

DOCKET No. 5

Number
2

Term
May

Year
1926

Petition of Geo. Pohlut for appt. of
viewers to assess damages in Bell Twp.

Versus

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA.

In re: Reconstruction of :
Route No. 62 State Highway. :
Damages of George Pohlut :

PETITION.

To the Honorable A.R. Chase, President Judge of said Court.

The petition of George Pohlut respectfully represents:-

(1). That he is the owner of a certain farm situated in the Township of Bell, Clearfield County, Pennsylvania, containing 41 acres, more or less, title to which was derived by deed from Mary E. Wright et al. dated May 14, 1918 and recorded in Clearfield County in Deed Book 227 page 258.

(2). That the State Highway Commissioner of the State of Pennsylvania has undertaken and proceeded with the construction of an improved State Highway, being Route No. 62, particularly the portion thereof between McGees Mills and Burnside, which passes through the premises of the petitioner aforesaid.

(3). That the petitioner has sustained damages by reason of the reconstruction of said State Highway, the course of which has been considerably changed and upon which a change of width and existing lines and locations has been occasioned; and that the construction of said portion of the State Highway has proceeded so that the grading thereof has been done.

(4). That the said petitioner has been damaged by the taking of a substantial quantity of ground, the moving of buildings, destruction of trees and crops and in various other particulars.

(5). That your petitioner has been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to your petitioner for the land appropriated and other injury resulting to your petitioner.

YOUR PETITIONER THEREFORE PRAYS your Honorable Court to appoint viewers to appear upon the premises and to view and assess the damage and injury which your petitioner is entitled

+ Georg Pohl

STATE OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS

George Pohlut, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct.

Sworn and subscribed before me
this 30th day of Jan
A. D. 1926.

+ George Pohlut

A.D. 1926.

Mrs. Lida Proulx
Notary
January 6th, 1917

January 6, 1972

AND NOW February 2nd, 1926, upon presentation of the
foregoing petition, the Court appoints Sam Kramer Esq
Harry Kuehn and Jack Michael
Viewers to view and assess the damages to the premises of
George Pohlut mentioned in the foregoing petition.

By the Court,

Arthur H. Harn
D. J.

2 May 20 1926

IN THE COURT OF JUDICIAL
SESSIONS OF CLEARFIELD
COUNTY, PENNSYLVANIA.

In re: Reconstruction of
Route No. 62 State Highway.
Damages of George Pohlut

PETITION.

RECORDED
FEB 2 1926
GEO. W. BAISMAN
CLERK

W. WALLACE SMITH
ATTORNEY AT LAW
CLEARFIELD, PENNSYLVANIA

Versus

Charfild County

No.....

At.....Term, 190.....

CLEARFIELD COUNTY, SS:

Personally appeared before me..... George V. Hunt, 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
10th day of March, A. D. 1906
Geo W Palston Prothonotary

No.....Term 190.....

Versus

Bill of Costs

For.....Term 190 ...

Date..... 190.....

Amount - - - \$.....

TO: JESSE, E. DALE, T. R. WEIMER AND B. W. McCracken.
County Commissioners of Clearfield County Pennsylvania.

Gentlrmn.

You are hereby notified; That the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County and State of Pennsylvania, to view and assess the damages that George Pohlut of Bell Township County and State aforesaid sustained by the construction of an improved State Highway through his property; situate in Bell Township County and State aforesaid by the State Highway Commissioner on Route Number 62, leading from the Borough of Burnside to the village of McGees in Bell Township County and State aforesaid; will meet on the premises of the said claimant in Bell Township in the county and State aforesaid on Tuesday March the ninth (9th) A. D. 1926 at eleven (11) o'clock A. M. to attend to the duty assigned them of which time and place you will please take notice.

And that the public hearing as 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 by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on Wednesday March the tenth (10th) A. D. 1926 at eleven (11) o'clock A. M. at which time and place all parties interested with their Attorney and witnesses may appear and be heard.

J. G. Kramer,

H. J. Rees,

J. S. Michaels.

VIEWERS.

Now February 27 1926, service accepted for the County
Commissioners of Clearfield County, Pa.

L. C. Morris

Clerk.

TO: MR. GEORGE, POHLUT.

Dear Sir:

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pennsylvania, to view and assess the damages that you sustained on your real estate by the construction of an improved State Highway through your property situate in Bell Township county and State aforesaid by the State Highway Commissioner on Route Number 62, leading from the Borough of Burnside to the village of McGee in Bell Township County and State aforesaid will meet on your said premises in Bell Township in said County on Tuesday March the ninth(9th) A. D. 1926 at eleven (11) o'clock A. M. to attend to the duty assigned them, of which time and place you will please take notice.

And that the public hearing as 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 by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on wednesday March the tenth (10th) A. D. 1926 at eleven (11) o'clock A. M. at which time and place all parties interested, with their Attorney and witnesses may appear and be heard.

A. G. Kramer,
H. A. Reed,
J. S. Michaels,
VIEWERS.

Now February 27, 1926 service accepted for George Pohlut the claimant and personal service waived.

W. H. Miller, Jr.

As to the claimant George Pohlut is the owner of a certain tract of land consisting of forty one (41) acres situate in Bell township Clearfield county and State of Pennsylvania which is mostly cleared and under cultivation the balance is unimproved woods land.

That during the year 1925 the State Highway Commissioner by his contractor and employees constructed a State Highway through the farm land of the said petitioner on the State Highway Route number (62) leading from the Borough of Burnside to the village of McGees, in Bell township in the county and State aforesaid. That the State Highway Commissioner by exercising the authority conferred upon him by the act of Assembly of May the 31st, 1911 P. L. 468 and the suppliments and amendments thereto has located the bed of the said road or highway as laid out through the land of the said claimant forty feet including the slopes and fills in width by fourteen hundred and fifty one (1450) feet in length. Making after deducting the amount of the old township road bed used one and seven tenth of an acre of the claimant's land covered or used by the present road bed for which the county is liable including the other damages herein-after stated; as follows. For the one and seven tenth of an acre of the claimant's land used for the road bed including the damages to the claimant's fence the viewers assess him one hundred and seventy (\$170.00) dollars.

For the crops in the ground consisting of corn, oats and potatoes destroyed the viewers assess the value of the same and therefore assess the damages to the claimant for the same at fifty (\$50.00) dollars

As to the six apple trees destroyed as there was no evidence produced as to the kind or size of the trees or as to whether they were good bearing trees or as to the kind of fruit they bore or whether the fruit was of any account or small scrubby sour natural fruit or grafted trees. Some apple trees are worth considerable more than others and as the viewers had no information except guess statements as to the nature of fruit they bore they have been dear at twenty (\$20.00 dollars a tree and might have been cheap at fifty (\$50.00) dollars a tree, the viewers therefore for the lack of proper information assess the apple trees at

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 2nd day of February
in the year of our Lord one thousand nine hundred
twenty six

George Pohlut

Judge of the same Court: Upon the petition of ~~sundry~~
habitants of the Township of Bell

in said County, setting forth that he is the owner of a
certain farm containing 41 acres. That the State Highway Commissioner has under-
taken the construction of an improved State Highway, being Route No. 62, particular-
ly the portion thereof between McGees Mills and Burnside, which passes through the
premises of the petitioner. That the petitioner has sustained damages by the taking
of a substantial quantity of ground, the moving of buildings, destruction of trees
and crops and in various other particulars, and has been unable to agree with the
County Commissioners of Clearfield County as to the amount of damages sustained.

assess damages

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 Aaron G. Kramer, Esq.,
Harry Reese and Jack Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly quali-
fied 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 Board of Supervisors of the Township of~~

and that ~~the~~ ^{view} notices thereof were posted along the route of the ~~proposed road, that the said view~~ would be held on the ninth day of March, --- A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the tenth day of March, 1926, at 9 o'clock A.M. That ~~the~~ viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view the claimant George Pohlut

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the tenth day of March A. D. 1926, when the following appearances were noted: George Pohlut the claimant and R. R. Barber and R. R. Webster as witnesses with W. Wallace Smith Attorney for the claimant and County Commissioners with their Attorney A. M. Liveright Esq.

After the view and hearing above mentioned, the undersigned, ~~the majority of the said~~ viewers, do agree that ~~there is~~ ^{an} occasion for a road as desired by the petitioner, and that ~~the same is necessary for a road~~ ^{the same is necessary for a 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 ~~use the following described road, to wit,~~ Beginning — at twenty (\$20.00) dollars a piece or one hundred and twenty (\$120.00) dollars for the six trees.

As to the four approaches two on each side of the State road for two crossings across the State road or highway including the tiling or spouting necessary to keep the drain on each side of the State road open to carry the water across the filling necessary for the construction of crossings over the state road to enable the claimant to get across the road from the one side of the road to the other side of the road on his farm the cost of the drain pipe for the four drains through under the filling at each side of the road for each of the two crossings twenty five (\$25.00) dollars for each of the four fillind or one hundred (\$100.00) for the four filling.

The cost and expenso of the moving of the pig pon and chicken coop and smoke house ten (\$10.00) dollars for the moving of each building or thirty (\$30.00) for the moving of the three buildings.

The part of the garden taken forms a part of the road bed and is therefore covered by the one hundred (\$100.00) dollars per acre allowed for the land covered by the road bed. The viewers therefore allow no extra damages for the part of the garden taken.

And as to the damages claimed for the inconvenience caused by the ditch along the front of his house down to the State road and the inconvenience caused thereby in getting from his house down onto the State road and up to his barn and to his house is in the opinion of the viewers covered by the convenience and benefit he derives by

the benefit of having the State road close by his house and barn they therefore assess no damages for the same.

The viewers therefore assess the damages awarded to George Pohlut the claimant as follows.

For the one and seven tenth acres of land taken for the road bed and the damages to the fence	\$170.00
For the six (6) apple trees destroyed	120.00
For the crops of corn, oats and potatoes destroyed	50.00
For the cost of the sewer pipe and the filling of the approaches for the two crossings over the State road	100.00
For the cost or expense of moving the three small buildings pig pen, chicken coop and the smoke house ten (\$10.00) a piece or for the three buildings	<u>30.00</u>
Total amount of damages awarded	\$470.00

Amount of witnesses cost for witnesses called at the hearing as per bill of costs attached	\$8.08
--	--------

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 practical 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 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 we herewith return ~~releases obtained~~ and copy of the notices, served attached.

WITNESS our hands and seals this 17th day of March .-----
A. D. 1926 .

A. G. Kramer Seal
W. A. Rees Seal
J. J. Michaels Seal
Seal

No. 2 May Sessions, 19

ORDER

To view and assess damages to
road for Geo. Pohlut use in the
township of Bell
Clearfield County

Now March 25th 1926
Sessions, 19

read and confirmed Ni. Si. Road to be
opened 33 feet wide, except where there
is side hill cutting or embankment and
bridging there to be 16 feet wide.

By the court
A. H. Chase
P. J.

Now April 26 1926
Confirmed absolutely
By the court
A. H. Chase
P. J.

Filed 19

Fees \$1.25 paid by

W. Wallace Smith, Atty.

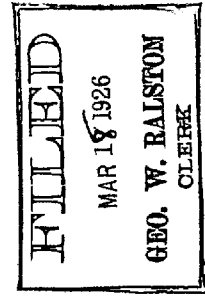
NOTE.—In case of a private road, the release must be executed in favor of the petitioner for said road.

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.



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 ensembling 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. 192

Seal
Seal
Seal
Seal