

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

7521055 JRD2

NATIONAL RAILROAD PASSENGER CORPORATION, a District of Columbia Corporation

Plaintiff,

v.

AMERICAN PREMIER UNDERWRITERS, INC., formerly known as THE PENN CENTRAL CORPORATION; 222 RIVERSIDE PLAZA CORP.; and UNKNOWN OWNERS.

Defendants.

Civil Action No. 95 C 2277 Judge John A. Nordberg

- DEPT-01 RECORDING \$33.00
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\$5771 JH *-95-396240
COOK COUNTY RECORDER
DEPT-10 PENALTY \$30.00

MEMORANDUM OF OPINION AND ORDER

This is a condemnation action by the National Railroad Passenger Corporation ("Amtrak") pursuant to 49 U.S.C. § 24311, 108 Stat. 915-15, which authorizes Amtrak to acquire any right of way, land or other property which is required for intercity rail passenger service. The property to be taken in this action consists of a portion of property located at 444 West Jackson Blvd., Chicago, Illinois, consisting of those portions of Lot 5 and 6 in Railroad Companies resubdivision of Blocks 62 and 76 both inclusive, Block 78, parts of Blocks 61 and 77 and certain vacated streets and alleys in School Section Addition to Chicago, a subdivision of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, according to the plat of said resubdivision recorded in the Recorder's Office of Cook County, Illinois on March 29, 1924 in Book 188 of Plats at Page 16, as Documents 8339751, said parcel of land also being bounded and described as those portions of Lot 5 and Lot 6,

Handwritten calculations: 33 + 30 = 63

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bounded on the east by the Chicago River, on the south by Jackson Boulevard, on the west by Canal Street and on the north by a line which is the south face of the southerly columns of the 222 South Riverside Plaza Building extended east to the Chicago River and west to Canal Street ("Black Box Parcel").

The property taken from American Premier Underwriters, Inc. (APUI Subject Property") (and American Premier Underwriters, Inc. is hereinafter sometimes referred to as "APUI") is described as follows:

All that parcel of land being APUI's fee simple interest above a horizontal plane of air rights in Lot 5 above 25.70 feet Chicago City Datum ("CCD") and APUI's interest, if any, in Lot 6, to the extent that each such interest is in the Black Box Parcel.

Together with any interest APUI owns in any easements appurtenant to the Black Box Parcel, any improvements in the Black Box Parcel and any rights APUI owns as a lessor under that certain lease dated January 15, 1969 and recorded January 31, 1969 as Document 20744919, which lease was further supplemented by letter agreements dated December 3, 1970 and December 1, 1972 and by instruments dated November 29, 1977 and recorded November 30, 1977 as Documents 24217054, 24217055, 24217056 and 24217057 and by instruments recorded November 30, 1977 as Documents 24217079, 24217080 and 24217081 with respect to the above-described parcel but not with respect to that part of Lots 5 and 6 not included in the Black Box Parcel (said lease as amended and supplemented is hereafter referred to as the Air Rights Lease), and together with any interests APUI has in any residuary rights to improvements at the termination of the above-described Air Rights Lease with respect to the Black Box Parcel

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only, including any rights in the excepted space as described in the lease with respect to the Black Box Parcel only.

The interest, if any, prior to the termination of the Air Rights Lease by lapse of time or otherwise of APUI in the Loading Dock Area (defined below) located on the Black Box Parcel is not being taken in this action.

The Property taken in this action from 222 Riverside Plaza Corp. ("222 Subject Property") (and 222 Riverside Plaza Corp. is sometimes hereinafter referred to as "222") consists of (i) all of the lessee's interest in the leasehold estate in the Air Rights Lease described above with respect to the Black Box Parcel only, (ii) all of the lessee's interest in the leasehold estate created by a certain lease dated June 1, 1977 and recorded in the Recorder's Office of Cook County, Illinois on November 1, 1977 as Document 24173017 (the "Ancillary Prime Lease") the legal description of the property leased pursuant to the Ancillary Prime Lease is described below:

The property and space lying between horizontal planes which are 42.25 feet and 90.00 feet, respectively, above CCD, and enclosed by planes extending vertically upward from the surface of the earth, of a parcel of land comprised of a part of Lot 6, and of a part of south Canal Street lying west of and adjoining said Lot 6, in Railroad Companies' Resubdivision of Blocks 62 to 76, both inclusive, Block 78, parts of Blocks 61 and 77, and certain vacated streets and alleys in School Section Addition to Chicago, a subdivision of Section 16, Township 39 North, Range 14 East of the Third Principal Meridian which parcel of land is bounded and described as follows:

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Beginning on the east line of the west 20 feet of Lot 6, at a point which is 0.938 feet north from the south line of said Lot 6, and running thence west along a line perpendicular to the east line of the west 20 feet aforesaid, a distance of 25.416 feet; thence north, parallel with the west line of said Lot 6, a distance of 101.083 feet; thence east along a line perpendicular to the last described course, a distance of 25.416 feet to an intersection with the east line of the west 20 feet of said Lot 6; and thence south along the east line of the west 20 feet aforesaid, a distance of 101.083 feet to the point of beginning, in Cook County, Illinois.

and (iii) all of the lessee's interest in the leasehold estate created by a lease dated April 19, 1989 and recorded in the Recorder's Office of Cook County, Illinois on April 19, 1989 as Document 89173340 ("Master Lease") with respect to the Black Box Parcel only and (iv) 222's fee interest in the low-rise building and other improvements located on the Black Box Parcel, including any portions of the improvements that may be extended into any excepted space as described in the leases, together with any easements appurtenant thereto. The interests above-described taken from 222 do not include the interests in that portion of the existing driveway area, two planters (one on each side of the entrance to the driveway area along Jackson Boulevard), elevated loading docks and ramps, entrance way and service corridor to the freight elevators located in the 222 South Riverside Plaza Building to the extent that those interests are located on the Black Box Parcel and were not previously taken by Amtrak pursuant to a condemnation action filed in the United States

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District Court for the Northern District of Illinois, Eastern Division, Case No. 89 C 1631 (the "Loading Dock Area").

On April 14, 1995, Plaintiff filed its Declarations of Taking as to the interests of American Premier Underwriters, Inc. and 222 Riverside Plaza Corp. and Unknown Owners. Mr. Thomas Geselbracht of Rudnick and Wolfe has appeared on behalf of American Premier Underwriters, Inc. and Mr. Patrick Moran of Sonnenschein, Nath and Rosenthal has appeared on behalf of defendant 222 Riverside Plaza Corp. Defendants 222 Riverside Plaza Corp. and American Premier Underwriters, Inc. have filed Answers to the Complaint for Condemnation admitting the right of Amtrak to acquire the subject property, and further, that said right to acquire has been properly exercised, and that said defendants stipulate and agree as to the just compensation to be paid for the acquisition of the interest in land as described in the Complaint for Condemnation. Appearing that service by publication on Unknown Owners has been made in a manner and form as provided by statute and the court having jurisdiction of all the parties hereto and the subject matter thereof, and all parties in interest being before the court and having waived a jury.

THE COURT HEREBY FINDS:

Plaintiff has authority pursuant to 49 U.S.C. § 24311, 108 Stat. 915-16 to acquire the rights and interest in real estate described in the Complaint for Condemnation filed herein and that said authority has been properly

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exercised for the public purposes stated in the Complaint for Condemnation.

The Court further finds that pursuant to 49 U.S.C. § 24311, 108 Stat. 915-16 Plaintiff has acquired the interest of both 222 Riverside Plaza Corp. and American Premier Underwriters, Inc. in real estate described in the Complaint for Condemnation and in the Declarations of Taking filed in this action and that title and possession is hereby vested in Plaintiff, National Railroad Passenger Corporation as to the property described in the Complaint for Condemnation and in the Declarations of Taking.

That the Defendants have agreed as to the final just compensation to be paid each party for their respective interests acquired in this proceeding as set forth in the Settlement Agreements and that the Court finds that said amount has been deposited with the Clerk of the Court or having been paid to the Defendants pursuant to the terms of the Settlement Agreements between the parties and the Court further finds that said payment is fair and reasonable and represents just compensation paid to the owners for the taking of the interests acquired and identified in the Complaint for Condemnation.

IT IS THEREFORE ORDERED THAT the Clerk of the Court enter judgment on the merits in favor of Plaintiff, National Railroad Passenger Corporation and against defendant American Premier Underwriters, Inc., 222 Riverside Plaza Corp. and

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Unknown Owners for the relief prayed in the Complaint for
Condemnation herein.

IT IS FURTHER ORDERED THAT the Clerk of the Court
shall enter judgment on the merits confirming the vesting of
title and granting possession to the property and interest in
real estate acquired pursuant to Declarations of Taking in
National Railroad Passenger Corporation, and

(a) the Air Rights Lease is bifurcated so that the
leasehold estate of 222 Riverside Plaza Corp. is divided
into two leasehold estates, one pertaining to the Black
Box Parcel and the other pertaining to the property now
subject to the Air Rights Lease other than the Black Box
Parcel with National Railroad Passenger Corporation
thereby the lessee of the bifurcated Air Rights Lease as
to the Black Box Parcel and the lessor of the Air Rights
Lease as to the bifurcated Black Box Parcel for the
lessor's interest taken from American Premier
Underwriters, Inc., and

(b) the Master Lease is bifurcated so that the
leasehold estate of 222 Riverside Plaza Corp. is divided
into two leasehold estates, one pertaining to the Black
Box Parcel and the other pertaining to the property now
subject to the Master Lease other than the Black Box
Parcel with National Railroad Passenger Corporation
thereby the lessee of the bifurcated Master Lease as to
the Black Box Parcel.

Dated 6/14/95

By

John A. Woodbury
Judge

BOX 333-CT1

Amtrak2.Dpn
4/7/95

Prepared by
and RETURN to
After Recording:
Rand I. Reicin
JENNARD Block
ONE IBM Plaza
Chicago, ILLINOIS 60611

PIN #s

17-16-115-003-6001
17-16-115-003-6002
17-16-115-004-6001
17-16-115-004-6002

Address of property
444 W. Jackson Boulevard
Chicago, Illinois

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MAY 23 1993
H. STUART CUNNINGHAM, CLERK
UNITED STATES DISTRICT COURT

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