

DOCKET No. 5

Number	Term	Year
17	Sept	1922

Petition of John Zinza for Appt.  
of Viewers to assess damages in  
Burnside, Twp  
Versus

X

TO; T. R. WEIMER, JESSE. E. DALE AND M. L. FARRELL.  
County Commissioners of Clearfield County Penna.

You are hereby notified: That the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa to view and assess the damages that John Zinza the petitioner has sustained by reason of the change made in the location of the road bed through his property in Burnside Township Clearfield County Pa by the changes or improvements in said State Highway on Route No 2 262 leading from Indiana to Clearfield.

Will meet at the house of the petitioner on the said premises in Burnside Township in the County and State aforesaid, on Tuesday the 22d day of August A. D. 1922 at nine (9) o'clock A. M. to attend to the duty of their appointment; of which time and place aforesaid you 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 a chance to be heard, will be held in the Arbitration Room in the Court House in Clearfield Pa on Wednesday August the 23d 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

*A. G. Kramer*  
*E. W. Billotte*  
*J. S. Michaels*

VIERERS.

Now August 11<sup>th</sup> 1922 service accepted for the County Commissioners of Clearfield County Pa.

*L. C. Norris*

Clerk.

TO; JOHN. ZINZA; THE PETITIONER:

You are hereby notified; that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County Pa; to view and assess the damages that you the petitioner have sustained by reason of the changes made in the width and the existing lines in the location of the State Highway through your land in Burnside Township Clearfield County Pa, by the improvements made to the said State Highway on Route No 262 leading from Indiana to Clearfield will meet at the house of your petitioner on the said premises in Burnside Township in the County and State aforesaid on Tuesday the 22d day of August A. D. 1922 at nine (9) o'clock A. M. to attend to the duty of their appointment; of which time and place aforesaid you 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 a chance to be heard, will be held in the Arbitration Room in the Court House in Clearfield Pa on Wednesday August the 23d 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

*A. G. Kramer.*

*E. D. Billotte.*

*J. S. Michaels.*

VIEWERS.

*Now Aug. 11, 1922, service accepted  
and personal service waived.*

*John W. Drey, Atty.  
for John Zinza.*

judgment of the viewers is not and should not be in itself conclusive upon their action. The primary duty is to view, and then to receive and balance the testimony in the light afforded by their judgment, resulting from that view as also the amount of the land taken.

The viewers therefore after having carefully viewed; and inspected the premises, including the said Highway; and heard and considered the testimony produced, on the value of the property before and after the construction of the said State Highway through the premises of the petitioner; the amount and value of the land taken which consists of about one third of an acre; the inconvenience to the property caused by having said road passing through it and disconnecting about one acre and a half from the rest of the farm and the two drains for carrying the water from the said road to the land affected thereby for farming purposes; and the advantages as well as the disadvantages to the claimant the viewers are fully convinced that the damages claimed are excessive; That \$200.00 will fully compensate the claimant for all damages he sustained by the construction of the said State Highway through his property.

They therefore assess the damages to John Zanza the claimant at the sum of two hundred (\$200.00) dollars.

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

~~that it not be practicable to procure 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 damages 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 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 the same are obtained and signed by them.~~

WITNESS our hands and seals this 23d day of August, A. D. 1922.

A. G. Kramer Seal

E. B. Billotte Seal

J. S. Michaels Seal

Seal

No. 17 Sept Sessions, 1922

## ORDER

To assess damages to

road for John Zanza

township of

Clearfield County Penna

July 14 Sessions 1922

read and confirmed N. S. Road to be opened 33 feet wide; except where there is side hill cutting or embankment and bridging there to be 16 feet wide.

No exception or appeal

By McCourt

Magnum Bell

Filed

Fees \$1.25 paid by

J. M. Urey, Atty.

NOTE—In case of a private road, the release must be executed in favor of the petitioner for said road.

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

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.

DAYS	MILES	AMT.

FILED  
AUG 30 1922  
GEO. W. RALSTON  
CLERK

## RELEASE OF DAMAGES

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

\_\_\_\_\_ at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed, and do hereby remise, release and forever quit-claim to the said

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

Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 1922

Seal  
Seal  
Seal  
Seal

**Clearfield County, ss:**

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 10th day of August in the year of our Lord one thousand nine hundred twenty-two

Judge of the same Court: JOHN ZINZA  
~~Notary~~ of the Township of Burnside

in said County, setting forth that he is the owner of a certain piece of land situate in Twp of Burnside along the State Highway leading from Indiana to Clearfield. That the State Highway Commissioner has undertaken the construction of an improved state highway known as Route No. 262 through said premises, a change of width and of existing lines and location being occasioned thereby. That your petitioner has sustained damages by reason of said construction and has been unable to agree with County Commissioners of Clearfield Cpnuty as to the amount of damages sustained by him

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, Esq. 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 judgement, 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, be 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 claimant John Zinza and the claimant John Zinza asked that the said view be held on the 23d day of August A. D. 1922, and the hearing to be held in the Arbitration Room at the Court House, in Clearfield, Pa., on the 23d day of August, 1922 at nine o'clock A. M. That the said mentioned Highway or viewers appointed by the said order viewed the highway proposed to be mentioned road, and that there were present at the view the claimant John Zinza and T R Weimer, Jesse, E. Dale and M. L. Farrell the County Commission ers of Clearfield County

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 23d, day of August, A. D. 1922, when the following appearances were noted: John Zanza, the Claimant with his Attorney John M Uray Esq and his witnesses J. A. Martin and William Wetzel and the County Solicitor A. H. Woodward Esq and T. M. Welmer, Jesse E Dale and M L Farrell the County Commissioners and L. C. Norris Clerk for the County Commissioners. ~~None~~ after the view and hearing

When J. A. Martin was called as a witness who testified, that the claimant's farm consists of six acres of land that the State Road runs crossways across the upper end and cuts off from the rest of the farm about one acre and a half that the said State road is a new road and opened two ditches or drains to drain the water from said State road; he fixed the value of the property before the State <sup>road</sup> was constructed at \$2000.00 and after at \$1500.00 fixing the damage to the property at \$500.00 as also William Wetzel called as a witness for the claimant and John Zanza the claimant fix the value of the property before the construction of the State Highway as worth about \$2000.00 and after at \$1500.00 all fixing the depreciation of the property in value by the construction of said Highway through the farm at about \$500.00. None of the witnesses however gave any reason on what they based their opinion as to the depreciation of the value of the property: The viewers therefore after a careful inspection of the premises and the new Highway cannot agree with the witnesses on the measure of damages; and as has been decided in the case: In re, Barbadoes Street Norristown Pa, 8th Phil Rp 498. That neither the oath or duty of a road viewer compels him to draw conclusions exclusively from the testimony; As they are appointed to view and from that view aided by all the information they can derive from an inspection of the locality it is compitent for them to arrive at a final conclusion, which does not accord with the testimony: It is ortfectly proper and highly advisable to seek all the light afforded by the testimony of the witnesses; but the evidence as to the amount of damages and the value of the property is after all but the mere opinion of the witnesses, and unless it coincides with the

IN THE COURT OF ..... Quarter Sessions ..... OF CLEARFIELD COUNTY.

In re-petition of John Zinza  
for assessment of damages in  
change of Route of State High-  
way No.

Versus

Of ..... September ..... Term, 1902.

No. 17

..... Petitioner's ..... Bill of Costs

At ..... September ..... Term, 1902.

			Dollars	Cents
James A. Martin	1 Days in attendance	35 Miles direct travel	\$4	10
William Wetzel	1 Days in attendance	36 Miles direct travel	4	16
Moss Work	1 Days in attendance	38 Miles direct travel	4	28
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Days in attendance	Miles direct travel		
	Serving subpoenas	Witness		
	Miles distance			
Whole amount of bill			\$12	54

CLEARFIELD COUNTY, SS:

Personally appeared before me ..... John M. Urey ..... who being duly  
sworn, saith the above Bill of Costs is correct, that the witnesses named were subpoenaed, necessary, material, and in at-  
tendance as above stated, and that the mileage is correct as he believes.

Sworn to and subscribed before me this

26th day of August ..... A. D. 1902.

*John M. Urey* Prothonotary

*John M. Urey*



No. 17... Sept. Session 1902.

In re-petition of John Zinza  
for assessment of damages in

charge of State Highway Route

No. 867 *will be made soon*

Versus

Petitioner's Bill of Costs

For September Term 1902.

Date 1902

Amount — — \$ 12.54

FILED  
AUG 26 1902  
GEO. W. RALSTON  
CLERK

In the Court of Quarter Sessions of Clearfield County, Pa.

In Re. Construction of State : No. Sept. Sessions, 1922.  
: Highway Route 262. : Petition of John Zinza for  
: appointment of viewers.

To Hon. Singleton Bell, President Judge of said Court:

The petition of John Zinza respectfully represents:

First. That he is the owner of a certain piece or tract of land situate in the Township of Burnside, County of Clearfield and State of Pennsylvania along the State Highway leading from Indiana to Clearfield.

Second. That the State Highway Commissioner of the State of Pennsylvania has undertaken the construction of an improved state highway known as Route No. 262 through said premises, a change of width and of existing lines and location being occasioned thereby.

That your petitioner has sustained damages by reason of the change of width and existing lines and location and the construction of said road and has been unable to agree with the County Commissioners of Clearfield County as to the amount of damages sustained by him.

Your petitioner therefore prays the Court to appoint viewers to ascertain and assess his damages as provided by the Act of Assembly of April 6, 1921, P. L. 107, amending Section 16 of the Act of May 31, 1911, P. L. 468, and as provided by other Acts of Assembly relating to the ascertainment and assessment of damages for opening public highways.

X John Zinza

State of Pennsylvania:  
County of Clearfield : SS:

On the                      day of August, A. D. 1922, before me,  
a Justice of the Peace in and for said county personally appeared  
the above named John Zinza, who being duly sworn according to  
law, deposes and says that the facts set forth in the foregoing  
petition are true and correct to the best of his knowledge, in-  
formation and belief.

Sworn and subscribed  
before me this  
day of August, A. D. 1922.

*X John Zinza*  
*E. B. Patrick J. P.*  
MY COMMISSION EXPIRES  
FIRST MONDAY IN JANUARY, 1926

*John King*

In the Court of Quarter Sessions  
of Clearfield County, Pa.

No. 17 Sept. Sessions, 1922.

In Re Construction of State  
Highway No. 262.

Petition of John Zinza for appointment of Viewers.

*Aug. 10, 1922 J.H. Kramer Esq., D.  
Bullocky and J.S. Muehler  
are appointed viewers to find  
and certify as to the necessity  
of the proposed highway.*

*AUG 10 1922  
J.H. Kramer Esq.  
D. Bullocky  
J.S. Muehler  
Viewers*

*Aug 10 1922  
J.H. Kramer Esq.  
D. Bullocky  
J.S. Muehler  
Viewers*

*Urey.*

*275 By city way*