

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNA.

IN RE: PROPOSED ROAD VIEW-
EXCEPTIONS TO REVIEW

NO. 8 December Sessions, 1931.

OPINION OF COURT

FILED

JUN 14 1933

W. R. GALLAGHER
CLERK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

IN RE: PROPOSED ROAD VIEW- EXCEPTIONS TO REVIEW.

No. 8 December Sessions, 1931.

In this controversy some three years ago a view was held and the Viewers recommended that the proposed road be opened. Subsequently a petition was presented for a review; Viewers having been appointed reported against the opening of the proposed road. Exceptions are before the Court to the recommendation of the Board of Viewers on the review. It is advanced as one of the reasons why the recommendation of the Board against the opening of the road should be set aside is, that the present road is dangerous due to natural conditions, and further, it was contended that if the proposed road was granted and an order for opening directed, that the State of Pennsylvania would take over the said road.

As to the first contention, the Court has nothing before it which would justify the Court in setting aside the recommendation of the Board of Viewers. As the Court understands it, this contention was presented to the Board of Viewers, who had gone upon and examined the old road and the proposed new road. As to the second contention, a letter before the Court, hereto attached, that the Department of Highways of Pennsylvania would take over this road, is not born out-but on the other hand the letter clearly indicates, that even if an order was issued to open the proposed road, that there is no assurance that the Highway Department of Pennsylvania would take over the proposed road. The Court is not unmindful in considering these exceptions, that Greenwood

Township is in such financial condition that it would be a hardship upon the township and the taxables thereof to involve any additional tax burdens at this time, and such an act would only be justified where necessity demanded it. Which necessity does not exist in this case. However, it appears that some of the parties in interest in this proceeding are under the impression that the Department of Highways would assume the expenses of constructing the proposed road and take the same over as a state road. Therefore, the Court will make such an order so that, if within a reasonable period, the Department of Highways of Pennsylvania files with the Court by its duly authorized agents, a proper declaration of assumption of the taking of the taking over of the proposed highway so as not to involve the township in any expenses whatever excepting the costs of the opening order, the Court will then consider issuing a proper order for opening. However, said authorization of assumption by the Highway Department must be filed on or before the first of December 1933. Failure to do so, then the exceptions to the review is dismissed and the report of the Viewers to be confirmed absolutely without further order of court.

June 14, 1933.

By the Court.

A. R. Chase
P. J.

COMMONWEALTH OF PENNSYLVANIA



DEPARTMENT OF HIGHWAYS
HARRISBURG

December 28, 1932

IN YOUR REPLY PLEASE
REFER TO

O. R. 251
Clearfield
Greenwood T.

Mr. Lemuel E. Young
Kerrmoor
Pennsylvania

Dear Sir:

We have received a report from our engineer which indicates that there is a likelihood of the relocation suggested by yourself and other interested parties being more advantageous than the route as it now exists.

The department is without authority to change the location of the road unless there is need for the improvement of it. The department is also unable to furnish a statement indicating that the State will take over the newly opened section, should the court grant an opening order. We accordingly will delay any further action in the matter until the route is authorized for construction at which time a relocation study will be made and if approved, a plan covering the right-of-way may then be filed.

Very truly yours

S. S. Lewis
Secretary of Highways

By C. C. Albright
C. C. Albright
Township Engineer

IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNA.

THE REG. PROPOSED ROAD VIT.
EXEMPTIONS TO R.V.T.H.

NO. 3 December Sessions, 1921.

OPINION OF COURT

FILED

JUN 24 1923

W. B. GALLAGHER
CLERK