

0.14-acre parcel of land located in the Town, in Dorchester County, for its public purpose project to widen and extend S-131 (N. Maple Street) within the Town. The subject property bears TMS No.130-10-00-144, is identified as Tract 53-3 by Condemnor for its project and lies adjacent to the east of N. Maple Street (the “Property”). Condemnor filed its Notice of Filing and Notice of Taking on August 5, 2022, giving notice of its right to take possession of the property interests and exercise the rights described in the Condemnation Notice.

On August 11, 2022, Limehouse, under Rule 24, SCRCF, moved to intervene in this eminent domain proceeding, and requested that this Court stay the condemnation action and halt Condemnor’s public purpose project. The motion was previously scheduled to be heard on November 17, 2022, December 5, 2022, and September 18, 2023, but each such hearing was continued at the request of Limehouse’s counsel.

On September 25, 2023, Condemnor and the named Landowners reached an agreement on the amount of just compensation owed for the taking and settled the case, as set forth in the Court’s Consent Order Approving Mediation Settlement Agreement and Partially Ending Case, entered September 29, 2023 (“Settlement Order”).¹ As a result of the Settlement Order, the “main” action in this condemnation case, to determine the amount of just compensation owed for the taking, was resolved. The Settlement Order and an annotated Condemnation Notice reflecting the agreed upon amount of just compensation were recorded in the Dorchester County Register of Deeds Office on October 6, 2023, in Book 1496, at Page 232,² whereby Condemnor paid just compensation for the portion of the Property taken.

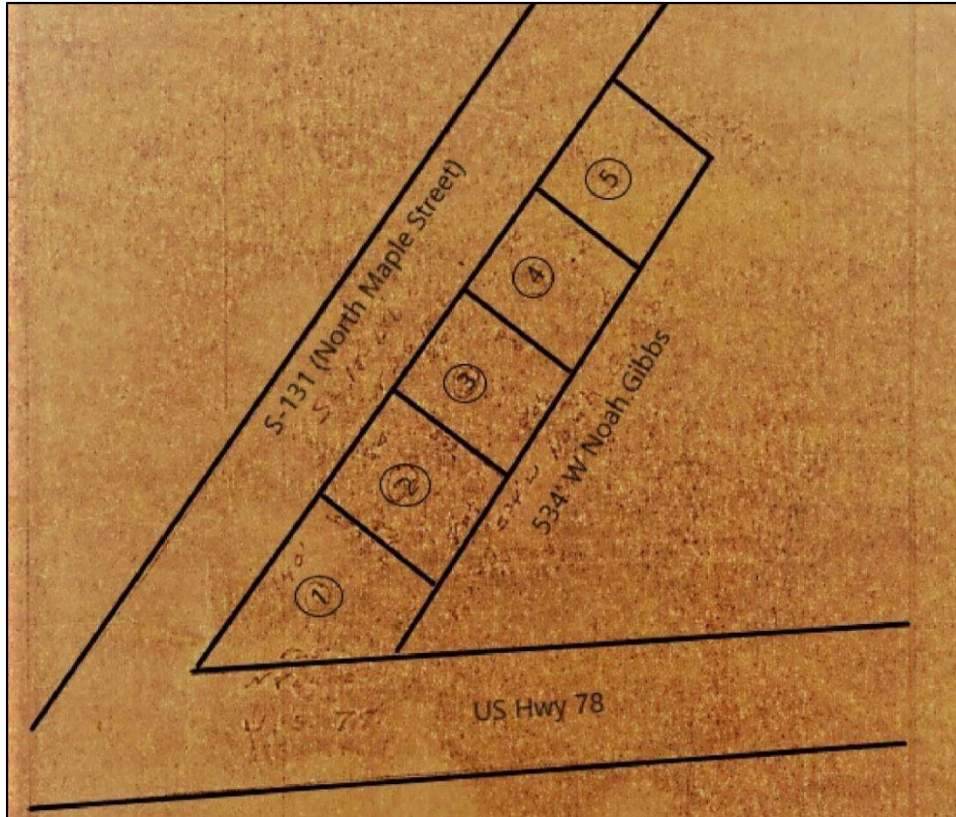
¹ On the same date the Court entered a separate Final Consent Order to Dismiss Unknown Claimants, John Doe and Mary Doe, who were previously named as Unknown Claimants out of an abundance of caution to represent any unknown persons who claimed an interest in the Property.

² All recorded documents referenced herein are records in the R.O.D. Office for Dorchester County, South Carolina.

BACKGROUND

Certain historical background is necessary to provide context for the land and claims at issue. The Property is one of five adjacent tracts that previously comprised a parcel owned by Noah Gibbs, Jr. The parcel was subdivided, and the tracts created, by Gibbs, Jr.'s recording of a plat titled "Plat Gibbs Acres," in Plat Book 16, at Page 369, also referenced as being recorded in Plat Slide B-124 ("Gibbs Plat"). *See* Condemnor's Nov. 11, 2022 memorandum in opposition to Limehouse's motion ("Condemnor's Opp. Mem.") Exs. 1-2.³ The five lots, including the Property, which is referred to as "Lot No. 3," are adjacent to N. Maple Street, and three of the five (Lot Nos. 3, 4, and 5) comprise the area of focus for this dispute. Part of the Gibbs Plat, filed as Exhibit 2 to Condemnor's opposition memorandum, is copied below.

³ Said Ex. 1 is a copy of the Gibbs Plat as it exists on file. Due to its age, the legibility of lot lines and markers is compromised. Thus, in Ex. 2 to its memorandum, which is a copy of the same plat, Condemnor darkened the lines and markers existing on the original plat to improve legibility.



For further context, Condemnor previously filed a separate condemnation action in 2020 against Limehouse,⁴ which mistakenly identified the property being condemned as one parcel, labeled as “Tract 53.” In reality, that land consisted of three separate tracts: Gibbs Acres Lot Nos. 3, 4, and 5 (now referred to as Tracts 53-3, 53-4, and 53-5, respectively, for the project). Condemnor’s Opp. Mem. Exs. 3-4; Condemnation Notice Ex. A. After Condemnor learned that the previously labeled Tract 53 consisted of the three separate lots,⁵ it moved to amend its condemnation notice in the 2020 Action to correct the description of the condemned property as only including Tract 53-4, and initiated the instant action.

⁴ This action was originally assigned Civil Action No. 2020-CP-18-01522 (“2020 Action”), but after being restored in August 2023 following Rule 40(j), SCRC, dismissal in August 2022, was assigned case number 2023-CP-18-01457.

⁵ The Dorchester County Geographic Information Systems (GIS) map, for reasons unknown, had combined Lot Nos. 3, 4, and 5 into one (1) single tract. Dorchester County has corrected this error and the parcels now bear separate tax map numbers.

Limehouse claims ownership of all the acreage comprising Lot Nos. 3, 4, and 5, which includes the Property. The only deed to Limehouse identified as relevant describes the property conveyed to him with reference to the Gibbs Plat, copied above, and states as follows:

All that piece, parcel or lot of land, situate, lying and being near the town of Summerville, South Carolina; measuring and **containing Fifteen One-Hundredths (15/100) of an acre**, more or less; **butting and bounding** Northeast by Highway S-18-131, and measuring along said highway 80 feet, **Southeast by Lot No. 5** as shown by Plat of lands of Noah Gibbs made by N. J. Smith, Registered Surveyor, dated June, 1964 and recorded in Plat Book 16 page 369, C of C's Office for Dorchester County and measuring along said Lot No. 5, 88 feet, Southeast by lands of Noah Gibbs and measuring along said line 80 1/2 feet, **Southwest by Lot No. 3** and measuring along said line 80 feet.

Being the same property conveyed to Winston M. Wilson by deed of Louis W. Wilson, Jr. a/k/a Lewis Walter Wilson, Jr. dated 08/2/2002 and recorded 08/05/2002 in Book 3186 at Page 150 in the RMC Office for Dorchester County.

Deed from Winston M. Wilson to Limehouse, recorded Nov. 16, 2015, in Book 9989 at page 255 (emphasis added). *See* Condemnor's Opp. Mem. Ex. 5 (certified copy of deed).

STANDARD OF REVIEW

Condemnation actions are statutory proceedings governed exclusively by The South Carolina Eminent Domain Procedure Act, S.C. Code Ann. §§ 28-2-10, *et seq.* ("EDPA" or "Act"). *See* S.C. Code Ann. § 28-2-210. If the condemnor proceeds with condemnation by way of trial, rather than appraisal panel, then the condemnor must file a Condemnation Notice with the Court, which must name "as 'landowner' all persons who are record owners of fee simple title and as 'other condemnees' all persons who, to condemnor's knowledge, have or claim any record interest in the property to be taken[.]" EDPA § 28-2-280(C)(2); *see also* EDPA §§ 28-2-220 – 28-2-240.

The decision to grant or deny a motion to intervene lies within the trial court's discretion. *See Stoney v. Stoney*, 422 S.C. 593, 594 n.2, 813 S.E.2d 486, 486 n.2 (2017) (internal citations omitted); *Berkeley Electric Coop., Inc. v. Town of Mt. Pleasant*, 302 S.C. 186, 189, 394 S.E.2d 712, 714 (1990). "[A] party must have standing to intervene in an action pursuant to Rule 24,

SCRCP[,]” which “provides for intervention of right and permissive intervention.” *Ex Parte Gov’t Emp.’s Ins. Co. v. Goethe*, 373 S.C. 132, 138, 644 S.E.2d 699, 702 (2007) (internal citation omitted); *Sauner v. Pub. Serv. Auth. of S.C.*, 354 S.C. 397, 410, 581 S.E.2d 161, 168 (2003).

Rule 24, SCRCP, sets forth two types of intervention, delineating different standards for “by right” and permissive intervention. Rule 24(a)-(b), SCRCP. While the South Carolina Rules of Civil Procedure provide a means for intervention, in the event of conflict, the EDPA prevails over said rules. S.C. Code Ann. § 28-2-120. The EDPA’s provisions “constitute the exclusive procedure whereby condemnation may be undertaken in this State[,]” and the Act does not contemplate requested intervention in a pending condemnation action. S.C. Code Ann. § 28-2-210.

DISCUSSION

In his motion, Limehouse requests intervention based on claims to ownership of all the land comprising Gibbs Acres Lot Nos. 3, 4, and 5, which includes the Property.⁶ Mot. Intervene ¶¶ 1, 4. He asserts various theories in support, relying on property tax payments, a tax assessor’s appraisal card, and County tax maps. Although none of these provide an independent basis for intervention, the Court finds that Limehouse is prohibited from intervening in this action because he cannot satisfy the statutory definition of a landowner. Additionally, the Court disagrees with Limehouse’s contention that “paramount title” concerns either warrant intervention or should act to stay this action as well as Condemnor’s entire project.

I. Because He Never Held Record Title to the Property, the EDPA Does Not Allow Limehouse to Intervene.

Section 28-2-30(12) of the EDPA defines “Landowner” as a person “having a record fee simple interest in the property condemned or any part thereof[.]” S.C. Code Ann. § 28-2-30(12).

⁶ Lot No. 5 was condemned in the “sister” action to this one, assigned case number 2022-CP-18-00859, wherein the same Landowners were named as in this action.

Under the Act, landowners are “distinguished from condemnees who possess a lien or other non-ownership interest in the property[.]” *Id.* Additionally, the Act requires that a condemnation notice only “designate as ‘landowner’ all persons who are record owners of fee simple title[.]” S.C. Code Ann. § 28-2-280(2).

In his motion, Limehouse does not assert any claim to a record fee simple interest in the Property (Lot No. 3) or to Lot No. 5 of the Gibbs Acres parcels. And in examining the only deed to Limehouse which has possible relevance, the deed from Winston M. Wilson, recorded in Book 9989 at page 255, Limehouse was only conveyed, and thus only holds record title to, a parcel of land not at issue, Lot No. 4, consisting of approximately 0.15 acres. A copy of this deed, certified as accurate by the Dorchester County R.O.D., is attached as Exhibit 5 to Condemnor’s opposition memorandum, and the deed’s legal description of the property conveyed is set forth *supra*.

It is clear to the Court that the plain language of the deed to Limehouse describes the property conveyed to him as containing only 0.15 acres, which is bounded on the Southwest by Lot No. 3 (being the Property), and bounded on the Southeast by Lot No. 5, with reference to the plat recorded in Plat Book 16, at Page 369 in the Dorchester County R.O.D. Office — the Gibbs Plat. Therefore, as his parcel is bounded by Lot No. 3 (the Property), he necessarily does not hold title to the Property. Additionally, no conveyance in the Property’s chain of title shows any interest in the Property, Lot No. 3, passing to Limehouse.⁷

In determining the land to which Limehouse is the record fee simple title holder, the written provisions of the deed, the actual boundaries referenced therein, and representations on plats of record are determinative, and control over any previous (or current) tax map or tax assessor’s

⁷ A more detailed review of the conveyances in Limehouse’s chain of title to Lot No. 4, and in the Landowners’ chain of title to the Property, is contained in Condemnor’s opposition memorandum, and the exhibits attached thereto. Condemnor’s Opp. Mem. pp. 3-4, Exs. 1-5.

appraisal card, the latter two being items Limehouse asserted as providing him with ownership. *See, e.g., Garrett v. Locke*, 309 S.C. 94, 98-99, 419 S.E.2d 842, 845 (Ct. App. 1992); *see also Watson v. Suggs*, 313 S.C. 291, 294, 437 S.E.2d 172, 173 (Ct. App. 1993).

The instruments of record show that Limehouse only holds title to Lot No. 4 of the Gibbs Acres parcels and does not hold title to the real property at issue in this case. Therefore, the Court finds that Limehouse has no right to intervene in this condemnation action as a landowner, under Rule 24, SCRCF, or otherwise, due to the requirements and provisions of the EDPA, which specify that a person must hold record fee simple title to the condemned property to be so named.

II. Alleged Underlying “Paramount Title” Issues Are Irrelevant and Cannot Be Considered.

In his motion and at the hearing, Limehouse asserted that this action and Condemnor’s public project must be halted until “paramount title” issues are resolved. The motion does not specify what, if any, paramount title issue exists with regard to the Property or Limehouse, but the Court presumes Limehouse’s contention is that he allegedly held paramount title that prevailed over the title holders of record. However, it is axiomatic that paramount title cannot be asserted by someone who does not hold title. Moreover, such issues are a red herring, as they are of no bearing on and may not be considered in an eminent domain proceeding initiated in compliance with the EDPA.

A. Paramount Title Generally.

South Carolina jurisprudence establishes that issues of paramount title are only considered in actions or claims to try title to disputed land. *See, e.g., Dargan v. Tankersley*, 380 S.C. 480, 483-87, 671 S.E.2d 73, 74-76 (2008) (considering the defense of paramount title in a quiet title action); *Watson v. Suggs*, 313 S.C. at 293-94, 437 S.E.2d at 172-73 (delineating methods to prove paramount title in an action of trespass to try title) (quoting *Cummings v. Varn*, 307 S.C. 37, 413

S.E.2d 829 (1992)). When alleging paramount title, the claimant in essence asserts that his or her chain of title and plats referenced therein gives them superior title, or clean fee simple title, that prevails over the opposing party's.⁸ *Garrett v. Locke*, 309 S.C. at 98, 419 S.E.2d at 844-45.

For the first time at the hearing, Limehouse argued that two case opinions, *Watson* and *Cummings*, *supra*, supported the notion that alleged underlying paramount title issues should be examined before adjudication of a condemnation action. However, both of those cases were actions of trespass to try title, involving disputed ownership of land between private citizens, and neither opinion related to nor mentioned eminent domain. *See Watson v. Suggs*, 313 S.C. 291, 437 S.E.2d 172; *Cummings v. Varn*, 307 S.C. 37, 413 S.E.2d 829. The Court finds that neither decision indicates that any issue of paramount title must, or even may, be considered in the eminent domain context.

B. Condemnor Takes Paramount Title, Regardless of Any Underlying Disputed Interests.

This case does not, and cannot, involve disputed land or any claim to try title. Paramount title is not applicable to the eminent domain context because these proceedings do not allow for allegations of disputed title. As a lawful exercise of sovereign power, South Carolina statutory law dictates that the condemnor decides what land it is taking, regardless of who owns it or claims an interest and the proper exercise of eminent domain cannot be prevented or delayed. *See, e.g.*, EDPA §§ 28-2-60, -90, -230(B), -240(A), -310(C), -340, -370, -450, -460; *Oien Family Investments, LLC v. Piedmont Mun. Power Agency*, 424 S.C. 168, 175, 817 S.E.2d 647, 651 (Ct. App. 2018) (“[O]ur courts ‘will not interfere with the exercise of the condemnation power unless the condemning authority has acted in bad faith, fraudulently, or with a clear abuse of discretion.’”

⁸ Thus, even if the issue could be considered, Limehouse could not show paramount title as his chain of title and the referenced plat do not convey title to the Property.

(internal citation omitted)). The right of eminent domain “is justified by the fact that the right of individuals must yield to the public good, and the welfare of the state is paramount to that of the individual citizen.” *Atkinson v. Carolina Power & Light Co.*, 239 S.C. 150, 162, 121 S.E.2d 743, 749 (1961) (internal citation omitted).

This statutory scheme enacted by the General Assembly makes South Carolina a “quick take” state, whereby questions or disputes as to ownership, liens, or equitable interests will not delay an acquisition. *See City of Greenwood v. Psomas*, 249 S.C. 519, 524-26, 155 S.E.2d 310, 313-14 (1967). The pleadings cannot raise an issue of disputed title to land – they are closed from the moment the condemnation notice is filed and pursuant to the EDPA, the condemnor is guaranteed to take title (or the interest condemned) and insertion of ancillary issues via affirmative defense, counterclaim, or otherwise, is not permitted.

These [Eminent Domain] Code Sections determine the issues and the damages which may be awarded when these special proceedings are used for the purpose of acquiring land for public use. In these proceedings there are no complaints and no answers. None are needed since the issues to be tried are set out in the Code and are well known to the parties.

S.C. State Highway Dep’t v. Moody, 226 S.E.2d 423, 425, 267 S.C. 130, 135 (1976); *see also* S.C. Code Ann. § 28-2-470 (requiring actions challenging a condemnor’s right to condemn be brought in a separate proceeding); *U.S. v. Herring*, 750 F.2d 669, 671 (8th Cir. 1984) (“The purpose of the Declaration of Taking Act is to *establish a procedure in which the government’s title to property is completely settled at the outset*, thereby allowing the government to proceed with public projects in advance of time consuming proceedings concerning valuation.”) (emphasis added).

There is no issue, of law or fact, as to whether Condemnor can take title to the land at issue because Condemnor is vested with the power of eminent domain by the South Carolina Constitution, and the process codified in state statute. *See, e.g., S.C. Dep’t of Transp. v. Powell*, 424 S.C. 206, 210-11, 818 S.E.2d 433, 435 (2018); S.C. Code Ann. §§ 5-7-50, 28-2-90(3), 28-2-

230. Thus, there is no possible scenario in which Limehouse (or the Landowners) could establish superior title which prevails over Condemnor's. Regardless of a condemnee's actual or purported property rights, the condemnor is entitled to take the land and paramount title in it. This is because "a condemnation proceeding [i]s an action *in rem*. It is not the taking of the rights of designated persons, but the taking of the property itself." 2 *Nichols on Eminent Domain* § 5.02[2][a].

As discussed, a condemnor's only obligation with regard to designating the landowner(s) in a condemnation action is to name those persons holding a fee simple title interest that is of public record. Condemnor satisfied that obligation in its Condemnation Notice.⁹ And as of the date the condemnation notice is filed and just compensation deposited, the landowner, regardless of his or her identity, no longer has the right to use, enjoy, or dispose of the property taken. *See* S.C. Code Ann. § 28-2-280(C). In effect, the landowner's right to just compensation is substituted for the land. Even where the landowner does not accept the amount tendered prior to filing, the condemnor is entitled to possession, as any delay in payment from the date of taking is accounted for by the interest required on the deposited offer. *See S.C. Dep't of Transp. v. Faulkenberry*, 337 S.C. 140, 148-50, 522 S.E.2d 822, 826-27 (Ct. App. 1999).

In simple terms, a condemnor does not exercise its right of eminent domain to resolve issues of title, and it is of no import that a third-party may claim some unrecorded interest in the land. No matter what interests the landowner or other condemnees possess (or allege), the condemnation proceeding is not an action to resolve title disputes because the condemnation will always vest clear, paramount title in the condemnor.

The purpose of this proceeding is to determine the amount of compensation that the

⁹ Pursuant to this Court's June 13, 2022 Order, Condemnor even published the Condemnation Notice for three weeks in a newspaper of general circulation, and on August 5, 2022 filed its Notice of Filing and Notice of Taking, giving notice that it was entitled to take possession of the portion of the Property condemned pursuant to the EDPA.

Highway Department shall pay for the property acquired. The questions raised by the landowner relative to the application of Section 33-142, *supra*, concern not the determination of just compensation but possible disagreements that might arise between her and the lessees *The Court is not required in a condemnation proceeding to allow a separate trial to each owner of an estate or interest in the land condemned.*

S.C. State Highway Dep't v. Hammond, 238 S.C. 317, 321, 120 S.E.2d 21, 23 (1961) (emphasis added) (internal citations omitted).¹⁰

The condemnor's obligation terminates once the amount of just compensation determined via verdict or judgment is paid, and thereafter paramount title is vested in the condemnor. *See* S.C. Code Ann. § 28-2-460; *see also S.C. State Highway Dep't v. Moody*, 226 S.E.2d at 424, 267 S.C. at 134 (“[A] condemnation proceeding, or an appeal therefrom, is not a proper proceeding in which to seek redress for trespass and/or damages[.]”).

Unless the statutory validity of the taking is at issue, the government takes indefeasible or absolute title under a declaration of taking, and the validity of said title “is not conditional on the specific results of the subsequent condemnation proceeding[.]” *Herring*, 750 F.2d at 671. Accordingly, the only manner in which “paramount title” applies is for the premise that a condemnor, and thus the public, take paramount title to the condemned land, regardless of the types of underlying property rights, or disputes relating thereto. *See, e.g., Atkinson*, 239 S.C. at 160-63, 121 S.E.2d at 748-49.

As a result, Limehouse's requested relief cannot be granted, as it asks this Court to act contrary to statutory law governing eminent domain proceedings. Even if Limehouse was entitled to file an action challenging Condemnor's right to condemn, such challenge would only stay the

¹⁰ Although the EDPA was not enacted until 1987, it specifies that it is a procedural act not intended to change the substantive law of condemnation. *See* S.C. Code Ann. § 28-2-20. Moreover, the substance of the provisions of the 1952 Code of Laws regarding takings by municipalities or for state and county highways is similar to the EDPA's provisions.

condemnation of the Property, not the entire project. *See* S.C. Code Ann. § 28-2-470. Yet Limehouse is not permitted to initiate a challenge action, which may only be brought by a landowner (record title holder) and “must be commenced within thirty days after service of the Condemnation Notice upon the landowner.” *Id.*

Moreover, “[n]o issues involving the condemnor’s right to condemn may be heard in the trial upon the issue of just compensation.” S.C. Code Ann. § 28-2-470 (emphasis added). Limehouse could not be named and cannot intervene as a landowner pursuant to the EDPA and Condemnor has paid the amount of just compensation agreed to by the Landowners. Limehouse is statutorily prohibited from seeking a stay of this action and is certainly not entitled to delay Condemnor’s public purpose project.

III. The Requested Intervention Is Not Allowed Under Rule 24, SCRCP.

The EDPA exclusively governs condemnation actions – it provides the requirements and procedures for the same and specifies that its provisions prevail over the South Carolina Rules of Civil Procedure in the event of conflict. *See* S.C. Code Ann. §§ 28-2-20, 28-2-60, 28-2-120, 28-2-210. Limehouse is prohibited from intervening as a landowner under the EDPA, and any consideration under Rule 24 cannot act to supersede those statutory provisions and confer an ability to intervene. However, to fully address the grounds and arguments asserted by the parties, the Court will examine the criteria of Rule 24, SCRCP, as applied to Limehouse’s motion.

Rule 24(a) allows intervention of right “(1) when a statute confers an unconditional right to intervene; or (2) when an applicant claims an interest relating to the property” and the action’s disposition may impair or impede the movant’s ability to protect his claimed interest, unless said interest is “adequately represented by existing parties.” Rule 24(a), SCRCP. Under Rule 24(b), a party may intervene “(1) when a statute confers a conditional right to intervene; or (2) when an

applicant's claim or defense and the main action have a question of law or fact in common." Rule 24(b), SCRCP.

Limehouse's motion does not specify whether it is made pursuant to subpart (a) or (b) of Rule 24. Regardless, the Court finds that he would not be entitled to intervene under either standard. As to the first element of both subparts, there is no statute that provides Limehouse with any right, conditional or unconditional, to intervene. The other criteria of by right and permissive intervention are discussed separately below.

A. No Right to Intervene Exists Under Rule 24(a).

It is initially noted that Limehouse's motion does not contain any statement that the action's disposition may impair or impede his ability to protect a claimed interest. Setting that aside, as discussed *supra*, the action's disposition will not harm his claimed interest, because his alleged interest of ownership is not recognized under the EDPA and thus does not exist. Limehouse did not move to intervene as an "other condemnee" and did not possess any interest of record at the time the Condemnation Notice was filed, which is required to be considered a "condemnee" under the statute. S.C. Code Ann. § 28-2-30(6). Limehouse has not shown he holds a valid interest under the statutory scheme, and because Condemnor complied with the EDPA in pursuing condemnation, any interests in the Property were adequately accounted for and represented by the named Landowners.

Moreover, prior to filing this action (and publishing public notice of the same), the Town's letter to Limehouse's counsel in December 2021 (Condemnor's Opp. Mem. Ex. 3), as well as its May 2022 motion to amend its condemnation notice in the 2020 Action, gave Limehouse notice, in addition to his own deed, that he did not hold record title to the Property. At those points in time, or at any time after his deed to Lot No. 4 was recorded, he could have pursued an action to

try title to the Property.

Even still, because this condemnation was not a total take, Limehouse may pursue an action to prove ownership of the remainder. Indeed, more than ten months after the Condemnation Notice in this case was filed, Limehouse initiated a separate proceeding (Case Number 2023-CP-18-00467), asserting claims for adverse possession and quiet title to the Property. He is not left without recourse as to the part taken, for if he prevails in obtaining a judicial decree of title, he may pursue an inverse condemnation claim against Condemnor as to the 0.07-acre strip taken.

Finally, to the extent Limehouse seeks to recoup any amount of property taxes previously paid for the Property, such a claim, if available, is not one to be heard in a condemnation action.

B. Limehouse Not Entitled to Permissively Intervene Under Rule 24(b).

The only question presented in the main action of an eminent domain case is the amount of just compensation owed for real property belonging to “record owners of fee simple title[.]” S.C. Code Ann. § 28-2-280(C)(2); *see also* S.C. Code Ann. §§ 28-2-340(A), -360, -370. The General Assembly determined that only the condemnor and the record title holder may participate in the action to decide that question. *See, e.g.*, S.C. Code Ann. § 28-2-240(A) (requiring that only the landowner be served with the condemnor’s affidavit electing to proceed with trial).

We conclude the Act provides only the landowner and condemnor — as opposed to other condemnees — the right to a jury trial in a condemnation action The definition of landowner does not include ‘condemnees who possess a lien or other nonownership interest.’ *See* § 28-2-30(12). Rather, *the term encompasses only those condemnees ‘having a record fee simple interest in the property condemned or any part thereof.’ Id.* By definition, the term ‘landowner,’ regardless of whether it includes multiple condemnees, does not include *all* condemnees. Based on a plain reading of the Act, ***we conclude it contemplates the parties entitled to participate in trial are limited to the landowner and the condemnor, and only those parties who are entitled to participate in trial are entitled to a jury trial.***

S.C. Dep’t of Commerce, Div. of Pub. Rys. v. Clemson Univ., 432 S.C. 352, 361, 851 S.E.2d 735, 740 (Ct. App. 2020) (emphasis added) (citing S.C. Code Ann. §§ 28-2-240, -280, -310); *see also*

S.C. Code Ann. §§ 28-2-220 – 28-2-260, -290, -460; 18 S.C. Jur. *Eminent Domain* § 44. Limehouse cannot qualify as a landowner under the EDPA and was thus not entitled to participate in the disposition of Condemnor’s taking, meaning he has no ability to assert an issue with a question similar to the one determined in the main action.

CONCLUSION

Condemnor performed its statutory obligations to a) name the persons holding record title to the Property as Landowners in this action and b) pay the amount determined to be owed for just compensation for the taking. Because Limehouse does not hold a record fee simple interest in the Property, the EDPA prevents Limehouse from intervening in this action and Rule 24, SCRPC, does not afford him the requested right to intervene. The motion to intervene is DENIED.

AND IT IS SO ORDERED!



Dorchester Common Pleas

Case Caption: Summerville Town Of , plaintiff, et al VS Clarence B Brown ,
defendant, et al
Case Number: 2022CP1800858
Type: Order/Other

It is so Ordered!

s/Diane S. Goodstein