

Road DOCKET No. 5

Number Term Year

2 Feb 1922

Petition of Gottlieb Krach for
viewers to assess damages in

Brady Twp

Versus

X

TO THE HONORABLE, THE JUDGE OF THE COURT OF QUARTER
SESSIONS OF THE COUNTY OF CLEARFIELD:

The petition of GOTTLIEB KRACH respectfully
represents:

That he owns a certain piece of land situate
in Brady Township, Clearfield County, Pennsylvania, located
just West of Luthersburg, along Route No. 59, a highway be-
ing improved by the State of Pennsylvania. That the said
improvement consists of a very large gutter to be cut upon
his premises and causes a very large amount of damage to be
done to him by reason of the drainage through his property
and puts a greater burden on it than there was before.

That, under the laws of the State of Pennsylvania, the County
of Clearfield is compelled to settle said damage. That your
petitioner has tried to agree with the Commissioners of the
County of Clearfield for the settlement thereof and has been
unable to make any adjustment.

Your petitioner, therefore, prays the Court to
appoint competent viewers as provided by law, to view said
property and assess whatever damages there may be due him
for the damages caused by said improvement.

And, he will ever pray, etc.

Gottlieb Krach

STATE OF PENNSYLVANIA

SS:

COUNTY OF CLEARFIELD

Personally appeared before me, a
in and for said County and State, GOTTLIEB KRACH, who being
duly sworn according to law deposes and says that the facts
set forth in the foregoing petition are correct and true to
the best of his knowledge and belief.

Gottlieb Krach

Sworn and subscribed before me

this 30th day of November, 1921.

John W. Marshall
NOTARY PUBLIC

Commission expires February 19, 1925

IN THE COURT OF QUARTER
SESSIONS OF THE COUNTY
OF CLEARFIELD

Dec 6 1922

In re: ASSESSMENT OF
DAMAGES OF GOTTLIEB

KRACH

PETITION FOR VIEWERS.

6. See 1421 Petition read
and money paid. It is now
so small & S. Michael
are appointed viewers
as named for to inspect
to set a date & concur.

By the Comr^t

Wm. H. Bechtel

DEC

W. R. L. SPENZ & PENZ

CLERK ATTORNEYS AT LAW
DUBOIS, PA.

CERTIFICATE.

I, District Attorney of Clearfield county, do hereby certify that the witnesses above named were subpoenaed by me and were in attendance, and were necessary for the trial of this case.

DISTRICT ATTORNEY.

No. Sessions, 190

COMMONWEALTH

versus

Commonwealth Bill of Costs.

Amount, \$ 190
Filed, 190

PROTHONOTARY

DISTRICT ATTORNEY.

He owns a certain piece of land situated in Brady Twp. Clearfield County, Penna. located just west of Luthersburg, along Route No. 59, a highway being improved by the State of Penna. That the said improvement consists of a very large gutter to be cut upon his premises and causes a very large amount of damage to be done to him by reason of the drainage through his property and puts a greater burden on it than there was before.

Your petitioner has been unable to make any settlement as to damages due him from the County Commissioners.

Clearfield County, ss: FIFTEEN

At a Court of Quarter Sessions of the Peace of the County of Clearfield, held at Clearfield, Pa., in and for said County, on the 6th day of December in the year of our Lord one thousand nine hundred twenty-one.

Judge of the same Court. Upon the petition of GOTTLIEB KRACH, Subsidiobhabants of the Township of Brady in said County, setting forth that

and therefore, praying the Court to appoint proper persons to view and lay out the road between the points mentioned, whereupon the Court upon due consideration had of the premises, do order and appoint from and among the County Board of Viewers A. G. Kramer, Esq.,

E. D. Billotte and J. S. Michaels.

who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgment, are to view the ground proposed for the said road, and if they view the same, and a majority of the actual viewers agree that there is occasion for such road, they shall proceed to lay out the same, as agreeable to the desire of the petitioner, as may be, having respect to the best ground for a road and the shortest distance, in such a manner as to do the least injury to private property; and shall make report thereof, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances and references to the improvements through which the same may pass; (and wherever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees, except at the crossing of ravines and streams, when by moderate filling and bridging the declination of the road may be preserved within that limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they shall obtain from the persons through whose lands the said road shall pass, releases from any damages that may arise to them on opening the same; but if the owner or owners of such land refuse to release their claim to damages, the said viewers shall assess the same, taking into view the advantages as well as disadvantages arising from said location, and make report of such assessments, which report they shall in like manner transmit to the next Court of Quarter Sessions, with the draft or plot aforesaid. In which said reports they shall state that they have been sworn or affirmed according to law, and that due and legal notice was given of the time when, and place where, they should meet, to view and lay out said road, and the time and place of hearing.

By order of the Court.

Geo W Ralston

Clerk.

RETURN OF VIEWERS.

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order, from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, beg leave to report as follows:

That notice of the time of view and of the hearing day was duly served according to law upon the Commissioners of Clearfield County and the Board of Supervisors of the Township of and the Petitioner and that notices thereof were posted along the route of the proposed road, that the said view would be held on the 26th day of January, A. D. 1922, and the hearing to be held in the Council Chamber of DuBois Pa. on the 27th day of January, 1922, at 9 o'clock A. M. That viewers appointed by the said order viewed the premises proposed for the above mentioned and that there were present at the view the petitioner; -----

That the hearing was held in the Arbitration Room, in the County Courthouse, Clearfield, Pa., on the 27th day of January A. D. 1922, when the following appearances were noted: the petitioner Gotlieb Krach with his Attorney W. C. Pentz Esq and his witnesses And A H Woodward Esq Solicitor for the County Commissioners including T. R. Weimer and M. L. Farrell two of the board of the County Commissioners with several witnesses; -----

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is no occasion for a road as desired by the petitioner, and that the same is not necessary for a public road. And having had respect to the shortest distance and the best ground for such road we have laid out in such manner as shall do the least injury to private property, and as far as practicable agreeably to the desire of the petitioner, and do return for the following described road, to-wit: Beginning

That the claimant Gotlieb Krach is the owner of a farm in Brady Township County of Clearfield in the State of Pennsylvania; along the State Highway Route Number 59; leading from DuBois to Luthersburg and in the improvement of the said Highway a ditch or drain five feet wide, four feet deep and eighty five (85) in length was constructed from the edge of the said Highway over the land of the said petitioner for the draining of the water from the said Highway which has been left an open drain or ditch.

The testimony of several witnesses called and examined before the viewers at the hearing who fix the damages of Mr Krach by the construction of said open ditch or drain at from three to five hundred dollars. This in the opinion of the viewers is different from an elevation or depression of the grade where no damages are allowed or collectable because it dont take or effect the property of the claimant but the change of the lines of the road or the taking or injuring of the property in any other way of the owner of the property along a public road is entitle to whatever damages he sustains by any change or improvement made to any public road or Highway; while prior to the improvement of the said road the water in draining onto his land scattered along quite a distance and therefore the quantity that passed onto or over his land being scattered along done very little damages to his land or crops; but when it is collected into a large body it may and undoubtly will do considerable more damage to the land and the crop growing on it.

In the case of Allison vs Biglow State Highway Commissioner of Pennsylvania 68, Superior Court Report page 219, it was held that where a public road were to be opened in the usual and regular way there could not be much doubt the paymaster must pay not only for the land actually taken in opening the new road but also for any injury to or

TO: T, R, WEIMER, JESSE, E, DALE AND M, L, FARRELL. COUNTY
COMMISSIONERS OF CLEARFIELD COUNTY, PA.

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa, to view the premises of Gottlieb Krach the petitioner and assess the damages caused to his property, situate in Brady Township Clearfield County Pa, by the construction of a large sewer by the state Highway Commission on his premises, for the purpose of draining the water from the State Highway, Leading from Dubois to Luthersburg in the Township of Brady, in the County and State aforesaid causing a very large quantity of water to be drained unto and his land causing considerable damage to him, for which damages the County of Clearfield is liable.

In pursuance whereof; the said viewers will therefore meet on the premises of the said petitioner in the Township of Brady in the County and State aforesaid on Thursday the 26th day of January A. D. 1922; at three (3), o'clock P. M. to attend to the duty assigned them; of which time and place aforesaid all parties interested will please take notice.

And that the public hearing required by the Act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in Court, in order to give all parties interested in the case a chance to be heard by the viewers, will be held in the City Council Chamber in the City of DuBois on Friday the 27th day of January A. D. 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

A. G. Kranner
E. D. Billotte
J. J. Michaels

VIEWERS.

Now Janv 18 1922 service accepted for the County Commissioners of Clearfield County, Pa.

L. C. Morris

Clark

TO: GOTTLIEB, KRACH. YOU ARE HEREBY NOTIFIED:

That the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa. to view the premises of Gottlieb Krach the petitioner and assess the damages caused to his property situate in Brady Township Clearfield County Pa. by the construction of a large sewer by the State Highway Commission on his premises for the purpose of draining the water from the State Highway, Leading from DuBois to Luthersburg in the Township of Brady, in the County and State aforesaid causing a very large quantity of water to be drained onto and over his land causing considerable damage to him; for which damages the County of Clearfield is liable.

In pursuance whereof the said viewers will therefore meet on the premises of the said petitioner in the Township of Brady in the County and State aforesaid on Thursday the 26th day of January A. D. 1922, at three (3) o'clock P. M. to attend to the duty assigned them; of which time and place aforesaid all parties interested will please take notice.

And that the public hearing required by the Act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in Court, in order to give all parties interested in the case a chance to be heard by the viewers, will be held in the City Council Chambers in the City of DuBois on Friday the 27th day of January A. D. 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

R. L. Krader
Served on us for 7-4-1922 *E. D. Billiotte*
D. C. Dugay *J. J. Michaels*
Attns for Petitioner *VIEWERS.*

destruction of the property of an abutting owner necessarily brought about by the construction of the new road, at the grade affixed. Under the Constitution is vested the same right of compensation of one whose property has been injured or destroyed, as it does where his land has been taken, which cannot be taken away by legislative enactment without due compensation to the owner.

But the damage claimed in this case is not so much for the draining of the water drained onto the claimant's land as for the damages for the digging of an open ditch or drain to the inconvenience of the owner in the use and the farming of the said field. The viewers therefore consider that the claimant is damaged to the amount it will cost for eighty five feet ^{to build} drain pipe and the laying of the same and the filling in of the drain which the viewers figure will cost about \$116.00.

They therefore assess the damages to the claimant ~~Gottlieb~~

Krach of \$116.00

and that a plan or draft of said road showing courses and distances and the properties affected is hereto attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting

when it was not practicable to preserve it within that limit.

The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damage that may arise from opening the same, and that they procured such releases from

the following persons having refused to release the damages to which they respectfully may be entitled by the reason of the location and opening of the said road, we, the undersigned viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof as follows:

and we hereupon return releases obtained and copy of the offices. *With Copy of Notice*

WITNESS our hands and seals this 27 day of January

A. D. 1922

A. G. Kramer
E. B. Elliott
J. S. Michaels



No. 2 July Sessions, 1922

ORDER

Note:—In case of a private read, the release must be executed in favor of the petitioner for said

Also, viewers will carefully note the number of days employed and set the amount out at the foot of each road.

Reviewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the

road, they will report to that effect.

Rich. Prentiss 3 22

110. *Scutellaria* 3 225
111. *Scutellaria* 3 150

John Macmillan

100

100

卷之三

卷之三

३१४

EDWARD

FEB 8 1922
GEO. W. RALSTON

CLERK

RELEASE OF DAMAGES.

all Men by these Presents, that we, the undersigned, owners of lands
which the road located by the viewers, under the annexed order, passes
in consideration of the sum of one dollar to us respectively paid by

at and before the ensealing and delivery
are remised, released and forever quit-claimed, and do hereby re-
lease and forever quit claim to the said

ges that may arise to us respectively by reason of the location and of the said road, so that neither we nor any of us, nor any person under us, can or may hereafter ask, sue for, demand, have or try damages for injuries arising or growing out of the location and of the road aforesaid.

ess our hands and seals this _____ day of

1. ~~What is the best way to assess student learning?~~

1020

and the **executive** branch.

