

NW/JR

ORIGINAL

Decision No. 77915

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 con-)
struct TAMPA AVENUE at grade)
across the tracks of the Southern)
Pacific Company's Coast Line.)

Application No. 50269
(Filed May 27, 1963)

O P I N I O N

The Southern Pacific Transportation Company, protestant in the above-entitled matter, on July 27, 1970 filed with this Commission a pleading entitled "Petition And Motion To Strike The Purported Acceptance Of Applicant City Of Los Angeles, And Request For Hearing And Oral Argument."

The Application of the City of Los Angeles (No.50269) to construct Tampa Avenue at grade across the Southern Pacific Company tracks was heard in seven days of public hearing and submitted on briefs filed by applicant and protestant. Decision No. 76063 dated August 19, 1969 authorized construction of the grade crossing subject to conditions which were amended after rehearing by Decision No. 76915 dated March 10, 1970. Protestant filed a Petition For Writ Of Review to the Supreme Court of the State of California and this petition was denied on July 8, 1970. Decision No. 76063 dated August 19, 1969 as amended by Decision No. 76915 dated March 10, 1970 thereby became final.

On page 3 of the petition protestant purports to quote paragraph 6 of Decision No. 76063 as amended by Decision No. 76915 but erroneously quotes the paragraph 6 of Decision No. 76063 without the amendment; however the petition is considered as if this is a typographical error and the Decisions are correctly quoted, as alleged.

Paragraph 6 of Decision No. 76915 is as follows:

"IT IS ORDERED that Decision No. 76063 dated August 19, 1970 is hereby amended by striking out subparagraph (a) of paragraph 6, page 23 and inserting the following subparagraph (a):

"(a) Not later than July 1, 1972, the City of Los Angeles shall nominate the Tampa Avenue crossing of the Southern Pacific Coast Line for the construction of a grade separation and shall thereafter diligently take such action and/or pursue such steps as are necessary to bring to completion a grade separation structure at the Tampa Avenue crossing of said tracks of the Southern Pacific Coast Line. The obligation of the City of Los Angeles to complete construction of said grade separation structure shall be conditional upon the availability of funds from the State of California Grade Separation Fund sufficient in amount to reimburse fifty per cent of the cost to the City of Los Angeles of said project."

In all other respects said decision is hereby adopted and shall remain in full force and effect without any other changes."

The petitioner protestant seeks hearing and oral argument which amount to rehearing and review of issues decided by the foregoing decision which have become final.

This attempt to review and reargue these decisions at this time is not warranted; the other arguments in the petition are premature, and do not allege a substantial failure on the part of the City of Los Angeles to comply with the terms of the order. The matter has been heard, briefed, reheard, argued orally, and reviewed by Petition of Writ of Review to the California Supreme Court. The railroad's Petition for Writ of Review herein was denied on July 8, 1970.

There must be an end to litigation; the petition of protestant should be denied.

O R D E R

IT IS ORDERED that the petition of Southern Pacific Transportation Company to strike the purported acceptance of applicant City of Los Angeles, and request for hearing and oral argument is hereby denied.

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

Dated at San Francisco, California, this 10th day of NOVEMBER, 1970.

Chairman

Argued
William J. ...
John ...
Vernon L. Sturgeon
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.