

E

BEFORE THE CITY COUNCIL OF THE
CITY OF JONESBORO, ARKANSAS

CRAIGHEAD COUNTY, ARKANSAS

PETITIONER

DONN MIXON, KATHRYN W. MIXON,
JAMES McCAULEY, and RUTH McCAULEY

RESPONDENTS

OBJECTION TO PETITION TO CLOSE ALLEY

1. Donn Mixon, Kathryn W. Mixon, James R. McCauley, and Ruth McCauley are the owners of a lot and building at 505 Union in Jonesboro, Arkansas, which is situated in the Western District of Craighead County, Arkansas, and is described as follows:

Lot 4 in Block "D" of the Original Survey of the City of Jonesboro, Arkansas, the same being part of the Southeast Quarter of the Southwest Quarter of Section 18, Township 14 North, Range 4 East.

2. The Mixons and the McCauleys acquired said property by deed and by abandonment of portions of alleys on the north and west sides of the deeded property. Copies of the deed and the two ordinances of abandonment are attached as Exhibits A, B, and C, respectively.

3. Craighead County by Roy C. Bearden has petitioned to close an alley which connects the above described property with Madison Street and which is situated in the Western District of Craighead County, Arkansas, and is described as follows:

An alley located south of Washington Avenue and east of Madison Street running east and west in Block "D" of the Original Survey of the City of Jonesboro more particularly described as beginning at the Southwest corner of Lot 10, Block "D"; thence east 130'; thence south 10' thence west 130' to the right of way of Madison Street; thence north 10' along the right of way of Madison Street to the northwest corner of Lot 9, also the point of beginning.

4. The Mixons and the McCauleys state that they are the owners of property abutting the alley sought to be closed by the petition of Craighead County by Roy C. Bearden. As abutting property owners, they object to the abandonment of the alley and assert that said abandonment is prohibited by law pursuant to Ark. Code Ann. § 14-301-303 (1987).

5. The Mixons and McCauley deny the allegations of the Petition to Close Alley and deny that Craighead County by Roy C. Bearden is the sole owner of all property adjoining the alley described in the petition. As stated above, the Mixons and the McCauleys own property adjoining the alley and they are of the information and belief that other individuals also own property adjoining it.

6. The Mixons and the McCauleys assert that their property receives certain utility services from utilities located in the alley proposed to be abandoned. In the event the alley is closed, then no easement would exist for purposes of maintaining these utility services.

7. As citizens of Jonesboro, Arkansas, and members of the general public, the Mixons and the McCauleys affirm that the alley in question has been actually used by the public as an alley over the period of the past five years.

WHEREFORE, Donn Mixon, Kathryn W. Mixon, James R. McCauley, and Ruth McCauley pray that the City Council of the City of Jonesboro, Arkansas, deny, reject, and dismiss the petition of Craighead County by Roy C. Bearden to close the alley described in

the petition; and that the Mixons and the McCauleys have all proper legal and equitable relief.

MIXON & McCAULEY, P.A.
P. O. Box 1442
Jonesboro, AR 72403-1442
Phone: (501) 935-8600

by Donn Mixon
Donn Mixon 76079

FILED
DATE 5/10/95
DONNA K. JACKSON
CITY CLERK

\$82.50
0150969
\$82.50
0150970

ARKANSAS DOCUMENTARY \$5.50 0191618
ARKANSAS DOCUMENTARY \$5.50 0191617

Warranty Deed

With Relinquishment of Dower
and Curtesy

Know All Men By These Presents:

THAT WE, Edgar E. Hall
and Kathy Hall, his wife
for and in consideration of the sum of Ten & NO/100
(\$10.00) DOLLARS

and other good and valuable consideration, in hand paid by
Donn Mixon and Kathryn W. Mixon, husband and wife, James R. McCauley
and Ruth McCauley, husband and wife, the receipt of which is hereby
acknowledged,
do hereby grant, bargain, sell, and convey unto the said Donn Mixon and Kathryn W. Mixon,
husband and wife, and James R. McCauley and Ruth McCauley, husband
and wife,
and unto their heirs, and assigns forever, the following lands lying in the
county of Craighead and State of Arkansas, to-wit:

Lot 4 in Block "D" of the Original Survey of the City
of Jonesboro, Arkansas, the same being part of the
Southeast Quarter of the Southwest Quarter of Section
18, Township 14 North, Range 4 East.

To have and to hold the same unto the said Donn Mixon and Kathryn W. Mixon, husband and wife,
and James R. McCauley and Ruth McCauley, husband and wife,
and unto their heirs, and assigns forever, with all appurtenances thereunto belonging.

And we hereby covenant with said Donn Mixon and Kathryn W. Mixon, husband and
wife, and James R. McCauley and that we will forever warrant and defend the
Ruth McCauley, husband and wife,
title to the said lands against all claims whatever.

And Edgar E. Hall and Kathy Hall, husband and wife,

for and in consideration of the said sum of money, do hereby release and relinquish unto the said Donn Mixon & Kathryn
W. Mixon, husband and wife, and James R. McCauley & Ruth McCauley, husband and wife
all our rights of curtesy, dower, and possibility of homestead in and to said lands.

Witness our hands and seals on this day of April, 19 91.

Edgar E. Hall (L.S.)
Kathy Hall (L.S.)

This instrument was prepared by
Mixon & McCauley, Attorneys
Jonesboro, Arkansas

EXHIBIT A
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ACKNOWLEDGEMENT

STATE OF ARKANSAS

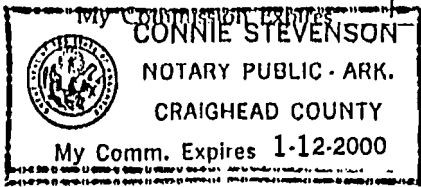
County of Craighead

BE IT REMEMBERED, That on this day came before me the undersigned, a notary public within and for the State and County aforesaid, duly commissioned, qualified, and acting Edgar E. Hall and Kathy Hall to me well known as the grantors in the foregoing Deed, and stated that they had executed the same for the consideration and purpose therein mentioned and set forth.

And on the same day also voluntarily appeared before me the said Edgar E. Hall and Kathy Hall, husband and wife

to me well known, and in the absence of their spouses declared that they had, of their own free will, executed said deed and signed and sealed the relinquishment of curtesy, dower, and homestead in the said deed for the consideration and purposes therein contained and set forth, without compulsion or undue influence of their spouse.

WITNESS my hand and seal as such notary public this 12 day of April, 19 91



Connie Stevenson
Notary Public

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

Don Mison
Grantor or Grantee's Agent
P.O. Box 1442
Jarabon, AR 72444
Grantor's Address

Filed for Record this 30th day of April, 19 91
at 4:16 P.M.
By Shannon Dilbeath Clerk
of Craighead County Ark.

WARRANTY DEED
WITH RELINQUISHMENT OF POWER

CERTIFICATE OF RECORD

STATE OF ARKANSAS

County of Craighead

I, Pat Fleetwood, Circuit Clerk and Ex-Officio Recorder for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 30th day of April, A.D., 19 91, at 4:16 o'clock P m. and the same is now duly recorded, with acknowledgements and certificates thereon in "Record Book DR 405", page 241-242

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Court this 30th day of April, 19 91

Pat Fleetwood
Circuit Clerk and Ex-Officio Recorder
Shannon Dilbeath
D.C.

ORDINANCE No. 1140

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF JONESBORO ARKANSAS:

WHEREAS, a petition was duly filed with the City Council of the City of Jonesboro, Arkansas on the 19th day of Sept, 1966, asking the City Council to vacate and abandon the alley designated on the plat of Block "D" of the Original Survey to the City of Jonesboro, Arkansas as same appears in Deed Record 1, page 5 of the records in the office of the Circuit Court Clerk at Jonesboro, Arkansas, designated as follows, to-wit:

An alley running East and West through the East one-half of Block "D" of the Original Survey of the City of Jonesboro, Arkansas, said alley extending from Union Street on the East to an alley on the West running North and South through said Block "D" of the Original Survey of Jonesboro, Arkansas, said alley running East and West being ten (10) feet in width.

WHEREAS, after due notice as required by law, the City Council has, at the time and place mentioned in the notice, heard all persons desiring to be heard on the question and has ascertained that the alley hereinbefore described has heretofore been dedicated to the public use as an alley; has not been actually used by the public generally for a period of at least five (5) years prior to the filing of the petition for abandonment; that all the owners of property abutting the alley to be vacated have filed with the City Council their written consent to such abandonment; and that public interest and welfare will not be adversely affected by the abandonment of such alley;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Jonesboro, Arkansas:

Section 1. The City of Jonesboro, Arkansas hereby releases, vacates and abandons all its rights, together with the rights of the public generally, in and to the alley described as follows:

An alley running East and West through the East one-half of Block "D" of the Original Survey to the City of Jonesboro, Arkansas, said alley extending from Union Street on the East to an alley on the West running North and South through said Block "D" of the Original Survey of Jonesboro, Arkansas, said alley running East and West ten (10) feet in width.

Section 2. A copy of the ordinance duly certified by the City Clerk shall be filed in the office of the recorder of the County and recorded in the deed records of the County.

Section 3. This ordinance shall take effect and be in force from and after its passage.

I, _____ City Clerk of the City of Jonesboro, Arkansas, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____ as appears of record in City Ordinance Book No. _____, in my office.

Witness my hand and seal this ___ day of _____, 1966.

CITY CLERK

ORDINANCE NO. 2477

AN ORDINANCE TO VACATE A PORTION OF AN ALLEY

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS:

WHEREAS, A PETITION WAS DULY FILED WITH THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS, ON THE DAY OF APRIL, 1993, TO VACATE AND ABANDON A PORTION OF AN ALLEY DESCRIBED AS FOLLOWS:

A PORTION OF AN ALLEY IN THE ORIGINAL SURVEY TO THE CITY OF JONESBORO, ARKANSAS, AND DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF LOT 6, BLOCK D; THENCE NORTH APPROXIMATELY 90 FEET TO THE NORTHWEST CORNER OF LOT 4, BLOCK D; THENCE WEST APPROXIMATELY 10 FEET TO THE NORTHEAST CORNER OF LOT 7 OF BLOCK D; THENCE SOUTH APPROXIMATELY 90 FEET TO THE SOUTHEAST CORNER OF LOT 7, BLOCK D; THENCE EAST APPROXIMATELY 10 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF BLOCK D, THE POINT OF BEGINNING PROPER, ALL IN THE ORIGINAL SURVEY TO THE CITY OF JONESBORO, ARKANSAS;

AND

WHEREAS, AFTER DUE NOTICE AS REQUIRED BY LAW, THE COUNCIL HAS, AT THE TIME AND PLACE MENTIONED IN THE NOTICE, HEARD ALL PERSONS DESIRING TO BE HEARD ON THE QUESTION AND HAS ASCERTAINED THAT THE ALLEY OR THE PORTION THEREOF, HEREINBEFORE DESCRIBED, HAS HERETOFORE BEEN DEDICATED TO THE PUBLIC USE AS AN ALLEY HEREIN DESCRIBED; HAS NOT BEEN ACTUALLY USED BY THE PUBLIC GENERALLY FOR A PERIOD OF AT LEAST FIVE (5) YEARS SUBSEQUENT TO THE FILING OF THE PLAT; THAT ALL OWNERS OF THE PROPERTY ABUTTING UPON THE PORTION OF THE ALLEY TO BE VACATED HAVE FILED WITH THE COUNCIL THEIR WRITTEN CONSENT TO SUCH ABANDONMENT; AND THAT THE PUBLIC INTEREST AND WELFARE WILL NOT BE ADVERSELY AFFECTED BY THE ABANDONMENT OF SUCH ALLEY.

SECTION ONE: THE CITY OF JONESBORO, ARKANSAS, HEREBY RELEASES, VACATES AND ABANDONS ALL OF ITS RIGHTS, TOGETHER WITH THE RIGHTS OF THE PUBLIC GENERALLY, IN AND TO A PORTION OF AN ALLEY DESIGNATED AS FOLLOWS:

A PORTION OF AN ALLEY IN THE ORIGINAL SURVEY TO THE CITY OF JONESBORO, ARKANSAS, AND DESCRIBED AS FOLLOWS: BEGIN AT THE SOUTHWEST CORNER OF LOT 6, BLOCK D; THENCE NORTH APPROXIMATELY 90 FEET TO THE NORTHWEST CORNER OF LOT 4, BLOCK D; THENCE WEST APPROXIMATELY 10 FEET TO THE NORTHEAST CORNER OF LOT 7 OF BLOCK D; THENCE SOUTH APPROXIMATELY 90 FEET TO THE SOUTHEAST CORNER OF LOT 7, BLOCK D; THENCE EAST APPROXIMATELY 10 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF BLOCK D, THE POINT OF

BEGINNING PROPER, ALL IN THE ORIGINAL SURVEY TO THE CITY
OF JONESBORO, ARKANSAS;

AND HEREWITH DESIGNATE THE ABOVE DESCRIBED PORTION OF AN ALLEY
LEGALLY CLOSED AND THE PROPERTY IN FEE SIMPLE TITLE ABANDONED TO
THE RESPECTIVE PROPERTY OWNERS OF THE ADJOINING PROPERTY AS THEY
ARE DESIGNATED ON THE PETITION TO CLOSE ALLEY.

SECTION TWO: A COPY OF THE ORDINANCE DULY CERTIFIED BY THE CITY
CLERK SHALL BE FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY
AND RECORDED IN THE DEED RECORDS OF THE COUNTY.

SECTION THREE: THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE
FROM AND AFTER ITS PASSAGE AND APPROVAL.

PASSED AND ADOPTED THIS 7TH DAY OF JUNE, 1993.

EXHIBIT C
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