

ORIGINAL

Decision No. 70266

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of
REDEVELOPMENT AGENCY OF THE CITY
OF VALLEJO to have fixed the just
compensation to be paid for certain
lands and improvements thereon
claimed by MARE ISLAND FERRY CO.
existing within the boundaries of
said Agency.

Application No. 46600
(Filed May 1, 1964)

Martin McDonough and Victor M. Castagnetto, for
Redevelopment Agency of the City of Vallejo,
petitioner.

McCutchen, Doyle, Brown, Trautman & Enersen,
by Frederick O. Koenig and Kilpatrick, Peterson
& Ely, by Henry H. Kilpatrick, for Mare Island
Ferry Company, respondent.

Harold J. McCarthy, John L. Pearson, Eric Mohr,
and William C. Bricca, for the Commission
staff.

O P I N I O N

On May 1, 1964, petitioner, Redevelopment Agency of the City of Vallejo, hereinafter sometimes called Redevelopment Agency, filed a petition of the first class, under Sections 1401-1421 of the Public Utilities Code, requesting the Commission to fix the just compensation to be paid by said petitioner for the described lands, property and rights of respondent, Mare Island Ferry Company, hereinafter sometimes called Ferry Company, in a proceeding in eminent domain.

Hearing on the order to show cause issued June 3, 1964, was held in Vallejo on July 9, 1964, and by Decision No. 67696, dated August 11, 1964, the Commission found that no cause had been shown why the Commission should not proceed to hear the petition

herein and to fix the just compensation as requested by the Redevelopment Agency and ordered that further hearings be held for such purpose.

Further hearings were held before Examiner Cline in San Francisco on March 31, April 1, 2, 15 and 19, 1965. The matter was taken under submission subject to the filing of concurrent briefs on June 3, 1965.

Heretofore this Commission has determined just compensation as the reasonable market value of the property being taken and severance damages as the compensation for the injury to the property which is not being taken. In this proceeding the obligation of the Ferry Company to continue its operations as a public utility must also be considered. It may be that the Ferry Company whose properties are being taken as a result of redevelopment should be so compensated through an award for just compensation and severance damages that it can replace the facilities being taken with the necessary new facilities to enable it to continue its operations. If so, in a later rate proceeding these new facilities might be valued at the rate base of the facilities which have been taken so that the Ferry Company would be able to continue to furnish its utility service to the public with no increase in fares being made necessary by reason of the taking for redevelopment purposes.

The only evidence in this proceeding pertaining to the cost of substitute facilities is that offered by the Ferry Company. Counsel for the Redevelopment Agency moved that such evidence be stricken on the ground that such costs are not a

proper measure of just compensation and severance damages. Such motion was taken under submission by the Presiding Examiner and it is hereby denied.

Because such motion is denied, the Commission concludes that submission of this proceeding should be set aside and the matter should be reopened for the purpose of receiving further evidence pertaining to the cost of substitute facilities as a measure of just compensation and/or severance damages.

O R D E R

IT IS ORDERED that submission of this matter be set aside and the matter be set down for further hearing before such Commissioner and Examiner as the Commission may designate at a time and place later to be set for the purpose of receiving further evidence pertaining to the cost of substitute facilities as a measure of just compensation and/or severance damages in this proceeding, and such other evidence as may be appropriate.

The effective date of this order shall be the date hercof.

Dated at San Francisco, California, this 18th day of JANUARY, 1966.

[Signature] President
George E. Hoover
[Signature]
[Signature] Commissioners

COMMISSIONER FREDERICK B. HOLOBOFF DISSENTING:

I dissent. In my view the present record permits the Commission to dispose of this matter without the order setting aside submission and the taking of further evidence.

Frederick B. Holoboff
Frederick B. Holoboff, Commissioner