

**IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA**

DEPARTMENT OF TRANSPORTATION,	)	
	)	
Condemnor,	)	
v.	)	CAFN: 2023cv380374
	)	
0.211 acres of land; and certain easement rights; and)	)	Parcel 44
JAYANT CHAUDHARY; BYLINE BANCORP,	)	
INC. D/B/A BYLINE BANK;	)	
ST. IVES COUNTRY CLUB HOMEOWNERS	)	Judge Glanville
ASSOCIATION, INC.; CITY OF JOHNS CREEK;	)	
HONORABLE KENYA JOHNSON, JUDGE,	)	
FULTON COUNTY PROBATE COURT; AND	)	
ARTHUR E. FERDINAND, FULTON COUNTY	)	
TAX COMMISSIONER; and any and all others	)	
having or claiming an interest in the herein	)	
describes lands, individually,	)	
	)	
Condemnees.	)	

**CONSENT FINAL ORDER AND JUDGMENT**

WHEREAS, Condemnor Department of Transportation (the “DOT”) filed its Petition for Condemnation In Rem and Declaration of Taking in this case on May 16, 2023 to acquire certain property interests in Fulton County for the public purposes specified therein; and

WHEREAS, on the date of taking, the DOT paid the sum of \$88,100.00 (the “Initial Amount”) into the Court’s registry as just and adequate compensation for the taking and interests of all condemnees in the subject property; and

WHEREAS, the DOT duly served all condemnees as provided by law<sup>1</sup>; and

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<sup>1</sup> The DOT perfected service upon Condemnees (1) Any and all others having or claiming an interest in the herein described lands, individually, by publication on June 14, 2023 and June 21, 2023 pursuant to O.C.G.A. § 32-3-8. Then,

WHEREAS, Condemnee St. Ives Country Club Homeowner’s Association, Inc. (the “HOA”) filed its Petition for Review on June 28, 2023 stating its dissatisfaction with the DOT’s compensation deposited with the court; and

WHEREAS, the time period in which the condemnees may appeal the compensation herein or challenge the legality of the taking has passed without an appeal or challenge being filed by any of the remaining condemnees<sup>2</sup>; and

WHEREAS, after filing the Petition and Declaration of Taking, the DOT and the HOA engaged in good faith settlement discussions and reached an agreed resolution on all issues as to just and adequate compensation between them, which the DOT and the HOA request be made an Order of this Court, whereby the DOT will compensate all the Condemnees in the total amount of \$93,679.25, which includes the \$9,904.25 agreement of compensation between the DOT and the HOA, in satisfaction of any and all claims of the Condemnees to the compensation already deposited with the Court that any of them may have, and

WHEREAS, the DOT is not concerned with or affected by any subsequent proceeding (State Hwy. Dep’t v. Taylor, 103 Ga. App. 15 (1960)); and

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on June 21, 2023, the Fulton County Sheriff’s Office perfected service upon Condemnees (2) City of Johns Creek, and (3) St. Ives Country Club Homeowners Association, Inc. On June 23, 2023, the Fulton County Sheriff’s Office perfected service upon Condemnees (4) Dr. Arthur E. Ferdinand, Fulton County Tax Commissioner, and (5) Honorable Kenya Johnson, Fulton County Probate Court. On June 26, 2023, the Fulton County Sheriff’s Office personally served Condemnee (6) Jayant Chaudhary. Finally, on July 7, 2023, the DOT’s private process server perfected service upon Condemnee (7) Byline Bancorp, Inc. d/b/a Byline Bank.

<sup>2</sup> Condemnee City of Johns Creek filed an Answer on June 30, 2023 but it did not contest the deposit of compensation. Then Condemnee Dr. Arthur E. Ferdinand, Fulton County Tax Commissioner filed an Answer on July 10, 2023 but he did not contest the deposit of compensation. And Condemnee Honorable Kenya Johnson, Fulton County Probate Court likewise filed an Answer on July 21, 2023, but she did not contest the deposit of compensation either. While the City and Tax Commissioner did not contest compensation, they both did assert claims for any unpaid *ad valorem* taxes that may become due after the 2023 taxes were quantified.

WHEREAS, given the inherent uncertainty of litigation, the DOT and the HOA have agreed all issues as to just and adequate compensation, including leasehold damages and business damages, if any, which may be due to the Condemnees including the HOA, and all other issues related to this taking they may have, shall be resolved as described herein.

**NOW THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED** as follows:

1. A Final Order and Judgment is hereby entered in favor of all the Condemnees in the total amount of \$93,679.25, said amount representing the total just and adequate compensation due to the Condemnees herein including any interest due thereon; and

2. Within thirty (30) days of the entry of this Order, the DOT shall pay the additional sum of \$5,579.25 (the “Additional Amount”) into the Court’s Registry (which amount, when added to the Initial Amount constitutes the total just and adequate compensation due to all the Condemnees); and

3. After the DOT deposits the Additional Amount, the Clerk of Court is authorized and directed to pay the agreed upon compensation to the HOA by sending a check in the amount of \$9,904.25<sup>3</sup> made payable to “Bill Crecelius, Jr., P.C.” and mailed to:

Bill Crecelius, Jr., P.C.  
Attn: Bill W. Crecelius, Jr.  
6455 E. Johns Crossing  
Suite 400  
John Creek, Georgia 30097

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<sup>3</sup> Upon this distribution to the HOA, the Court’s Registry shall have a remaining balance of \$83,775.00.

4. Within five (5) days of the DOT's deposit of the Additional Amount, the HOA shall execute and file with the Clerk of the Court an original of the Release and Dismissal with Prejudice of the Notice of Appeal in substantially the same format as that attached as Exhibit 1; and

5. Upon payment of the sum of \$9,904.25 to the HOA, the Clerk is hereby ordered and directed to mark the judgment satisfied, and to enter it as a final judgment in favor of the Condemnees, said total sum of \$93,679.25 representing the total just and adequate compensation due to all Condemnees for all property and rights acquired from them, as well as all damages, if any, sustained by them as a result of this condemnation, and any interest due thereon; and

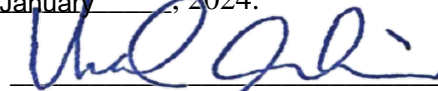
6. All issues in this case as to the Condemnees, including the HOA, including, but not limited to, those of consequential damages, business damage, leasehold damages, just and adequate compensation and all other damages, are concluded and the Condemnees, including the HOA, shall have no further claim against the DOT with respect to this or any other action; and

7. All appeals, answers, and notices previously filed in this action by the HOA are hereby dismissed with prejudice with all costs of this action taxed against the DOT; and

8. Each party shall be responsible for payment of its own attorneys' fees with respect to this action; and

9. The funds remaining in the Court's Registry (\$83,775.00) shall remain on deposit with the Clerk subject to the claims and demands by the Condemnees.

**SO ORDERED** this 2nd day of January, 2024.



Honorable Ural Glanville  
Chief Judge, Fulton County Superior Court  
Atlanta Judicial Circuit

Prepared and presented by:  
**GREGORY, DOYLE, CALHOUN  
& ROGERS, LLC**

/s/ Nick Gaba

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Consented to by:  
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Consented to by:  
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/s/ Bill W. Crecelius, Jr.\*

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*Attorney for Condemnee St. Ives  
Country Club Homeowners  
Association, Inc.*

Consented to by:  
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ATTORNEY**

/s/ Victoria Kealy\*

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*Attorney for Condemnee Honorable Kenya  
Johnson, Fulton County Probate Court and  
Arthur E. Ferdinand, Fulton County Tax  
Commissioner*

*\*Electronically signed by Nick Gaba upon express permission from Bill W. Crecelius, Jr. on 2023-12-28, Victoria Kealy on 2023-12-27, and Karen Thomas on 2023-12-27*

**EXHIBIT 1**

**CONDEMNEE ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.'S  
RELEASE AND DISMISSAL WITH PREJUDICE OF ITS PETITION FOR REVIEW**

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**CONDEMNES ST. IVES COUNTRY CLUB HOMEOWNERS ASSOCIATION, INC.'S  
RELEASE AND DISMISSAL WITH PREJUDICE OF THEIR NOTICE OF APPEAL**

Condemnees St. Ives Country Club Homeowners Association, Inc. hereby dismisses with prejudice their Notice of Appeal Case filed in this case on June 28, 2023. The HOA hereby further waives and releases any and all claims for compensation, including leasehold damages and business damages, if any, they may now or hereafter have against GDOT as a result of this condemnation or GDOT's project.

Respectfully submitted this \_\_\_\_ day of \_\_\_\_\_, 2024.

**BILL CRECELIUS, JR., P.C.**

\_\_\_\_\_  
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*Attorney for Condemnee St. Ives Country Club Homeowners Association, Inc.*