

DOCKET No. 7

Number

Term

Year

1

Dec.

1943

In Re: Assessment of Damages to
Property of Arthur Rowles and
Lillian Rowles in Pike Twp.

Versus

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PA

Petition of Arthur Rowles
and Lillian Rowles, his wife

vs

Pike Township Road District

No. 1, December Sessions 1943

42-1
J
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9
1
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NOW, May 22, 1945, we Arthur Rowles and Lillian Rowles, his wife, do hereby acknowledge receipt of the sum of One hundred and fifty (\$150.00) Dollars in full settlement of our claim and award by the Viewer's thereon against the Road District of the Township of Pike, Clearfield County, Pennsylvania by reason of the taking, grading and construction of Township Road Router # 454 through their property during the year 1941, and in consideration of the sum of One hundred and fifty (\$150.00) Dollars, the receipt whereof is hereby acknowledged, we do hereby forever release, exonerate and discharge the said Pike Township Road District from any and all claims whatsoever by reason of the taking, grading, construction and relocation of said Township Road through our property, and hereby direct the award in our favor by the Viewer's and affirmed by the Court to be marked satisfied of record.

IN WITNESS WHEREOF, we have hereunto set our hands and seals the day and year first above written.

Signed, sealed and delivered
in the presence of

Mc L. Schaubert

Arthur Rowles (SEAL)
Mrs Lillian Rowles (SEAL)

Good

No 1 Dec 22 1943

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PA

Petition of Arthur Rowles
and William Rowles, his wife
vs

No. 1, December Session 1943

Fike Township Road District

NOW, May 23, 1945, we Arthur Rowles and William

Rowles, his wife, do hereby acknowledge receipt of one
hundred and fifty (\$150.00) Dollars in full settlement of our claim
and award by the viewer a thereon against the Township of Fike, Clearfield County, Pennsylvania, for the
taking, grading and construction of Township Road No. 1, through their property during the year 1941, and in consideration
of the sum of one hundred and fifty (\$150.00) Dollars, the receipt
whereof is hereby acknowledged, we do hereby forever release, ex-



onerate and discharge the said Fike Township Road District from
any and all claims whatsoever by reason of the taking, grading,
construction and relocation of said Township Road through our prop-
erty, and hereby direct the award in our favor by the viewer, and
affirmed by the Court to be marked satisfied of record.
IN WITNESS WHEREOF, we have hereunto set our
hands and seals the day and year first above written.

Signed, sealed and delivered
in the presence of

Arthur Rowles (SEAL)
William Rowles (SEAL)

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

RE: PROCEEDINGS TO VIEW AND ASSESS :
DAMAGES TO PROPERTY OF ARTHUR AND : No. 1
LILLIAN ROWLES, BY REASON OF THE :
CONSTRUCTION AND RELOCATION OF TOWN- : December Sessions, 1943
SHIP ROAD, ROUTE NO. 454 IN PIKE :
TOWNSHIP :

EXCEPTIONS TO VIEWERS' REPORT

TO THE HONORABLE F. CORTEZ BELL, PRESIDENT JUDGE:

Now comes the County Commissioners of Clearfield County, Penna., by their Solicitors, Smith & Maine, and take exception to the Viewers' Report dated December 22, 1943, said exceptions being as follows:

FIRST: Said Viewers' Report does not mention or refer to any eminent domain proceeding or act of condemnation with reference to the land of Arthur and Lillian Rowles.

SECOND: Said Viewers' Report fails to set forth or in any way indicate the municipal subdivision or municipal subdivisions responsible for the payment of the damages awarded.

THIRD: Said Viewers' Report fails to set forth any finding as to the legal width of the right of way of the said road, as the same was heretofore established and fails to refer to the proceeding or Act of Assembly pursuant to which the said road was opened.

FOURTH: Said Viewers' Report contains no finding as to what, if any, road improvements, construction or repairs were made outside of the established right-of-way lines of said road upon the land of the said Arthur and Lillian Rowles.

FIFTH: Said Viewers' Report contains no finding as to how much, if any, of the land of Arthur and Lillian Rowles was taken, used or appropriated by the Pike Township Supervisors as a result of the improvement and repair of said road.

SIXTH: Said Viewers' Report discloses that the viewers improperly predicated their award upon the results flowing from a change in the grade of said road, the said viewers having said in their report "the damage done being in consequence of the change of grade of the road in front of the barn and barnyard entrance**".

Smith & Maine
COUNTY SOLICITORS

ON 2 December 1943

IN THE COURT OF QUARTER SESS OF CLEARFIELD COUNTY, PENNA. NO. 1 DECEMBER TERM, 1943	RE: PROCEEDINGS TO VIEW AND ASSESS DAMAGES TO PROPERTY OF ARTHUR & LILLIAN ROWLES BY REASON OF THE CONSTRUCTION AND RELOCATION OF TOWNSHIP ROAD, ROUTE NO. 454 IN PIKE TOWNSHIP,	EXCEPTIONS TO VIEWERS' REPORT	<div>RECEIVED FEB 8 1944 CLEARFIELD COUNTY CLERK</div> <div>SMITH & MAINE ATTORNEYS-AT-LAW CLEARFIELD, PA.</div>
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And now Feb. 8, 1944, service accepted by
city.

Perkins & Silbblatt
Attorneys for Supervisors
of Pike Township

[Signature]
City of Clearmont

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: Order to View and :
Assess Damages to property :
of ARTHUR and LILLIAN ROWLES : No. 1 December Term 1943.
by reason of construction and :
re-location of Township road :
No. 454 in Pike Township. :

PETITION FOR ORDER TO STAY PROCEEDINGS.

TO THE HON. W. WALLACE SMITH, PRESIDENT JUDGE OF SAID COURT:

The petition of Pike Township Supervisors respectfully represents:

(1). That on the 28th day of October 1943, a petition was presented on behalf of Arthur and Lillian Rowles, which was filed in the Court of Common Pleas of Clearfield County; and on said date, namely October 28, 1943, your Honorable Court awarded viewers to ascertain the damages sustained by the relocation and construction of a certain road in Pike Township, Clearfield County, Pennsylvania.

(2). That said petition was afterwards transferred from the Court of Common Pleas of Clearfield County, to the Court of Quarter Sessions of Clearfield County to No. 1 December Term 1943.

(3). That the first notice that your petitioner had of the awarding of a view, was notice received from the viewers that they would sit for the purpose of holding a view, on the 9th day of December 1943 at 10 A.M., and hold hearing on the 16th day of December 1943 at 10:30 A.M. at the Court House at Clearfield.

(4). That your petitioner attempted to ascertain what facts justified the awarding of said view, your petitioner having become a member of the Board of Supervisors subsequent to any work being done on the road in question.

(5). That no copy of the petition was filed or is of record, though counsel for the petitioners has supplied your affiant's counsel with a copy of the petition originally presented in the

Court of Common Pleas, which avers that in the spring of 1941 the Township of Pike in resurfacing and improving the Township Road, changed the lines and location of the same as originally laid out taking approximately one-half acre of the land of Arthur Rowles and Lillian Rowles.

(6). Your petitioner has no knowledge of any taking of land or any change of lines or relocation of the road, and has inquired of the County Commissioners who viewed the premises several years ago, in an attempt to settle the dispute and no one has confirmed the averment that there was any change in line or location of the road as laid out, nor has any proceeding been brought which would authorize the Supervisors of the Township of Pike to make or change the lines or location as provided by law.

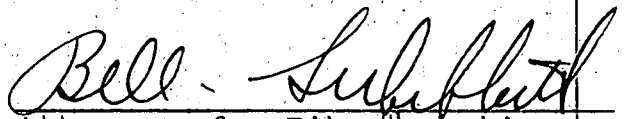
(7). Your petitioner avers that to No. 13 September Sessions 1921, a petition was presented to the court of Quarter Sessions of Clearfield County, praying for the laying out of the road in question.

(8). That after appointment of viewers and Report filed, a road thirty-three feet in width was laid out through the premises here in question, according to the Report of the viewers filed to that Number and Term, Arthur Rowles was awarded damages in the amount of Seventy Five (\$75.00) Dollars. Said view was confirmed absolutely and your petitioner, from his own knowledge, as well as from inquiry of the County Commissioners, and other former Supervisors of Pike Township, is advised that there was no change in the lines and location of the road as laid out in the view of 1921; and that the portion of the road wherein the damage is claimed, is not over thirty-three feet in width, and in fact is not that wide; and avers that the petitioners are without right to a view, in the

absence of showing that there has been a change in the lines and location of the road as originally laid out.

WHEREFORE, your petitioner prays that all proceedings be stayed until the petitioners aver and prove a change in the lines and location of the road as originally laid out, and that any proceedings brought to this Number and Term be limited to any such changes, or that the viewe~~rs~~s be instructed to determine the lines and locations of the original road, and if there be no change therein, that said proceeding be dismissed at the cost of the petitioners; or if there be a change, that they be instructed to limit their estimate to any damages solely to the changes from the lines and location of the original road.

WHEREFORE your petitioner prays that your Honorable Court stay all further proceedings until the petitioners shall shew under what authority the view for damages is awarded; and he will ever pray.


Attorneys for Pike Township
Supervisors.

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STATE OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

Before me, the subscriber hereto, came CHARLES MIDDLETON, who being duly sworn according to law, deposes and says that he is Secretary of the Board of Supervisors of the Township of Pike; that the facts set forth in the within petition are true and correct to the best of his knowledge and belief.

Sworn to and subscribed before:
me this 30th day of November :
AD 1943. :

John Harold McFadden

PROTHONOTARY MY COMMISSION EXPIRES FIRST
MONDAY IN JANUARY, 1944

Chas Middleton

O R D E R

NOW, December 2nd, A.D. 1943, the within petition having been presented, Rule is issued on Arthur Rowles and Lillian Rowles to show wherein there is any change in the lines and location of the road as originally laid out to No. 13 September Term 1921; this showing to be made within a period of _____ days from the date of this Order.

BY THE COURT

P.J.

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD
COUNTY, PENNSYLVANIA..
No. 1 December Term 1943

In re: Order to View and
Assess Damages to property
of ARTHUR and LILLIAN ROWLES
by reason of construction and
re-location of Township
Road No. 454 in Pike Town-
ship.

PETITION FOR ORDER TO
STAY PROCEEDINGS.

*Dec. 2, 1943. Justice
Arthur & Mrs. Rowles
actual taking of property
is apparently refused by
the owner for fairly
good reasons.
J. E. Walker, Jr.*

BELL & SILBERBLATT
ATTORNEYS AT LAW
COUNTY NATIONAL BANK BUILDING
CLEARFIELD, PENNA.

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

In re: Petition for the
Appointment of Viewers to Assess
the Damages to Property of
Arthur and Lillian Rowles, by
Reason of the Construction and
Relocation of Township Road
Route #454 in Pike Township

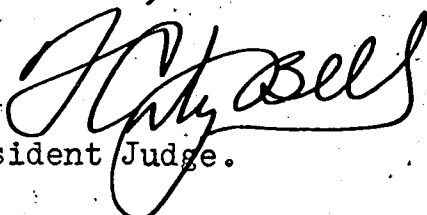
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: No. 1 December SS 1943
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O R D E R

This petition was filed to assess damages in the relocation of a Township road and exceptions were filed on behalf of the County Commissioners; and it being admitted at the argument that there was land taken outside of the line of the location of the highway and that it is a Township road, the petition alleging that the improvement was done by the Pike Township Road District; and no appeal having been taken from the award of the Viewers or any petition for review having been filed;

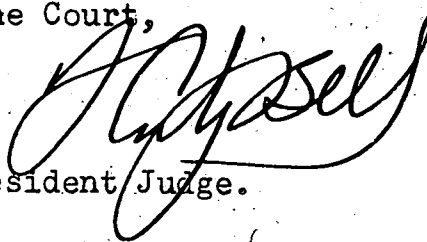
NOW June 30, 1944, the exceptions filed on behalf of Clearfield County are dismissed.

By the Court,


President Judge.

So die, exception noted and bill sealed to Clearfield County.

By the Court,

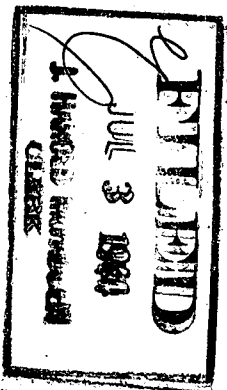

President Judge.

No. 1 December SS 1943

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
PENNSYLVANIA.

In re: Petition for the
Appointment of Viewers to
Assess the Damages to
Property of Arthur and
Lillian Rowles, by Reason
of the Construction and
Relocation of Township Road
Route #454 in Pike Township

O R D E R



F. CORTIZ BELL
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

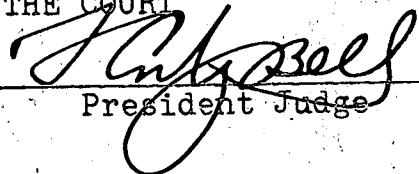
IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: Petition for appointment :
of viewers to assess damages to : No. 1 December Sessions 1943
the property of Arthur and Lillian:
Rowles by reason of construction :
and re-location of Township Road :
#454 in Pike Township. :

O R D E R

NOW, July 19, 1944, the Court's attention having been called to an error in the Order of June 30, 1944, said Order is revoked and rescinded and has no further force and effect; to be replaced by an Order to be filed shortly.

BY THE COURT


President Judge

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD
COUNTY, PENNSYLVANIA.
No. 1 Dec. Sessions 1943

In re: Petition for
appointment of viewers to
assess damages to the
property of ARTHUR AND
LILLIAN ROWLES by reason of
construction and relocation
of Township Road #454 in
Pike Township.

O R D E R

FILED
JUL 19 1944
J. HAROLD BULL
CLERK

F. CORTEZ BELL
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

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

Re: Petition for Appointment :
of Viewers to Assess Damages to :
the Property of ARTHUR and :
LILLIAN ROWLES, by Reason of : No. 1 December SS 1943
the Construction and Relocation :
of Township Road, Route No. 454, :
in Pike Township :

OPINION

Exceptions were filed by Clearfield County to the Viewers' Report to the above Number and Term, in which it is alleged the Viewers' Report is defective, deficient and inadequate in that it fails to mention any proceeding whereby the land of Arthur and Lillian Rowles was taken and the municipal subdivision responsible, and that it fails to set forth any legal width of the right-of-way of any road, or identify the road or when it was originally opened. The Viewers' Report makes no findings as to what improvements were made outside the established right-of-way line, and fails to disclose how much land, if any, was taken, and shows that damages were awarded as a result of a change of grade. In addition thereto there is no finding as to benefits, as required by the Act of Assembly. If Clearfield County were a party to these proceedings the exceptions would probably be sustained, for the difficulty in this matter from its inception has been a lack of definiteness or certainty as to what was done.

A petition was presented on October 28, 1943, the third paragraph of which states that during the summer of 1941 the Pike Township Road District, "in the resurfacing and improvement of the township road route 454did change the course of said road as originally laid out and appropriated approximately one-half acre of the petitioners' land". There are some other items of damage for fruit trees destroyed, water dumping and other matters, but there is no averment in the petition under what authority the

Supervisors of Pike Township were on the premises or what the lines and locations of the road were, or whether they went outside the line of the road as laid out.

On December 2, 1943, a petition on behalf of Pike Township was presented, which petition denies the taking of any land or the change of any lines or relocation, requesting that the proceedings be stayed until the petitioners have proved the change of line and location of the road as originally laid out. On this the Court, on December 2, 1943, made an order referring the change of line and location to Viewers for findings of fact.

The Viewers' Report filed February 2, 1944, is wholly inadequate, as previously referred to, but does state, "very little of petitioners' land was taken, used or incorporated in making the improvement". This would be sufficient to sustain the exceptions if they had been properly filed.

We are unable to determine under what authority any land was taken, curves eliminated or change of grade made. As to the petition of the Township of Pike, it is stated in the Report of the Viewers that it was agreed between counsel for Pike Township and for the landowners that the petition of Pike Township dated December 2, 1943, was based on a mistake of fact and irrelevant to the matter being heard. The exceptions now filed on behalf of Clearfield County raise the same issue. The Viewers agree that damages were sustained by the petitioners and award damages in the amount of \$150.00. Nobody is named who is to pay these damages, although the Viewers' Report says that damages have been suffered, and under the Act of May 1, 1933, P.L. 103, the petitioners are to be compensated. From a perusal of this proceeding the only thing as to which we are clear is that Clearfield County is not

liable for the damages, and that the petitioners and the Viewers both intended to assess the damages against the Township of Pike.

The Act of May 28, 1913, P.L. 368, Sections 1 and 2, 53 Purdons, Sections 451-452, gives the landowners the right to damages for land taken or any change of grades or lines and locations. These damages were to be assessed by Viewers to be appointed by the Court. This section has been repealed, the Act of 1913 being repealed by the Act of 1917, P. L. 840. The Superior Court in the case of In re Oxford Street, Hanover Township, 79 Pa. Superior Court 106, in opinion filed in 1922, held the Township liable for change of grade.

Although the Act of 1917 contains no provision for damages in townships of the second class for change of grade, the Superior Court held that it was the intention of the Legislature to provide for this even though the Act of 1917 expressly repealed the Act of 1913. However, the Act of 1933, P.L. 103, Article XXI, Section 2101, specifically repeals all these Acts, and sets forth the proceeding under which this case should have been presented. Article X of the Act of 1933 provides for the taking of land by eminent domain and the ascertainment of damages. There is no taking by eminent domain in this case that has been disclosed, but apparently the Viewers, the Township and the landowners all assumed they were proceeding under that Act, and the Viewers' Report expressly mentions the same. The Act of 1933 does provide that when taken by eminent domain the Viewers should determine the award. It is apparent that this is what the Court, Viewers, petitioners and the Township were under the impression was being done. This Act also provides in Article XI, Section 1101, that roads could be widened, changed or vacated by the Court of

Quarter Sessions and the damages assessed and determined. Article XI, Section 1105, of that Act provides that roads not of record but used for twenty-one years and upwards shall be deemed public roads at least thirty-three feet in width. Article XI, Section 1115, provides that the Supervisors may construct or alter any public road if they can agree with the property owners as to damages, providing the cost should not exceed \$500.00, and a petition has been presented to the Court and its approval first had and obtained. Article XI, Section 1120, provides for the determination of damages, either by petition, agreement or the right of eminent domain.

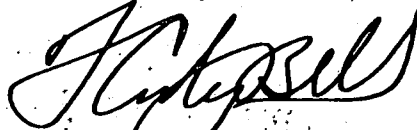
It is apparent that all parties acted under the assumption that this was a proceeding under the Act of 1933, although it is palpable that the provisions of that Act were not strictly complied with. Under the Act of 1933, P.L. 103, Article X, Section 1031, provides that the costs of such proceeding, except the compensation of Viewers, shall be paid by the Township, so it is clear that it was the intention of the Viewers that the Township of Pike should pay the damages awarded. The same Act, in Article X, Section 1035, provides that any interested party may file exceptions within thirty days after the filing of the Viewers' Report, and in case no exceptions are filed as provided, it is to be confirmed absolutely.

While we feel that there is considerable justification for the criticism set forth in the exceptions filed, we do not feel that the County of Clearfield is an interested party in this proceeding, and neither the petitioners nor the Township of Pike, who are interested parties, have filed any exceptions or requested review, nor taken any appeal.

O R D E R

NOW July 20, 1944, the exceptions filed on behalf of Clearfield County are dismissed and the Viewers' Report is confirmed absolutely.

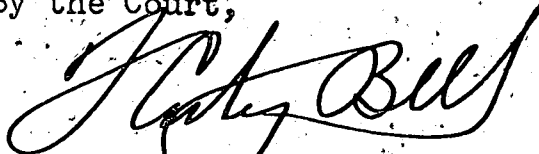
By the Court,



President Judge.

So die, exception noted and bill sealed to Clearfield County.

By the Court,



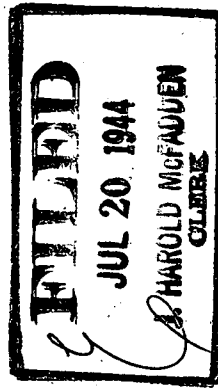
President Judge.

No. 1. December SS 1943

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
PENNSYLVANIA.

Re: Petition for Appointment
of Viewers to Assess Damages
to the Property of ARTHUR and
LILLIAN ROWLES, by reason of
the Construction and Relocation
of Township Road, Route No.
454 in Pike Township

ORDER



F. CORTEZ BELL
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

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 Pike and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the ninth day of December A. D. 1943, and the hearing to be held in the Grand Jury Room, at the Court House, in Clearfield, Pa., on the 16th day of December, 1943, at 10.30 o'clock A. M. That the three viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view Arthur Rowles, A.B. Shaw, Esq. Chas. Middleton, and John Smeal, Supervisors of Pike Township; Ira Jay, County Commissioner, and Foster Norris,

parties in interest. That the hearing was held in the ~~Board Room~~ ^{Grand Jury Room}, in the Court House, at Clearfield, Pa., on the 16th day of December A. D. 1943, when the following appearances were noted: Arthur Rowles, of petitioners; A. B. Shaw, Esq., Atty. for Petitioners; Charles Middleton and John C. Smeal, Supervisors of Pike Township, with M. L. Silberblatt, Esq., of Bell & Silberblatt, Attys. Arthur Rowles, George Norris and Ernest Rowles, witnesses on behalf of petitioners, sworn, examined and cross-examined by Counsel and your Board, including Dan Bailey, Township District Engr., of the State Dept. of Highways.

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is ~~XXXXXXXXXXXXXXXXXXXX~~ XXXXXX desired by the petitioner, and that the same is ~~XXXXXXXXXX~~ necessary for a ~~XXXXXXXXXXXXXXXXXXXX~~ XXXXXX 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 desires of the petitioner, and do return for ~~XXXXXXXXXXXXXXXXXXXX~~ XXXXXX use the following described road, to wit:

Beginning that damages have been sustained by the petitioners. We further find that Township Road, Route 454, passing through the Farm of petitioners in Pike Township, was re-constructed and repaired by placing thereon a 14-foot, 8 inch, stone base Road with four-foot shoulders where it was practicable to do so, and in doing so raised the said highway: at one point (in front of the petitioners' buildings) 16 inches above the ordinary grade thereof.

ings) 16 inches above the ordinary grade thereof.

That in so changing the grade of said road the Supervisors did not open ditches along the sides of the road of sufficient capacity to take and carry off the surface water from one side of the road to the other by culverts of sufficient capacity and adequate to the maximum volume of water to be taken care of; and in thus carrying the water varying distances across natural outlets, and accumulating it in large quantities and channelling it across petitioners' cultivated lands instead of distributing it over the fields as heretofore, the Supervisors did not comply with the plans and specifications of the State Department of Highways.

That in making the permanent improvements to the road, the Supervisors bettered the grade, curves were eliminated, some of the higher places were cut down and some of the lower places filled up, but with material hauled in containing some deleterious substance. One of the fills in the road was in front of petitioners' farm buildings, and rendered access to the barn from the public road more difficult, and from the barn-yard to the improved public road likewise more difficult, than it was before.

Very little of petitioners' land was taken, used or appropriated in making the improvement; the damage done being in consequence of the change of the grade of the road in front of the barn and barn-yard entrance; the precipitating upon their farm-land of a large body of water, in channels, which did not naturally thus flow upon it; and the use of material hauled in, for surfacing said road, containing some deleterious substance the draining from which destroys all vegetation over which it flows.

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 17th day of November
in the year of our Lord one thousand nine hundred
forty-three

Judge of the same Court: Upon the petition of ~~Arthur~~ Arthur Rowles and Lillian Rowles, his wife
~~taxpayers~~ of the Township of Pike

and improvement of Township Road Route #454 by the Pike Township Road District were changed from the course of said road and approximately one-half acre of your petitioners land was taken and damages done and your petitioner has not been compensated for said damages done and land taken.

and therefore, praying the Court to appoint proper persons to view and ~~appraise~~ ^{appraise} and ~~the road~~ ^{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 John Scollins, Atty H. A. Reese and T. C. McGarvey

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. W. Wallace Smith, President Judge.

Harold McFadden, Clerk.

PROPERTY IN PIKE TOWNSHIP
CLEARFIELD COUNTY PA.
VIEWED UPON A QUESTION OF
DAMAGE

DEC. 9 - 1943 BY JOHN SCOLLINS ESQ
H. A. REESE
SCALE 1" = 200' T. C. MCGARVEY

N. O. 1 DEC. 43

FOSTER NORRIS

TWP. ROAD

HOUSE

GARAGE

BARN

ARTHUR AND LILIAN ROWLES

ROAD AS IMPROVED BY PIKE TOWNSHIP

BLAKE
BLOOM

NENO DARNBETTA

To: The County Commissioners of Clearfield County, Pa., :

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENN'A.

IN RE: Order to view and assess damages to property of Arthur & Lillian Rowles, by reason of the construction and re-location of Township Road Route #456 in Pike Township.

No. 1, December Term, 1943.

You are hereby notified that the undersigned Viewers, appointed by the Court to the above number and term, to view and assess damages to the property of Arthur & Lillian Rowles, by reason of the construction and re-location of Township Road Route #456 in Pike Township, in the County aforesaid, will meet at the property of Arthur & Lillian Rowles in Pike Township aforesaid, on Thursday, December 9th, 1943 at 10:00 o'clock A. M., to attend to the duty assigned them: of which time and place aforesaid all parties interested will take notice.

And that the public hearing required by 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 in the said damages an opportunity to be heard, will be held in the Grand Jury Room in the Court House in Clearfield, on Thursday, December 16th, 1943 at 10:30 o'clock A. M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

John Collins
H. A. Reese
T. C. McFarney
Viewers

Dated: November 23rd, 1943.

CLEARFIELD COUNTY, SS:

Now, this 14th day of November, 1943, service of the above notice is accepted for the Commissioners of Clearfield County.

James B. Reas
Chief Clerk

TO: John C. Smeal, R. M. Ward, and Charles Middleton,
Supervisors of Pike Township, Clearfield County:-

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENN'A.

IN RE: Order to view and
assess damages to property
of Arthur & Lillian Rowles,
by reason of the construction
and re-location of Township
Road Route #454 in Pike Township. NO. 1, December Term, 1943.

You are hereby notified that the undersigned Viewers,
appointed by the Court to the above number and term, to view and
assess damages to the property of Arthur & Lillian Rowles, by
reason of the construction and re-location of Township Road #454
in Pike Township, in the County aforesaid, will meet at the
property of Arthur & Lillian Rowles in Pike Township aforesaid,
on Thursday, December 9th, 1943 at 10:00 o'clock A. M., to attend
to the duty assigned them: of which time and place aforesaid all
parties interested will take notice.

And that the public hearing required by 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 in the said damages an opportunity to be heard, will
be held in the Grand Jury Room in the Court House in Clearfield,
on Thursday, December 16th, 1943 at 10:30 o'clock A. M., or as
soon thereafter as counsel can be heard, at which time and place
all parties interested may attend and be heard.

John Collins
N. A. Reese
D. C. McGarvey
Viewers

Dated: November 23rd, 1943.

CLEARFIELD COUNTY, SS:

Now, this 26 day of November, 1943, service
of the above notice is accepted for the Supervisors of Pike
Township, Clearfield County.

John C. Smeal
Charles Middleton
R. M. Ward
Supervisors.

After viewing the premises and conditions, hearing the evidence, and taking into consideration all the benefits and advantages accruing to said property, occasioned by the straightening, re-grading and improvement to said township road, Route 454, your Board concludes as a matter of Law, that the petitioners have suffered damage and under the Act of May 1, 1933, P.L. 103, and amendments thereto, are to be compensated therefor.

It was agreed by Counsel for the petitioners and the Supervisors of Pike Township, that it be stipulated of record: that the Order of Court, made December 2, 1943, was based upon a mistake of fact, and irrelevant to the matter in issue before your Board.

Your Board further finds as a fact that the said premises are subject to a Mortgage in favor of the Home Owners Loan Corp., Mortgagee.

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: Arthur Rowles and Lillian Rowles, the

sum of One Hundred and Fifty (\$150.00) Dollars, payable to the Home Owners Loan Corp., Mortgagee.

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

WITNESS our hands and seals this 22nd day of December

A. D. 19243.

John Seelind Seal
Lill Reese Seal
J C McSawey Seal
Seal

ORDER

To view and assess damages a
road for Arthur Rowles and
Lillian Rowles use in the
township of _____,
Clearfield County _____

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.

Feb. 2, 1944, Confirmed ni si.
E. J. Harold McFadden
Brothertonary

Feb. 2, 1944
Exceptions applied

Filed _____ 19 _____
Fees & costs paid by _____
A. B. Shaw, Atty.

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

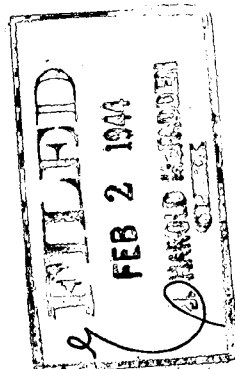
Also, viewers will carefully note the number of days employed and set the amount out at the foot of their return.

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	AM'T.
H. A. Reese	2	48	22.40
T. C. McGarvey	1	43	12.15
John Scollins	2	56	22.80

Amount Accepted for
Clearfield County E
Smith & Maine
County Solicitors



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. 192 _____.

Seal
Seal
Seal
Seal

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: Petition for damages : No. December Term 1943
to property of Arthur Rowles
and Lillian Rowles, resulting :
from the construction and re-
location of Township Road, Route
454 in Pike Township. :

PETITION FOR THE APPOINTMENT
OF BOARD OF VIEW

TO THE HON. W. WALLACE SMITH, PRESIDENT JUDGE OF SAID COURT:-

The petition of Arthur Rowles and Lillian Rowles,
his wife, respectfully represent.

(1) That your petitioners are residents and citizens
of the Township of Pike, Clearfield County, Pennsylvania, where they
have resided upwards of twenty-five years.

(2) That your petitioners were, in 1914 and 1941, the
owners and in possession of a farm in the Township of Pike, Clear-
field County, Pennsylvania, consisting of Sixty-six (66) Acres, which
is bounded and described as follows:-

Beginning at a post being a corner of land belong-
ing to Mary Caldwell; thence by the same and land of James R. Caldwell
North four and one-half (4 1/2) degrees East, Two hundred and thirty
(230) perches to line of James R. Norris; thence by the same South
eighty (80) degrees West, Fifty-three (53) perches to a stone corner;
thence by land of John W. Bloom four (4) degrees West, Two hundred
and twenty-four (224) perches to an apple tree; thence by lands of
Lewis I. Bloom, North eighty-three and one-half (83 1/2) degrees East
Fifty (50) perches, more or less to the beginning. Containing Sixty-
six (66) Acres and allowances of six per cent for roads

Excepting and reserving the coal and other minerals
lying in, under and upon said premises, except the coal under about
two (2) acres immediately around and adjoining the buildings, with
the right to mine and remove the same without liability for damages.

Being the same premises which Calvin J. Bloom, et
ux by deed dated Feb. 7, 1914, recorded at Clearfield in deed book 203,
page 302, granted and conveyed unto Arthur Rowles, and the same pre-
mises which was subsequently reconveyed to Arthur Rowles & Lillian,
his wife. (3) In the Spring and Summer of 1941, the Pike Town-

ship Road District in the resurfacing and improvement of Township
Road Route # 454, the side, center and surface lines of said road
leading from the intersection of said Township Road with Legislative
Route #62-C in said Township of Pike, to the point of intersection
with Legislative Route # 59 in the Borough of Curwinsville, Penna.

were changed from the course of said road as originally laid out, and in making said changes, appropriated approximately one-half acre of your petitioners land; and in proximity to your petitioner's buildings, and in several other places on your petitioner's land, not only changed the horizontal lines of said road, but also elevated the surface of said road, so that it obstructed and prevented ingress and egress to and from your petitioners buildings.

(4) Your petitioner's further aver that in the widening and changing of the side and center lines of said road, and in the construction and re-location thereof, the surface water has been diverted to centralized points, whereby the surface of your petitioner's land, has been washed and greatly damaged.

(5) In the broadening or change of course of said road, and the changing of the center lines thereof the Pike Township Road District through its officers and employees, cut down, dug up, destroyed and removed one bearing apple tree, and one bearing oxheart cherry tree, and damaged others.

(6) The petitioner's aver that they were further damaged by reason of the sulphur content of the materials used for the surfacing of said road, the draining from which has killed and destroyed all vegetation within ten or twelve feet from the berm of said road and in particular where the petitioners have their garden.

(7) Your petitioner's have not been compensated for the damages to their property; neither have your petitioners been able to agree with the Pike Township Road District as to the amount of damages; although they have often tried so to do. The only lien against the above property is a mortgage held by the Home Owners' Loan Corporation.

WHEREFORE your petitioners pray your Honorable Court to appoint Viewers to ascertain and assess the damages done to the property of your petitioner's, and to make report thereof to the Court in accordance with the Acts of Assembly in such case made and provided.

And they will ever pray,

Arthur Rowles

Mrs Lillian Rowles
Petitioner's

STATE OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS

On the 25 day of October, A.D., 1943, before me, the subscriber, personally appeared, Arthur Rowles and Lillian Rowles, his wife, who being duly sworn according to law deposes and says that the facts contained in the foregoing petition are true and correct to the best of their knowledge, information and belief.

Arthur Rowles

Mrs Lillian Rowles

Sworn and subscribed before me
this 25 day of October, A.D., 1943

J. Harold McFadden

NOTARY

MY COMMISSION EXPIRES FIRST
MONDAY IN JANUARY, 1944

ORDER

Now, October 28, 1943, the foregoing petition having been read and considered, John Scollins, Esq., H. A. Reese, and J. C. McHenry, are appointed Viewers to view the premises, and after hearing had, to report to the Court recommendations and award as to the amount of damages resulting to the property of Arthur Rowles and Lillian Rowles, his wife, by reason of the construction, and re-location of Township Route # 454 in the Township of Pike, Clearfield County, Pennsylvania.

By the Court,

W. H. Hollan, Jr.
P. J.

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY No. 1 December Term 1943	In re: Petition for the app- ointment of Viewer's to assess the damages to property of Arthur & Lillian Rowles, by reason of the construction and re-location of Township Road Route # 454 in Pike Township.	P E T I T I O N	<div>FILED NOV 17 1943 J. HAROLD LACHAPPEL PROTHONOTARY</div> <div>A. B. SHAW ATTORNEY AT LAW CLEARFIELD, PA.</div>
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