign on Vaughn Street in the vicinity and, according to the testimony of the applicants, they assumed it was a public crossing since it was used by all who desired to do so.

Other witnesses testified that Vaughn Street has been an open crossing for more than 14 years.

As a result of all this testimony there is no dispute but that the Breidert Company has been inconvenienced by the closing of Vaughn Street and that it did establish its factory in the vicinity, relying upon using Vaughn Street as an access road to San Fernando Road.

There is also no controversy as to the physical facts concerning the railroad which parallels San Fernando Road in this area. It is the main line between Los Angeles and San Francisco, accommodating six passenger trains per day and between 25 and 30 freight trains. As previously indicated herein, the City of Los Angeles recommended a crossing at Paxton Street and the railroad concurred.

in that recommendation. Resultantly, a crossing was established at Paxton Street and the one at Vaughn Street closed by Decision No. 56398, supra. In the opinion of a witness for the railroad, there is insufficient traffic to justify both crossings in that vicinity in the light of the heavy train operations hereinabove described. It was also pointed out that the railroad gave an easement to the City of Los Angeles for Paxton Street and also had tendered an easement for Vaughn Street; however, the latter easement was not accepted by the city.

Additional data was presented by a representative of the Division of Highways, showing traffic on San Fernando Road in the vicinity of Vaughn Street during selected periods. San Fernando Road is a heavily traveled state highway, and it was the opinion of the witness that, if there were a crossing and signals at Vaughn Street, in many instances traffic on San Fernando Road would come to a stop when a train movement pre-empted signals.

An engineer of the staff of the Public Utilities Commission testified that from 1927 to the time Vaughn Street crossing was closed in 1959 there were 14 accidents involving vehicles and trains, resulting in three persons killed and five injured. Additionally, there was one pedestrian-train accident. During the past five years there have been four accidents. As a result Vaughn Street has been classified as a relatively hazardous crossing ranking about 357th out of approximately 4,500 crossings in Southern California.

The position of the City of Los Angeles was expressed in Exhibits Nos. 12 and 13, which report the action of the City Council in this respect. In substance, the city takes no position with regard to a private crossing in the vicinity of Vaughn Street, and the railroad tracks, but it does oppose any public crossing.

It is clear that the Breidert Company would be in a more advantageous position if Vaughn Street were open. It is also clear that when Vaughn Street was open it was a relatively hazardous crossing. When, in Decision No. 56398, this Commission authorized the opening of a crossing at Paxton Street but conditioned it upon the closing of the crossing at Vaughn Street, it was concerned with the safety factor. Based upon the evidence adduced and the arguments presented in this rehearing, we find no reason to reverse that decision. It is in the public interest, considering both the safety factors and the needs of the applicant in Application No. 39389, to have Vaughn Street closed and we now find that there is insufficient need for a crossing at Vaughn Street to justify the accident risk involved.

We observe that the City of Los Angeles has not offered to construct a public crossing at Vaughn Street. It is the position of the applicants in Application No. 41674 that Vaughn Street did, in fact, become a public crossing because of long usage; however, as of the present time the crossing is closed and the City of Los Angeles is not willing to construct and maintain a public crossing at that location. As a matter of fact, the city's position is that there never was a public crossing there but, rather, that such crossing as existed was a private crossing. The record establishes that it would not be in the public interest to grant Application No. 41674.

The order which follows will provide for the denial of Application No. 41674 and the affirmation of Decision No. 56398.

O R D E R

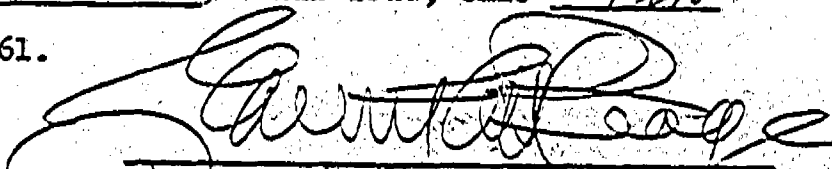
Application as above entitled having been filed, an order of investigation having been issued, a public hearing having been held thereon, the Commission being fully advised in the premises, and good cause appearing,


IT IS ORDERED:

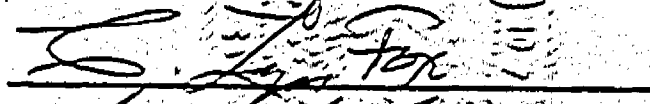
1. That Application No. 41674 be and it hereby is denied.
2. That Decision No. 56398, dated March 25, 1958, be and it hereby is affirmed.


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

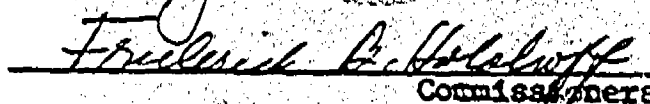
Dated at San Francisco, California, this 4th
day of APRIL, 1961.



President








Commissioners