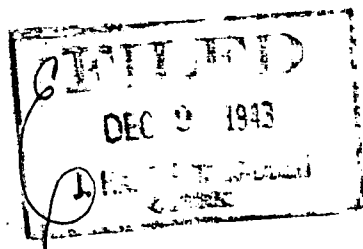


No. 3 September SS 1948

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
PENNSYLVANIA.

In re: Petition for
Re-review of Public Road
in Sandy Township

OPINION



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

In re: Petition for Re-review :
: No. 3 September SS 1942
Public Road in Sandy Township :

OPINION

A petition was originally presented asking for the laying out of a public road in Sandy Township from Main Street Extension near the P.S. Heberling place to Northwood Avenue near the opening of Hand Street. The first Board of Viewers, after a view at which the Township Supervisors opposed the road, found there was no necessity for it, and so reported to the Court at December SS 1942.

Thereafter a petition for review was presented and a second Board of Viewers was then appointed, and after viewing the premises, reported in favor of a road, but in a somewhat different location of its course between the same termini. This report of the reviewers was filed March 3, 1943.

On April 29, 1943, a petition for a re-review was presented, accompanied by a long remonstrance signed by many citizens of the Township against the opening of the road recommended by the reviewers. By order dated April 30, 1943, the Court placed the Viewers' Report, Reviewers' Report and petition for re-review all on the June Argument List, when the whole matter should come before the Court for consideration. The argument was postponed from time to time for the convenience of the parties involved, and has not been formally argued up to this time. However, in order that the matter might be disposed of, we have talked to counsel and after having set one or more definite

dates to hear anything which might be offered on behalf of the different positions taken, we believe that it is now in shape for disposition, and that there is no use holding it for any further argument, or for the submission of any further discussion of the matters involved.

The granting of a re-review is a discretionary matter with the Court, which, if it deems the information at hand from the two views already had sufficient, may take its choice of one of them. The controversy in this case seems to involve principally the following questions:

(1). The question of whether the cost of building the road in view of the grades involved and the construction of a bridge or culvert might be excessive to impose upon the Township under present conditions.

(2). Whether the road is necessary as a means of access to the Sandy Township High School, particularly in view of the fact that buses are unable to get within several blocks of that school during the winter months.

(3). The cost of crossing a stream or swampy ground where water collects, and whether this will require a small bridge or merely a culvert, and what expense in connection with containing and directing the water at this point may be involved.

(4). The extent to which the expense and engineering difficulties will be minimized by adopting a straight line between the termini or a course with two lines, as proposed by the two Boards of Viewers respectively.



We are unable to find sufficient facts on record in the two Viewers' Reports before us from which we can decide these

questions of fact. Under these circumstances, while we ordinarily dislike to have a controversy of this kind continued and would much prefer to bring it to a conclusion, we think the public interest will be best served here by allowing a re-review. Much of the objection to the new road is based upon the expense and the condition of the Township's finances. We have noted that reports filed with the Court show improvement in the Township's finances in the past few years, and this is a condition which, under present earning conditions and prospects of tax collections, should continue for some time. It may be that the delay of a re-review will serve to eliminate some of the differences between the parties. We suggest also that the Re-reviewers should in their report to the Court, give special attention to answering the points of inquiry we have above suggested. In our opinion it might be well to call an engineer connected with the State Highway System or some other qualified person or persons to give some accurate estimate of the cost of the building of this road. The cost of a re-review will not be large in comparison with the public interest involved. It appears to us as though the improvement requested would be a desirable one, but the keeping down of the cost and the doing of the work at such a time that the township can afford it are important factors. The additional development of private property along the road which will be encouraged is also a factor to be considered, as it will increase the taxable property of the township. With the findings of the third Board of Viewers the Court should have before it the facts necessary to decide these questions, and it may be desirable that a full stenographic report of the proceedings before this Board shall be taken.

O R D E R

NOW December 9 , 1943, in accordance with Opinion herewith,
a re-review of the petition for road in Sandy Township is hereby
granted, and John Scollins, Thomas C. McGarvey and H.E. Reese
are hereby appointed Viewers for the purpose of holding such
re-review and reporting the same to the Court.

By the Court,

 
President Judge.

AGREEMENT BETWEEN W. V. CARR, IRA JAY and J. O. KESSLER, County Commissioners of Clearfield County, Pennsylvania, hereinafter referred to as "County Commissioners", parties of the first part, and WILLARD V. CARR of Lawrence Township, Clearfield County, Pennsylvania, hereinafter referred to as "Owner", party of the second part.

WHEREAS, the said Owner is the owner of a certain tract of land located in Lawrence Township, Clearfield County, Pennsylvania, which was affected by the construction, relocation and improvement of a section of road designated on the records of the Department of Highways of the Commonwealth of Pennsylvania, as State Highway Route 59, Section 8, and

WHEREAS, under the statutory right conferred upon him, the Secretary of Highways of the Commonwealth of Pennsylvania, undertook the construction, relocation and improvement of said highway Route 59, Section 8, and ✓

WHEREAS, the Secretary of Highways so notified the County Commissioners, in writing, of the contemplated construction, relocation and improvement, and

✓ WHEREAS, the said County Commissioners agreed in writing to such construction, relocation and improvement,

now, therefore, this agreement

W I T N E S S E T H:

(1). In consideration of the premises and of the promises hereinafter set forth on the part of Owner, to be kept and performed, the County Commissioners agree to pay Owner the sum of Eighteen Hundred (\$1800.00) Dollars as full compensation for the damages arising by reason of the construction, relocation and improvement of the said section of road in Lawrence Township,

Clearfield County, Pennsylvania, designated as State Highway Route 59, Section 8, such payment to be in full settlement for Owner's land taken for right of way purposes, for slopes and for the inconvenience and incidental damages in connection therewith, blue prints (consisting of four sheets) of the pertinent portion of the said plans are hereto annexed as Exhibit "A", and made a part hereof, (both the premises indicated as premises of "Mrs. Elizabeth Reed Stewart" and the premises indicated as premises of "Willard Carr" in said plans are actually premises of Willard V. Carr herein designated as "Owner"); the land taken for right of way purposes including an area of 4.26 acres and the land taken for slopes including an area of 1.47 acres, as shown upon the said construction and right of way plans of the Pennsylvania Department of Highways, for said road.

(2). It is mutually understood and agreed that this agreement shall be filed by the County Commissioners in the office of the Prothonotary of Clearfield County; that if no exceptions are filed thereto within ten days after notice given by publication, as required by law, the County Commissioners will pay over to Owner the said sum of Eighteen Hundred (\$1800.00) Dollars, upon delivery to them of releases, quitclaims or other instruments as they may require, as aforesaid.

(3). It is further mutually understood and agreed that if exceptions to this agreement are filed within ten days after such notice, the proceeding shall be presented to the Court of Quarter Sessions of Clearfield County for its approval, that the Court shall fix a time for hearing the matter, at which time the parties hereto and any taxpayer interested therein and their witnesses, shall be heard, and the Court shall either approve or disapprove the agreement, as it deems proper; if the Court disapproves the agreement and indicates a sum which it would approve, if the County Commissionets and Owner agree thereon, said sum

shall be acceptable by County Commissioners and Owner, and it is covenanted by the parties hereto that said sum shall take the place of the aforesaid sum of Eighteen Hundred (\$1800.00) Dollars; provided, however, that if the Court disapproves the agreement and fails to indicate a sum which it would approve, then and in such case, this agreement shall be null and void, the Owner if he so desires, shall proceed to present his petition to the Court of Quarter Sessions for the appointment of Viewers to ascertain and assess damages in the manner provided by law.

IN WITNESS WHEREOF, the County Commissioners of Clearfield County, Pennsylvania, have hereunto affixed their signatures, duly attested by the Commissioners' Clerk, and Owner has hereunto set his hand and seal, this the 14th day of January, A. D. 1942.

ATTEST:

Fred B. Reed
COMMISSIONERS' CLERK

W. V. Carr
(W. V. Carr)
Ira Jay
(Ira Jay)
J. O. Kessler
(J. O. Kessler)
County Commissioners
Willard V. Carr (SEAL)
(Willard V. Carr)

Signed, Sealed and Delivered
in the presence of;

Edna J. Hughes

No. 2 Feb. 22 1942

COUNTY COMMISSIONERS OF
CLEARFIELD COUNTY

-WITH-

WILLARD V. CARR

AGREEMENT

2
33 JAN 16 1942