

WAR DEPARTMENT BOARD OF APPRAISERS,
Munitions Bldg., 19th & B Sts.,
WASHINGTON, D.C.

File No. 281 R/S.
Case under G.O. No. 59, W.D., 1919.

June 9, 1919.

In the matter of the claim of Mrs. G.F. Westmoreland, formerly Mrs. Lida Dean, Spartanburg, South Carolina, for damages occasioned claimant by reason of the occupation of two certain tracts of land by United States troops.

REPORT.

The facts in this case are as follows:

Mrs. G.F. Westmoreland, formerly Mrs. Louis Dean, is under the will of George B. Dean, recorded November 8, 1909, a life tenant of two certain tracts of land situated in Spartanburg Township, Spartanburg County, Spartanburg, S.C.; one tract contains 100 acres, more or less, and the other tract 5-1/2 acres, more or less.

This case is in all respects similar to the Lancaster case, File 280 R/S, except that there was born to Louis Dean and his wife, Lida, now Mrs. G.F. Westmoreland, a daughter, Annie Dean, who will be the owner in fee in remainder, provided she outlives her mother. The case was treated similarly to the Lancaster case, File 280 R/S, in the condemnation proceedings.

Under paragraph 9, Special Orders No. 22, Headquarters, Camp Wadsworth, S.C., January 22, 1919, a Board of Officers was appointed to investigate and report upon the amount of all possible damage claims which may be asserted against the Government by owners of the land leased by the Camp because of damages sustained by reason of the Government's occupation of their lands, erection of buildings thereon, cutting of timber, laying of roads, water pipes or sewers, construction of trenches or rifle ranges, or by reason of other acts of the Government upon their lands. The Local Board recommended disposition of the claim to be made as follows:

Damage to 1-1/2 story dwelling, valued by the jury at \$700,	\$ 79.00
Damage to barn, valued by the jury at \$125,	15.00
Damage to wall	15.00
Total damage to buildings	\$ 109.00

100 cords of wood cut from land subsequent to condemnation proceedings, valued by jury at \$3 per cord,	\$ 300.00
---	-----------

Brought Forward - \$ 409.00

That approximately 47-1/2 acres of the 80 acres of cultivated land was occupied by troops for several months during the summer of 1918, and that roads were cut through said land, latrines dug, and some trenches were constructed. In accordance with the findings of the jury, the damage to this 47 1/2 acres by reason of the occupancy of the troops for camping purposes, etc., was \$20 per acre, or 1 . . . \$ 950.00
 A total damage to buildings and land of . . . \$1259.00

The Board further found that Mrs. Westmoreland is entitled to rent of 80 acres at \$20 per acre per annum for one-half year \$ 800.00
 Rent for 25-1/2 acres of woodland at \$5 per acre per annum, one-half year. \$ 36.25
 Rent for 105-1/2 acres from Jan. 1, 1919 to Jan. 31, 1919, at \$2 per acre per month. \$ 211.00
 A total for rent of. \$1049.25

The papers attached to the claim show that the decree of the court provided that the claimant should file proper pleadings setting up its claim against the ^{Govt.} ~~rent~~. However, the Local Board has recommended that the entire amount both for rent and damages be paid to Mrs. Westmoreland. It found as follows:

"That part of the damage found by the Board to have been sustained by reason of the tramping of the land, the building of roads, digging of latrines, and other acts of the Government by reason of the occupancy of the said lands for camping purposes by United States troops, was allowed for the purpose of permitting the persons now in possession to have due compensation for such period of time as may be necessary to put the land back into a cultivated state, or, in other words, to restore the land to its former state of cultivation. In the opinion of the Board, therefore, this is compensation to the life tenant for loss sustained by failure to obtain crops during the period of reconstruction, and the remaindermen would have no interest whatsoever in this damage."

The Board further advises that there is no permanent damage to the land in question, and, therefore, no compensation is allowed for permanent damage thereto.

The Attorneys for the remaindermen in this case set up the same arguments as in the Lancaster case, with this addition:

"The same principle applies with reference to the Westmoreland tract, with this exception -that in that case Mrs. Westmore-

land has a young daughter who will be owner in fee in remainder provided she outlives her mother. In the event she does not outlive her mother, then our clients become the owners in fee in remainder, and the same principle in that event would apply as applies in the other case. Therefore, our clients are entitled to see to the proper disposition of such funds as may arise, either by compromise or otherwise, in that case with respect to damage to the real estate."

Mrs. Westmoreland has agreed to accept the award as determined by the Local Board. Under date of May 10, 1919, a release signed by the remaindermen in this case was forwarded, whereby the amount of damage assessed has been agreed upon conditionally upon it being paid into the Treasury of the District Court of the United States for the Western District of South Carolina.

Proceedings of this Board were approved by the convening authority.

It is therefore recommended that an award issue in favor of Mrs. C.F. Westmoreland, Spartanburg, S.C., in the sum of One Thousand Forty-nine Dollars Twenty-five Cents (\$1049.25) for rent for her land from July 1, 1918, to January 31, 1919, and that an award issue in favor of Mrs. C.F. Westmoreland, Annie Dean, J. Madison Dean, E.B. Dean and Mrs. Bolton Liles, as their interests may appear, in the sum of One Thousand Three Hundred Fifty-nine Dollars (\$1359.00), said amount to be paid to the Treasurer of the District Court of the United States for the Western District of South Carolina in full settlement and discharge of all liability of the Government on account of damages of the claim aforesaid.

WAR DEPARTMENT BOARD OF APPRAISERS,

By: J. L. KNOWLTON,
Colonel, General Staff,
Acting Chairman.

APPROVED:
June 24 1919.

July 1
Signe S.

HERSCHEL D. BAKER,
Secretary of War.

REAL ESTATE SERVICE.

P. S. & T. DIVISION. 153. Westmoreland, Mrs. C. F. et al.

July 17th, 1919.

MEMORANDUM FOR THE CHIEF OF STAFF:

Subject: Claim of Mrs. C. F. Westmoreland,
et al, Camp Wadsworth, S. C.

1. Herewith is claim of Mrs. C. F. Westmoreland, Annie Dean, J. Madison Dean, E. B. Dean and Mrs. Belton Liles of Spartanburg, S. C., with the recommendation of the War Department Board of Appraisers for the necessary action of the Secretary of War in compliance with paragraph four, General Order No. 39, War Department 1919.

2. By a memorandum from the Chief of the Construction Division dated July 14th, 1919, herewith attached, it is stated that the property of the claimants' herein is not included within the area on which damages were assumed by the purchaser.

3. It is requested that after the necessary action of the Secretary of War, this claim be returned to this office in order that it may be forwarded to the Chief of the Real Estate Service for transmittal to the Auditor of the War Department for payment.

J. S. FAIR,
Colonel, General Staff,
Assistant Director of Purchase, Storage
and Traffic.

JSF:LMH:mq
2 Incls.

REAL ESTATE SERVICE.

P. S. & T. DIVISION. 153. Westmoreland, Mrs. C. F. et al.

July 17th, 1919.

MEMORANDUM FOR THE CHIEF OF STAFF:

Subject: Claim of Mrs. C. F. Westmoreland,
et al, Camp Wadsworth, S. C.

1. Herewith is claim of Mrs. C. F. Westmoreland, Annie Dean, J. Madison Dean, E. B. Dean and Mrs. Belton Liles of Spartanburg, S. C., with the recommendation of the War Department Board of Appraisers for the necessary action of the Secretary of War in compliance with paragraph four, General Order No. 39, War Department 1919.

2. By a memorandum from the Chief of the Construction Division dated July 14th, 1919, herewith attached, it is stated that the property of the claimants' herein is not included within the area on which damages were assumed by the purchaser.

3. It is requested that after the necessary action of the Secretary of War, this claim be returned to this office in order that it may be forwarded to the Chief of the Real Estate Service for transmittal to the Auditor of the War Department for payment.

J. S. FAIR,
Colonel, General Staff,
Assistant Director of Purchase, Storage
and Traffic.

JSF:LMH:mq
2 Incls.

REAL ESTATE SERVICE.

S. & T. DIVISION, 153. Westmoreland, Mrs. C. F. et al.

July 17th, 1919.

MEMORANDUM FOR THE CHIEF OF STAFF:

Subject: Claim of Mrs. C. F. Westmoreland,
et al, Camp Wadsworth, S. C.

1. Herewith is claim of Mrs. C. F. Westmoreland, Annie Dean, J. Madison Dean, E. B. Dean, Mrs. Helton Liles of Spartanburg, S. C., with the recommendation of the War Department Board of Appraisers for the necessary action of the Secretary of War in compliance with paragraph Four, General Order No. 39, War Department 1919.

2. By a memorandum from the Chief of the Construction Division dated July 14th, 1919, and here attached, it is stated that the property of the claimants' herein is not included within the area of which damages were assumed by the purchaser.

3. It is requested that after the necessary action of the Secretary of War, this claim be returned to this office in order that it may be forwarded to the Chief of the Real Estate Service for transmittal to the Auditor of the War Department for payment.

J. S. FAIR,
Colonel, General Staff,
Assistant Director of Purchase, Storage
and Traffic.

JSF:LMH:mq
2 Incls.

APPROVED: July 24, 1919.

Newton D. Baker
Secretary of War.

THE AUDITING DIVISION

K-RE-601.1 -
Camp Wadsworth

Aug 23, 1923.

The Honorable,

The Attorney General.

My dear Mr. Attorney General:

Acknowledgment is made of the receipt of your letter of August 5, 1923 (H.L.G. 33-42-43-29) and all inclosures mentioned therein, with reference to the proceedings instituted in the U. S. Court for the District of South Carolina in the case of the United States vs. two certain tracts of land known as the Mrs. Louis Dean (now Mrs. G. F. Westmoreland), Annie Dean and R. A. Lancaster et al., tracts, to condemn the temporary use thereof for purposes of Camp Wadsworth.

It is noted that you have requested the U. S. Attorney to furnish a list of the items included in the sum of \$2,497.25, deposited in the registry of the court, in connection with these proceedings; and that you have instructed him to file a motion to reform the orders of court which undertook to enter judgments against the United States, form absolute, the result of which will be communicated to this department as soon as the matter is disposed of. Accordingly, upon receipt of further information from you in connection with this matter, it will then be taken up again with a view to putting the same in line for payment of the award of \$182.00 made in favor of R. A. Lancaster.

Sincerely yours,

Acting Secretary of War.

- RK
- FBH
- WTK
- FJR
- ARM
- ESW
- JTK
- FWVD
- WRH

10486

Office of
UNITED STATES ATTORNEY
Western District of South Carolina,
GREENVILLE.

July 27th, 1923.

The Attorney General,

Washington, D. C.

Sir:

Reference is made to your letters of July 29, 1922, (C.S.L. 33-42-43-24) and July 18, 1923, (H.L.G. 33-42-43-24) relative to proceedings in this District to condemn, in connection with Camp Wadsworth, two tracts of land known as the Mrs. Louis Dean, now Mrs. C. F. Westmoreland, tracts, containing respectively 100 and $5\frac{1}{2}$ acres in Spartanburg County, South Carolina.

In your letter of July 29, 1922, you state that my predecessor on January 1, 1919, forwarded copies of three orders which seemed to be relevant; that these were transmitted to the Secretary of War, and in consequence thereof the sum of \$2,497.25 was deposited in the registry of this Court. You instruct me to verify this fact and provide you with duplicate orders with an explanation why the award of \$182. was not included. Upon examination of the records in this case on file in this office, I am unable to find a copy of any letter addressed to you by my predecessor forwarding copies of any orders. In the absence of this letter describing the orders, I am enclosing herewith duplicate certified copies of the different proceedings in this case which relate to the R. A. Lancaster award of \$182.00 in order that you may have before you complete information.

The reason why the \$182.00 award of R. A. Lancaster was not included was very probably due to carelessness. The consent order dated June 20, 1922, a certified copy of which is found on pages marked 19 and 20 J. E. M., under the certificate of the Clerk, recites that "The attorneys for the said R. A. Lancaster, being under the impression that the One Hundred and Eighty-two Dollars had been paid into the Treasury of this Court for distribution, procured a consent order". It would appear that no such false impression would have been had if the attorneys for R. A. Lancaster had exercised proper care. This impression appears to have been shared by all parties interested.

-2-

There is also enclosed herewith a certificate, in duplicate, of D. C. Durham, Clerk of Court, to the effect that the \$182.00 paid out of the Registry of this Court on August 11, 1920, to R. A. Lancaster has never been deposited in the Registry of the Court.

I also enclose you a proposed form of order to amend certain former orders allowing R. A. Lancaster to enter up judgment against the United States for \$182.00, and setting aside his judgment for \$182.00.

If this matter can be adjusted through the Secretary of War, I think it would be more practicable than by an act of Congress. The enclosed proposed form of order has been prepared with this manner of adjustment in view. If this course meets your approval and you are of opinion the order is satisfactory, kindly return the same to me for the signature of the District Judge. When the same has been signed by him you will be furnished certified copies.

Respectfully,

(Signed) Ernest F. Cochran,

United States Attorney.

3-1-16SD

Nare-CP

RQ 92

E 1998

B 229

F. Camp Wadsworth LSC Westmoreland (claim)