

ORIGINAL

Decision No. 77352

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of City of Vernon)
to widen Crossing No. 2H-0.7.)

Application No. 50951
(Filed March 10, 1969)

Arthur E. Nelson, Jr., Charles H. McGovern,
and R. A. Petraitis, for the City of
Vernon, applicant.
Clifford Douglas, for The Atchison, Topeka
and Santa Fe Railway Company, protestant.
John P. Ukleja, for the Commission staff.

O P I N I O N

The application herein was filed as a request for authority to widen the existing crossing in the City of Vernon (City) at 37th Street by The Atchison, Topeka and Santa Fe Railway Company (railway) track (Crossing No. 2H-0.7). The actual controversy herein concerns 38th Street in said city.

On October 24, 1967 (Decision No. 73227), we ordered the railway to install Standard No. 8 flashing light signals supplemented with automatic crossing gates and motion detectors at the 37th Street crossing within three years from the effective date of the order (November 13, 1970). Installation and maintenance costs were apportioned 50 percent to the City and 50 percent to the railway. This improved protection has not been installed.

We have heretofore, by interim order herein, indicated that we will authorize the construction of a crossing at grade at 38th Street pursuant to the instant application (Decision No. 76018, dated August 12, 1969). In said decision the crossing was described as No. 2H-0.71. The order assumed that the City would make 37th Street one-way westbound and 38th Street one-way eastbound. On such assumption the protection specified was four Standard No. 8 flashing light signals augmented with automatic gate arms and circuits which would prevent overactivation of the signals. Apportionment of costs was deferred for further hearing.

A hearing relative to the apportionment of costs was held in Los Angeles before Examiner Rogers on February 18, 1970. Evidence was presented and the parties were directed to submit briefs. The briefs were filed on April 17, 1970, and the matter was submitted.

At the outset it should be noted that the principal difference between the City's position and the railway's position is whether or not the crossing involved can be considered a part of an existing crossing (37th Street) or a new and distinct crossing.

We have attached hereto Appendix "A", a map to the scale of 1 inch equals 40 feet.

At the present time, both 37th Street and 38th Street are east-west streets in the City. Alameda Street is the east limit of the City of Los Angeles and the west limit of the City of Vernon. Both 37th Street and 38th Street commence at Alameda Street (they extend into the City of Los Angeles but have different numbers therein). They then proceed east parallel and approximately 300 feet apart for several blocks (approximately 2,500 feet) to Santa Fe Avenue. The railway's tracks run in a north-south direction and are parallel to and approximately 600 feet east of Santa Fe Avenue.

From Santa Fe Avenue, east, 37th Street extends in a straight line across the tracks; 38th Street, however, curves northward and terminates on the west side (two feet from the westernmost rail) of the railway. At this point, the southern curb of 37th Street is 40 feet north of the north curb of 38th Street. There is at present an unnamed street between 37th Street and 38th Street. The easterly curb of this street is approximately 100 feet west of the western rail of the railway track. The City will extend 38th Street across the railway and join it to 37th Street approximately 300 feet east of the railway. The space between the unnamed street west of the railway and the point where 37th Street and 38th Street will join, will taper from approximately 80 feet in width to zero feet and will be unpaved. Both 37th Street, and 38th Street as it exists and as it will be constructed are and will be paved approximately 40 feet in width. East of the crossing the resulting single street will be 37th Street, and becomes known as Bandini Boulevard east of the Los Angeles River which is the City's eastern boundary. There are two lines of rail over the crossing site and switchpoints for two other lines from the north are located approximately 50 feet from the southern edge of 37th Street

The City intends to make 37th Street one-way for westbound traffic and 38th Street one-way for eastbound traffic west of the point where the two streets merge. Bandini Boulevard is an undivided highway and will carry two-way traffic.

The Assistant Traffic Engineer for the City testified that the crossing improvement plans (Exhibit No. 1) call for the extension of 38th Street east across the railway to a junction with 37th Street. The witness also testified that in lieu of a specific ordinance taking such action as specified in the interim decision herein, the City has a master ordinance authorizing all crossings and the City Council by resolution authorizes the individual crossings and that such a resolution authorizing the 38th Street crossing has been passed by the City Council. The City requested that the word "ordinance" on line 2 of page 3 of Decision No. 76018 herein be changed to "resolution". This change is not adverse to the public interest and Decision No. 76018 will be changed as requested.

The City argues that the crossings constitute but one intersection and cites several cases which have interpreted Section 365 of the Vehicle Code (formerly Section 86 of the Vehicle Code) to mean that divided highways, i.e. a highway the halves of which are separated by a railroad right of way or a median strip and which is crossed by another street or highway as being one intersection (see Dawson v. Williams, 127 Cal. App. 2d, 38 at 41).

The record herein shows, however, that this is not a situation where we have a divided highway. It is a situation where we have two different and separately numbered streets. This was stated by the City's witness. In addition, the interim order herein authorizes the construction of a separate crossing at a milepost differing from the existing crossing. The new crossing will be by a different street.

We find that the 38th Street crossing is a new and different crossing from the 37th Street crossing albeit there are only approximately 40 feet between the inside curbs of 37th Street and 38th Street at the crossing site. We want it clearly understood that the above finding is based on the peculiar facts of the particular situation involved in the instant application and that the holding herein is to be considered as authority only for this railroad crossing matter here before us.

The applicant urges that the Commission, if it finds as we have, that this is a new crossing, should split the costs of the protection and maintenance between the railway and the City. We agree with the City that we have this authority (Section 1202, Public Utilities Code). However, it has been the Commission's long-established practice to assess the costs of installation, construction and protection of a new crossing to the applicant.

Findings

The Commission finds that:

1. The word "ordinance" in the second line on page 3 and the word "ordinance" in the second line of the first full paragraph on page 4 of Decision No. 76018 should be changed to "resolution".

2. The 38th Street crossing (Crossing No. 2H-0.71) is a new crossing, separate and distinct from the 37th Street crossing (Crossing No. 2H-0.7).

3. In accordance with the Commission's long-established practice, the costs of installation, construction and protection of such crossing should be borne by the applicant.

4. The installation costs of the signals and gates and circuits at the 38th Street crossing should be borne 100 percent by the City.

5. The costs of preparing the track area to receive paving should be borne 100 percent by the railway.

6. The cost of the maintenance of the signal protection should be borne by the same entities and in the same percentage as the cost of protection (including the tie-in with the 37th Street protection) is borne pursuant to Section 1202.2 of the Public Utilities Code.

Conclusion

The Commission concludes that the expenses of the crossing protection and the maintenance expenses thereof should be apportioned as set forth in the order herein, and that Decision No. 76018 should be modified as specified herein.

O R D E R

IT IS ORDERED that:

1. The word "ordinance" in the second line on page 3 and the second line of the first full paragraph on page 4 of Decision No. 76018 is changed to "resolution". In all other respects said decision shall remain unchanged.

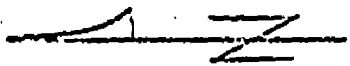
2. The costs of installing the protection and the cost of maintenance thereof at the 38th Street crossing shall be borne 100 percent by the City pursuant to Section 1202.2 of the Public Utilities Code.

3. The cost of preparing the track area to receive pavement at the 38th Street crossing shall be borne by the railway.

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

Dated at San Francisco, California, this 11th day of JUNE, 1970.

William J. Lyons, Jr.
President
Augusta
William J.
John J.
Hermon L. Sturgeon
Commissioners



SCALE 1" = 40'

← To Los Angeles

To Wilmington →

37th ST.

15th ST.

10th ST.

APPENDIX "A"