

DOCKET No.5

SS

Number 18 Term Sept Year 1922

Petition of Emory E. Huffman for
Appt of Viewers to assess damages
in Burnside Twp.
Versus

Continued from page (3).

The viewers however after a careful inspection of the State highway through the premises of the claimant the part of the claimant's property effected thereby cannot agree with the witnesses on the measure of damages the claimant has sustained. And as has been decided in the case; In re Barbadoes Street of Norristown Pa 8, Phil Rp 498: That neither the oath or duty of a road viewer compels him to draw conclusions exclusively from the testimony. 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 competent for them to arrive at a final conclusion which does not accord with the testimony. It is perfectly proper and highly advisable to seek 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 judgment of the viewers is not and should not be in itself conclusive upon their action. The primary duty is to view, and than to receive and balance the testimony in the light afford by their judgment, resulting from that view as also the amount of the land taken: Ib'

The viewers therefore after having carefully viewed and inspected the premises including the 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 two thirds (2/3) of an acre, the inconvenience to the property caused to the said land by the road bed and the drains for farm purposes; and the advantages as well as the disadvantages to the claimant; are fully convinced that four hundred (\$400.00) dollars 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 Emory C Huffman the claimant at the sum of Four Hundred (\$400.00)

Dollars.

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 Session of Clearfield County Pa, to view and assess the damages that Emory, E. Huffman 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 262, leading from Indiana to Clearfield Pa.

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 ten (10) 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, ~~minimum~~ at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

A. A. Kramer

E. D. Billotte

J. S. Michaels

VIEWERS.

Now August 11th, 1922 service accepted for the County Commissioners of Clearfield County Pa.

L. C. Morris

Clerk.

TO; EMORY. E. HUFFMAN.

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 change 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 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 ten (10) 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 M. Drey, Atty.
for Emory E. Huffman

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 ~~Board of Commissioners of the Township of~~

claimant _____ that the said view would be held on the 22d day of August 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 (9) o'clock A. M. That _____ viewers appointed by the said order viewed the _____, and that there were present at the view the claimant Emory C Hoffman the claimant and T R Weimer, Jesse E, Dale and M, L. Farrell the County Commissioners 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 1922, when the following appearances were noted: Emory C Huffman the claimant with his Attorney John M Uray Esq, and the following witnesses; to wit: N. C. Porter, Frank Beck. William Sunderlin witnesses for claimant; and A. H. Woodward County Solicitor and T R Weimer, Jessie E. Dale and M.L. Farrell also L. C. Norris Commissioners Clerk.

Emery C Huffman the claimant was called as a witness in his own behalf and testified that he owns seventy five (75) acres of land Burnside Township in Clearfield County adjoining the Indiana County line near Glen; Campbell. That between fifty and sixty acres are cleared and the balance is timber land. That there were two different routes laid out through his farm for the location of a State Highway, that the routes laid is through his cleared farm land, the one was laid out in 1919 and was afterwards abandoned the other is the route on which the State Highway has been build, that his property was worth not less than \$12000.00 and since is not worth over \$10,000.00 claiming that he has been damaged at least \$2000.00. N. C. Porter fixes the value of the property at the same value before the state Highway was laid out and after at about \$10,000.00. He fixes the damages caused by the first location which was afterwards abandoned at \$500.00 And Frank Beck fixes the value of the property before at \$10,000.00 and after the state road was laid out at \$8,000.00 but none of the witnesses but non of the witnesses give any information on which they base their estimate on showing that it is simply guess work.

The first route was laid out in 1919 and as the testimony of the claimant shows and the instance of the claimant himself and Mr Joseph Clark of Glen-Campbell who it would seem by their own doings without any direction of the State Highway Commission in 1919 went to Indiana Pa and secured the State Highway Engineer of Indiana county to lay out what they intended to be the route or location of the State Highway through the claimant's farm and without any notice to the County Commissioners of Clearfield County laid out, and had some one the testimony does not show

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

EMORY E. HUFFMAN

Judge of the same Court: Upon the petition of ~~subinhabitants~~ inhabitants of the Township of Burnside

in said County, setting forth that he is the owner of a certain piece of land situate in the Wwp. 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 the County Commissioners of Clearfield County as to the 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 Palstone, Clerk.

who by or at whose instance the grading was done over the property of the claimant on the first route laid out for the said proposed State Highway but evidently not by or at the instance of the State Highway Commissioner Mr Huffman in his testimony at the hearing in his cross examination says on what is known as the upper route: I never got any damages; never ask for any; would not charge damages to Joe Clark; no damages claimed showing in the opinion of the view was no doubt made at the instance of himself and Mr Joseph Clark, and not by or at the instance of the State Highway Department.

In the spring of 1922 the State Highway Commissioner surveyed and laid out the State Highway the route through the claimants land at a different location several hundred feet east of the former route on which the road has been build and notified the County Commissioners of Clearfield County were notified as required by the Act of Assembly, Act of 1921 P, L, 109. It is therefore an evident fact that the State Highway Commissioner or the highway Department had any thing to do with the route laid out in 1919 that that must have been done by some one who had no authority to act in the matter which could not bind the county nor make the County liable for the damages sustained thereby. Mr Huffman may have a remedy against some one else but clearly has no claim against the County; So that the viewers cannot take into consideration the damages done to Mr Huffman's property by the first route laid out and the excavation and filling done on said route.

See attached sheet for balance of report;
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

~~where the road crosses the property it will be taken into account.~~

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 respectively 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 we herewith return releases obtained and copy of the notices.~~

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

H G Kramer *Seal*
E B Billotte *Seal*
J L Michaels *Seal*
Seal

IN THE COURT OF.....Quarter Sessions

In re-petition of E. E. Huf-
man, as agent for assessment
of damages in charge of Route
of State Highway No. 1.

Versus

OF CLEARFIELD COUNTY.

Of September SS. Born, 19022.

No. 18

.....Petitioner'sBill of Costs

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

			Dollars	Cents
M. C. Porter	1 Days in attendance	9	Miles direct travel	\$2.54
William Sunderlin	1 Days in attendance	36	Miles direct travel	.416
Frank Beck	1 Days in attendance	36	Miles direct travel	.416
	Days in attendance		Miles direct travel	
	Days in attendance		Miles direct travel	
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	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			\$10.86

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 attendance 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. 1932.

Geo W. Calstaney, Prothonotary

John McAlvey

No. 18... Sept. 1, Session 8 in 1902.

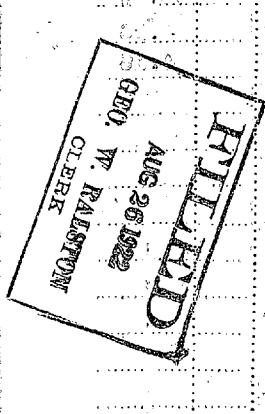
In re-petition of E. E. Huff
man for assessment of damages
for change of State Highway
Route No. 6, *Geo. W. Ralston, Plaintiff*

Geo. W. Ralston, Plaintiff
Versus

Petitioner's *Bill of Costs*

For September..... Term 1902.

Date..... 190.....
Amount - - - \$10.86.



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

In Re Construction of State : No. Sept. Sessions, 1922.
Highway Route 262. : Petition of Emory E. Huffman for
appointment of Viewers.

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

The petition of Emory E. Huffman 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.

Third. That your petitioner has sustained damages by reason of the change of width and existing lines and location and the construction of said road at two different times, and he 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 approved April 6, 1921, P. L. 107, amending Section 16 of the Act of May 31, 1911, P. L. 468 and re-enacting Section 1 of the Act of July 18, 1917, P. L. 1040, and as provided by other Acts of Assembly relating to the ascertainment and assessment of damages for opening public highways.

X Emory E Huffman

State of Pennsylvania:
County of Clearfield:

On this 17 day of August, A. D. 1922, before
me, a Justice of the Peace in and for said County, personally
appeared the above named Emory E. Huffman, 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, information and belief.

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

CB Patrick J P
MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 1926

In the Court of Quarter Sessions

No. 18 Sept. Sessions, 1922.

In Re. Construction of State Highway No. 263.

Petition of Emory E. Huffman
for appointment of viewers.

Aug. 10, 1922 M. G. Kuhn S. S. D.
Billotte & and J. S. Michaels
an approved means to pro-
~~ce~~ and develop the best of
the species by selecting plants.

AUG 10 1922 Frank J. Bell
W. H. D. P. 1922
Frank J. Bell
Served as Captain for
County Commissioners
Dr. C. Johnson
Chair

275-By attorney Urey.