

**In re: State Route 3006 et al  
2006-88-CD**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW**

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

NO: 2006- 88 - cy

VIOLA HOCKENBERRY

**R U L E**

Please take notice that a Rule to Show Cause Why Writ of Possession  
Should Not Issue has been issued in the above matter. You must reply to this Rule  
in five (5) days or the Rule will be made absolute and possession may be granted  
to the Commonwealth of Pennsylvania, Department of Transportation.

BY THE PROTHONOTARY



WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

**FILED**

JAN 19 2006  
010514

William A. Shaw  
Prothonotary/Clerk of Courts

4 cent to Atm

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

FILED

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

JAN 19 2006

William A. Shaw  
Prothonotary/Clerk of Courts  
NO: 2006-88-CV 1 CERT TO  
ATTY  
RAPACH

VIOLA HOCKENBERRY

**PRAECIPE FOR RULE TO SHOW CAUSE WHY WRIT OF POSSESSION SHOULD  
NOT ISSUE**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (DOT), condemnor in the above-captioned proceedings pursuant to Section 407(a) of the Eminent Domain Code, 26 P.S. §1-407(a), by and through its attorneys Andrew M. Rapach, Assistant Counsel, and the Office of Chief Counsel, and hereby requests on the following averments that a Rule be issued upon the condemnee, Viola Hockenberry, to show cause why a writ of possession should not issue:

1. 26 P.S. §1-407 provides Possession; entry; payment of compensation.

The condemnor, after the expiration of the time for filing preliminary objections by the condemnee to the declaration of taking, shall be entitled to possession or right of entry upon payment of, or a written offer to pay to the condemnee, the amount of just compensation as estimated by the condemnor. If a condemnee thereafter refuses to deliver possession or permit right of entry, the Prothonotary upon praecipe of the condemnor shall issue a rule, returnable in five days after service upon the condemnee, to show cause why a writ of possession should not issue, upon which the court, unless preliminary objections warranting delay are pending, may issue a writ of possession conditioned upon payment to the condemnee or into court of such estimated just compensation and on such other terms as the court may direct.

2. In lieu of condemnation the Department of Transportation purchased certain property owned by Viola Hockenberry, of Westover Borough, Clearfield County Pennsylvania.

3. The property acquired is located at 45 Water Street Extension, Westover Borough, Clearfield County, PA. Traveling on Route 36, turn left onto Michael Street, follow to the end and turn right onto a dirt road, this is Water Street Extension. The subject property is the only building located on Water Street Extension. The mailing address of the property acquired is 45 Water Street Extension, Westover, PA 16692.

4. The property of 5 Water Street Extension was acquired from Viola Hockenberry in fee simple by deed dated May 27, 2005 and recorded in the Recorder of Deeds Office of and for the County of Clearfield, Commonwealth of Pennsylvania, as; fee simple deed form RW-317F, Instrument No. 200520839, recorded December 1, 2005. (copy attached and marked Exhibit "A").

5. The total consideration for the referenced deed was \$26,995.45.

6. The building located on the property is occupied by Viola Hockenberry and her two daughters.

7. Viola Hockenberry received Form RW-590, Advance Notice of Moving Date (90-day assurance notice) by hand-delivery on May 9, 2005. (Copy attached and marked as Exhibit "B")

8. Form RW-591, Notice to Vacate (30-day vacation notice) was mailed to Viola Hockenberry on August 25, 2005 USPS certified mail, return receipt requested. (Copy attached and marked as Exhibit "C") She signed for the notice on August 26, 2005.

8. Both the 90-day assurance period commencing on May 9, 2005 as well as the 30-day vacation period commencing on August 25, 2005 have expired.

9. Despite repeated requests to acquire possession of the property Viola Hockenberry has refused and continues to refuse delivery of the property to the Department of Transportation.

10. The project was let on May 6, 2004. A Notice to Proceed was issued to the contractor on August 25, 2004. The property is located in the construction area and the contractor is restricted from working on this property.

THEREFORE, the Commonwealth of Pennsylvania, Department of Transportation requests the Prothonotary issue a Rule to Show Cause returnable in five (5) days upon Viola Hockenberry why a Writ of Possession should not be entered.

Respectfully submitted,



ANDREW M. RAPACH  
ASSISTANT COUNSEL  
PA. ID #62016

OFFICE OF CHIEF COUNSEL  
FIRM #052  
1209 STATE OFFICE BUILDING  
300 LIBERTY AVENUE  
PITTSBURGH, PA 15222

412.565.7555

# CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder

Maurene Inlow - Chief Deputy

P.O. Box 361

1 North Second Street, Suite 103

Clearfield, Pennsylvania 16830

**\*RETURN DOCUMENT TO:**

COMM OF PENNA-DEPT OF TRANS

1924-30 DAISY STREET

CLEARFIELD, PA 16830

Instrument Number - 200520839

Recorded On 12/1/2005 At 3:41:08 PM

\* Instrument Type - DEED

\* Total Pages - 4

Invoice Number - 140351

\* Grantor - HOCKENBERRY, VIOLA

\* Grantee - COMM OF PENNA-DEPT OF TRANS

\* Customer - COMM OF PENNA-DEPT OF TRANS

**\*FEES**

STATE WRIT TAX	\$0.50
JCS/ACCESS TO JUSTICE	\$10.00
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT	\$3.00
FUND	
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL	\$28.50

I hereby CERTIFY that this document  
is recorded in the Recorder's Office of  
Clearfield County, Pennsylvania.



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

# Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

*EXHIBIT A-1*

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



REMIS PROJ. NO.	020113
COUNTY	Clearfield
S.R. - SECTION	3006-B01
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	17002180000
CLAIMANT	Viola Hockenberry

DEED  
(Fee Simple)

THIS INDENTURE, made *27 May 2005* by Viola Hockenberry of Westover Borough, Clearfield County, Pennsylvania, owner(s) of property affected by the construction or improvement of the above mentioned State Route, her heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has recorded a plan in the Recorder of Deeds Office of the aforesaid County indicating its authorization to condemn property for the above highway from the aforesaid property; and

WHEREAS the parties hereto have agreed that, in lieu of condemnation, the GRANTOR will convey in fee simple and such other lesser estate(s) as designated, if any, to the COMMONWEALTH the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the GRANTOR does hereby grant and convey to the COMMONWEALTH

In fee simple the premises described in exhibit "A".

In fee simple that portion of the aforesaid premises designated as required right-of-way on the plot plan attached hereto and made a part hereof; and those areas, if any, designated as required for other than right-of-way in the easement(s) identified by the plot plan.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by Letters of Administration of Richard C. Hockenberry, deceased, dated September 14, 2004 and recorded in File #1704-0623. Recorded on October 27, 2004 in the Clearfield County Register of Wills Office. This conveyance contains 0.4635 acres as required right-of-way for borough park and flood control and is identified on the Commonwealth's plan as Parcel 9. Tax Map Number 20-E17-357-94. Together with the improvements, hereditaments and appurtenances thereto and the GRANTOR warrants GENERALLY the property hereby conveyed.

RESERVING, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further remise, release, quitclaim and forever discharge the COMMONWEALTH or any agency or political subdivision thereof or its or their employees or representatives of and from all suits, damages, claims and demands which the GRANTOR might otherwise have been entitled to assert under the provisions of the Eminent Domain Code, Act of June 22, 1964, P.L. 84, as amended (26 P.S. 1-101 et seq.,) for or on account of this conveyance and any injury to or destruction of the aforesaid property of the GRANTOR through or by reason of the aforesaid highway construction or improvement, except damages, if any, under Section 610 (Limited Reimbursement of Appraisal, Attorney and Engineering Fees) and Section 610.1 (Payment on Account of Increased Mortgage Costs) of the Eminent Domain Code; provided, however, that if relocation of a residence or business or farm operation is involved, this release shall likewise not apply to damages, if any, under Section 601-A(a) (Moving Expenses) and/or Section 602-A and/or Section 603-A (Replacement Housing) of the Eminent Domain Code.

The GRANTOR does further indemnify the COMMONWEALTH against any claim made by any lessee of the aforesaid property who has not entered into a Settlement Agreement with the COMMONWEALTH.

EXHIBIT A-2

IN WITNESS WHEREOF the GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

Witness R. H. K.

Viola Hockenberry (SEAL)

Witness Approved as to Form and Legality (SEAL)

Witness Amanda G. Phily (SEAL)

Witness By Assistant Counsel, RW 6-24-05 (SEAL)

Amanda G. Phily

I attest to the signature of the officer who has executed this deed and certify that execution hereof has been duly authorized, by the

BD. OF DIRS., MAJORITY VOTE OF ASSOC., ETC.

of

CORPORATION, ASSOCIATION, CLUB, ETC.

Secretary (SEAL)

By: \_\_\_\_\_ President

INDIVIDUAL(S), ASSOCIATION, CLUB, etc.

CORPORATION

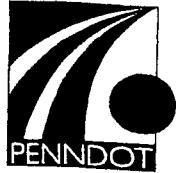
<p>COMMONWEALTH OF PENNSYLVANIA : :SS: COUNTY OF CLEARFIELD : On <u>May 27, 2005</u>, before me, the undersigned officer, personally appeared Viola Hockenberry Known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledge that she executed the same.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand and official seal.</p> <p>(SEAL) <u>Wendelin L. Crouse</u></p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>COMMONWEALTH OF PENNSYLVANIA Notarial Seal Wendelin L. Crouse, Notary Public Rush Twp., Centre County My Commission Expires July 27, 2008 Member, Pennsylvania Association Of Notaries</p> </div>	<p>COMMONWEALTH OF PENNSYLVANIA : :SS: COUNTY OF : On , before me, the undersigned officer, personally appeared Who acknowledged himself/herself to be the of A corporation, and that he/she as such officer, being authorized to do so, executed the foregoing instrument on behalf of the said corporation.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand and official seal.</p> <p>(SEAL)</p>
<p>COMMONWEALTH OF PENNSYLVANIA : COUNTY OF : Recorded in the Office of the Recorder of Deeds in and For the aforesaid County in Deed Book Page Witness my hand and seal of office on</p> <p>Recorder of Deeds</p>	<p>I certify that, upon recording, the within instrument should be mailed to: PENNSYLVANIA DEPARTMENT OF TRANSPORTATION Michael Hnat 1924 Daisy Street Extension PO Box 342 Clearfield, PA 16830</p> <p>Agent for the Commonwealth of Pennsylvania Department of Transportation</p>

*Exhibit A-3*



**COMMONWEALTH OF PENNSYLVANIA**  
**DEPARTMENT OF TRANSPORTATION**

REMIS PROJ. NO.	020113
COUNTY	Clearfield
S.R.-SECTION	3006-B01
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	17002180000
CLAIMANT	Viola Hockenberry



**ADVANCE NOTICE OF  
MOVE DATE**

Date: 9 May 05

Dear Ms. Hockenberry:

The Department of Transportation is acquiring the property that you occupy in connection with the referenced highway project. One of the most important concerns that you may have is when the Department will require possession of the property. At this time we do not know the exact date when the property will be needed; however, this notice is provided to you as the Department's assurance that you **WILL NOT** be required to vacate this property and/or move your personal property, in any event, for at least ninety (90) days from

Additionally, when the time approaches, a representative of the Department will inform you of the date the property will be needed. At that time you will be given a written **NOTICE TO VACATE** which will indicate the date by which you must move. If you elect to move before you receive the final Notice to Vacate, please notify this office.

The Department of Transportation provides **RELOCATION ASSISTANCE** to help you find a suitable replacement property. The Right-of-Way Representative whose name and telephone number are listed below, will contact you with information to help you plan your relocation, including:

- Listings of residential or commercial properties available for sale or lease.
- Names and addresses of moving companies, real estate agencies, financial institutions, and building contractors. You will have the option of selecting the firm(s) you wish to deal with; the Department makes no recommendations or referrals.
- Local Mortgage requirements.
- Names and addresses of local or state social service agencies which may be able to assist you with specific problems.
- A review of your entitlements to certain relocation assistance payments.

In the mean time, if you need additional information concerning this notice or your relocation, feel free to contact your Right-of-Way Representative at the telephone number listed below.

Sincerely,

Michael Hnat  
 District Right-of-Way Administrator  
 Engineering District 2-0

Attachment:

Your Right-of-Way Representative is: Kent S. Kiesewetter Interstate Acquisition Services  
 Telephone No: 814-342-1070

*EXHIBIT B*

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

RW-556SP (4/03)



REMS PROJ. NO.	020113
COUNTY	Clearfield
S.R. - SECTION	3006-301
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	170021B0000
CLAIMANT	Viola Hockenberry

Date: 9/11/05

Viola Hockenberry  
P.O. Box 119  
Westover, PA 16692

**REPLACEMENT HOUSING  
SUPPLEMENT  
OFFER LETTER**

Dear Ms. Hockenberry:

As the owner-occupant of a dwelling to be acquired by the Department of Transportation, you are entitled to a Supplemental Housing Payment. This payment is in addition to the Acquisition Cost Payment which has been offered to you.

You may choose one of the following payments:

- (a) Replacement Housing Supplement
- (b) Rent Supplement
- (c) Down Payment Supplement

This letter will explain your Replacement Housing Supplement Offer and the qualifications that must be met in order for you to receive a payment. If you prefer to rent a dwelling, please notify your Relocation Advisor.

**REPLACEMENT HOUSING SUPPLEMENT**

This payment consists of three parts: the Supplement, Closing Costs, and Increased Mortgage Costs. The maximum amount of your Replacement Housing Supplement Offer is \$31,900. This offer was determined by calculating the difference between the amount determined by the Department as necessary to purchase a comparable dwelling and the Department's Acquisition Cost for the dwelling being acquired. The calculation is as follows:

Probable selling price of a comparable dwelling:	<u>\$59,900</u>
Minus Acquisition Cost of the acquired dwelling:	<u>\$28,000</u>
Replacement Housing Supplement maximum offer:	<u>\$31,900</u>

The amount of the Replacement Housing Supplement cannot be more than the maximum offer but may be less than the amount offered, since by law the payment must be based on the lesser of: (a) the amount determined by the Department as necessary to purchase a comparable dwelling or (b) the amount you actually pay for a replacement dwelling minus (c) the Acquisition Cost of the acquired dwelling. A dwelling as referred to in this letter means a single-family residential.

EXHIBIT C-1

unit and a normal-sized lot and does not include excess land or buildings or parts of buildings not used for residential purposes. If you purchase and occupy a decent, safe, and sanitary replacement dwelling that costs the same or more than the probable selling price of the comparable dwelling. You will receive the full amount of this offer. Any additional amount above the probable selling price of the comparable dwelling must be paid by you. If you purchase and occupy a decent, safe, and sanitary replacement dwelling which costs less than the price of the comparable dwelling, you will receive the difference between the actual cost of the replacement dwelling and the Acquisition Cost of the acquired dwelling.

IN ADDITION to the Replacement Housing Supplement, you may also qualify for the following payments:

**Closing Costs** - The reasonable expenses incurred for closing and related costs incidental to the purchase of the replacement dwelling. Closing costs do not include loan origination fees, purchaser points, or prepaid expenses such as taxes and insurance.

**Increased Mortgage Interest Costs** - The amount necessary to compensate you for increased mortgage costs caused by refinancing your mortgage. To qualify for this payment, your dwelling must have been encumbered by a bona fide mortgage that was a valid lien on your dwelling for not less than 180 days prior to the date of initiation of negotiations for the acquisition of your current dwelling. If you qualify for this payment, you may be reimbursed for increased mortgage interest costs, loan origination fees, and/or purchaser points.

## QUALIFICATIONS

To qualify for the Replacement Housing Supplement, you must:

1. Have owned and occupied the acquired dwelling for at least one hundred and eighty (180) consecutive days immediately prior to the date of initiation of negotiations for its acquisition.
2. Purchase and occupy a decent, safe, and sanitary dwelling within one (1) year from the date that you move or one (1) year from the date that you receive final payment for the acquisition cost of the acquired dwelling, whichever date is later.
3. Your replacement dwelling must meet the Department's minimum Decent, Safe, and Sanitary Standards, found in Bulletin 47. No payment can be made to you unless and until the replacement dwelling is determined by the Department to be decent, safe, and sanitary. Before you purchase a replacement dwelling, have it inspected by the Department. NOTE: The decent, safe, and sanitary inspection is made solely to establish your eligibility to receive the supplemental payment and is not a representation for any other purpose. The Department does not warrant or guarantee the condition of the replacement dwelling.
4. File an application for payment within eighteen (18) months of the applicable date in Paragraph 2 above. A Department representative will assist you in filing your application once you have made arrangements to purchase a replacement dwelling.

EXHIBIT C-2

If you desire, your supplemental payment can be processed in advance of the purchase of the replacement dwelling. To accomplish this, an application for payment must be filed with the Department not less than sixty (60) days prior to the scheduled purchase settlement date. The Department will process your application as quickly as possible, and under normal circumstances sixty (60) days is sufficient time to process a check. However, the check will be given to you only after you occupy the replacement dwelling.

Please review the information in this letter with the Department representative to make sure that you fully understand your entitlement to the payments and the steps that must be taken in order to receive them. For additional benefits and details, please read *Bulletin 47*, which has been given to you.

Sincerely,



Michael Hnat  
District Right-of-Way Administrator  
Engineering District 2-0

The comparable dwelling(s) used in this calculation is (are) located at:  
Comparable No. 1 - 596 East 8<sup>th</sup> Street, Clearfield, PA 16830

Exhibit C-3

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

REMIS PROJ. NO.	020113
COUNTY	Clearfield
S.R. - SECTION	3006-B01
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	1700218000
CLAIMANT	Viola Hockenberry

NOTICE TO  
VACATE

Date: August 25, 2005

Viola Hockenberry  
PO Box 119  
Westover, PA 16692

Dear Ms. Hockenberry:

On May 9, 2005 you were given an "*Advanced Notice of Moving Date*". This Notice was the Department's assurance that you would not be required to vacate the referenced property and/or move your personal property for at least ninety days from the date of the notice.

The purpose of this letter is to advise you that the Department must now obtain actual possession of the property in order to clear the right-of-way. Accordingly, this is your **NOTICE TO VACATE** the referenced property by no later than **September 26, 2005**. Any lease agreement between you and the Department will be terminated and you will be required to vacate the property by this date. Please notify the person named below of your moving plans and, if applicable, make arrangements to turn over the keys to the property, as soon as you have moved.

In the meantime, if you have any questions concerning this notice, the Department's project or your relocation, please contact the Right-of-Way Representative at the telephone number indicated below.

Sincerely,

Michael Hnat  
District Right-of-Way Administrator  
Engineering District 2-0

Attachment: copy of the RW-591

Your Right-of-Way Representative is: Wendy L. Crouse  
Telephone No: toll free 1-866-671-3090

EXHIBIT D

**VERIFICATION**

I, Andrew M. Rapach, Assistant Counsel, do hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



ANDREW M. RAPACH  
ASSISTANT COUNSEL  
PA. ID #62016

OFFICE OF CHIEF COUNSEL  
FIRM #052  
1209 STATE OFFICE BUILDING  
300 LIBERTY AVENUE  
PITTSBURGH, PA 15222

412.565.7555

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101218  
NO: 06-88-CD  
SERVICE # 1 OF 1  
RULE; PRAECIPE FOR RULE TO SHOW CAUSE

PLAINTIFF: IN RE; CONDEMNATION BY THE COMM. OF PA., DEPT. OF TRANSPORTATION, OF  
RIGHT OF WAY FOR STATE ROUTE 3006, SECTOIN B01, IN WESTOVER BOROUGH  
vs.

DEFENDANT: VIOLA HOCKENBERRY

SHERIFF RETURN

---

NOW, February 08, 2006 AT 2:51 PM SERVED THE WITHIN RULE; PRAECIPE FOR RULE TO SHOW CAUSE  
ON VIOLA HOCKENBERRY DEFENDANT AT 45 WATER STREET EXT., WESTOVER, CLEARFIELD COUNTY,  
PENNSYLVANIA, BY HANDING TO VIOLA HOCKENBERRY, DEFENDANT A TRUE AND ATTESTED COPY OF  
THE ORIGINAL RULE; PRAECIPE FOR RULE TO SHOW CAUSE AND MADE KNOWN THE CONTENTS  
THEREOF.

SERVED BY: DAVIS / MORGILLO

FILED  
0124561  
FEB 09 2006  
WM  
William A. Shaw  
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	COMM.OFPA./DOT	723	10.00
SHERIFF HAWKINS	COMM.OFPA/DOT	723	76.74

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of 2006

*Chester A. Hawkins*  
*by Marilynn Hawn*  
Chester A. Hawkins  
Sheriff

(A)

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW**

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

NO: 2006-88 C.D.

**FILED**  
MARCH 12 2006

VIOLA HOCKENBERRY

64 A Shaw  
County/Clerk of Courts  
2 CC Atty Rapach

**PETITION TO ISSUE A WRIT OF POSSESSION**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, Condemnor (PennDOT), and prays this Honorable Court to issue a Writ of Possession in the instant matter upon the following averments:

1. On or about January 19, 2006 PennDOT filed a Praeclipe for Rule to Show Cause Why Writ of Possession Should Not Issue on certain property occupied by Viola Hockenberry.
2. The property is located at 45 Water Street Extension, Westover Borough, Clearfield County
3. The property was acquired in lieu of condemnation from Viola Hockenberry via deeds to PennDOT.
4. Viola Hockenberry has refused to vacate the premises despite notices from PennDOT. A copy of the Praeclipe for Rule to Show Cause Why Writ of Possession Should Not Issue which sets forth in detail the facts of this case marked as Exhibit "A" is attached hereto and incorporated herein.

5. On January 19, 2006 the Prothonotary of Clearfield County issued a Rule to Show Cause Why Writ of Possession Should Not Issue. A copy of the Rule marked as Exhibit "B" is attached hereto.

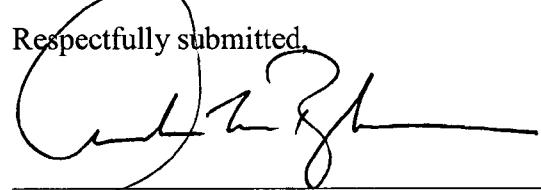
6. On February 8, 2006 the Sheriff of Clearfield County served the Rule to Show Cause on Viola Hockenberry. Copies of Sheriff's answers marked as Exhibits "C & D" are attached hereto.

7. Viola Hockenberry has failed to answer the Rule within the requisite 5 days and has not answered the Rule as of the date of filing of the within petition as required by 26 P.S. §1-407.

8. Pursuant to 26 P.S. §1-407, PennDOT requests the Court make the Rule absolute and grant possession of the property to the Department of Transportation.

WHEREFORE, the Commonwealth of Pennsylvania, Department of Transportation prays this Honorable Court issue the Writ of Possession and direct the Sheriff of Clearfield County to evict Viola Hockenberry from the premises at 45 Water Street Extension, Westover Borough, Clearfield County, and to deliver possession of said premises to the Commonwealth of Pennsylvania, Department of Transportation. The Department further prays this Honorable Court direct the Sheriff of Clearfield County to remain at the premises while the personal property is packed and removed to an off-premises storage location and the property is secured by PennDOT or its representatives. Sheriff costs and costs for removal, transfer and storage of the personal property are to be paid by PennDOT.

Respectfully submitted,



Andrew M. Rapach  
Assistant Counsel

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

NO: 2006-88-CD

VIOLA HOCKENBERRY

**PRAECIPE FOR RULE TO SHOW CAUSE WHY WRIT OF POSSESSION SHOULD  
NOT ISSUE**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (DOT), condemnor in the above-captioned proceedings pursuant to Section 407(a) of the Eminent Domain Code, 26 P.S. §1-407(a), by and through its attorneys Andrew M. Rapach, Assistant Counsel, and the Office of Chief Counsel, and hereby requests on the following averments that a Rule be issued upon the condemnee, Viola Hockenberry, to show cause why a writ of possession should not issue:

1. 26 P.S. §1-407 provides Possession; entry; payment of compensation.

The condemnor, after the expiration of the time for filing preliminary objections by the condemnee to the declaration of taking, shall be entitled to possession or right of entry upon payment of, or a written offer to pay to the condemnee, the amount of just compensation as estimated by the condemnor. If a condemnee thereafter refuses to deliver possession or permit right of entry, the Prothonotary upon praecipe of the condemnor shall issue a rule, returnable in five days after service upon the condemnee, to show cause why a writ of possession should not issue, upon which the court, unless preliminary objections warranting delay are pending, may issue a writ of possession conditioned upon payment to the condemnee or into court of such estimated just compensation and on such other terms as the court may direct.

as the court  
and attested copy of the original  
statement filed in this case

JAN 19 2006

Attest

*John J. Rose*  
Prothonotary/  
Clerk of Courts

EXHIBIT A

2. In lieu of condemnation the Department of Transportation purchased certain property owned by Viola Hockenberry, of Westover Borough, Clearfield County Pennsylvania.

3. The property acquired is located at 45 Water Street Extension, Westover Borough, Clearfield County, PA. Traveling on Route 36, turn left onto Michael Street, follow to the end and turn right onto a dirt road, this is Water Street Extension. The subject property is the only building located on Water Street Extension. The mailing address of the property acquired is 45 Water Street Extension, Westover, PA 16692.

4. The property of 5 Water Street Extension was acquired from Viola Hockenberry in fee simple by deed dated May 27, 2005 and recorded in the Recorder of Deeds Office of and for the County of Clearfield, Commonwealth of Pennsylvania, as; fee simple deed form RW-317F, Instrument No. 200520839, recorded December 1, 2005. (copy attached and marked Exhibit "A").

5. The total consideration for the referenced deed was \$26,995.45.

6. The building located on the property is occupied by Viola Hockenberry and her two daughters.

7. Viola Hockenberry received Form RW-590, Advance Notice of Moving Date (90-day assurance notice) by hand-delivery on May 9, 2005. (Copy attached and marked as Exhibit "B")

8. Form RW-591, Notice to Vacate (30-day vacation notice) was mailed to Viola Hockenberry on August 25, 2005 USPS certified mail, return receipt requested. (Copy attached and marked as Exhibit "C") She signed for the notice on August 26, 2005.

8. Both the 90-day assurance period commencing on May 9, 2005 as well as the 30-day vacation period commencing on August 25, 2005 have expired.

9. Despite repeated requests to acquire possession of the property Viola Hockenberry has refused and continues to refuse delivery of the property to the Department of Transportation.

10. The project was let on May 6, <sup>2005</sup> 2004. A Notice to Proceed was issued to the contractor on August 25, <sup>2005</sup> 2004. The property is located in the construction area and the contractor is restricted from working on this property.

THEREFORE, the Commonwealth of Pennsylvania, Department of Transportation requests the Prothonotary issue a Rule to Show Cause returnable in five (5) days upon Viola Hockenberry why a Writ of Possession should not be entered.

Respectfully submitted,



ANDREW M. RAPACH  
ASSISTANT COUNSEL  
PA. ID #62016

OFFICE OF CHIEF COUNSEL  
FIRM #052  
1209 STATE OFFICE BUILDING  
300 LIBERTY AVENUE  
PITTSBURGH, PA 15222

412.565.7555

1-3

# CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder

Maurene Inlow - Chief Deputy

P.O. Box 361

1 North Second Street, Suite 103

Clearfield, Pennsylvania 16830

## \*RETURN DOCUMENT TO:

COMM OF PENNA-DEPT OF TRANS  
1924-30 DAISY STREET  
CLEARFIELD, PA 16830

Instrument Number - 200520839

Recorded On 12/1/2005 At 3:41:08 PM

\* Instrument Type - DEED

\* Total Pages - 4

Invoice Number - 140351

\* Grantor - HOCKENBERRY, VIOLA

\* Grantee - COMM OF PENNA-DEPT OF TRANS

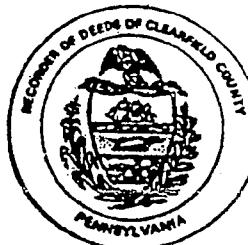
\* Customer - COMM OF PENNA-DEPT OF TRANS

38954  
AUG 12 2005

## \*FEES

STATE WRIT TAX	\$ 0.50
JCS /ACCESS TO JUSTICE	\$10.00
RECORDING FEES -	\$13.00
RECORDER	
RECORDER IMPROVEMENT	\$ 3.00
FUND	
COUNTY IMPROVEMENT FUND	\$ 2.00
TOTAL	\$28.50

I hereby CERTIFY that this document  
is recorded in the Recorder's Office of  
Clearfield County, Pennsylvania.



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

# Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

*EXHIBIT A-1*

*A-1*

W-TP-2-2  
1-1-1  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



RE	PROG. NO.	020112
CO	TY	Clearfield
SR	SECTION	3006-B01
MU	NIPALITY	Westover Borough
PA	RCEL NO	9
CL	ASIS NO	17002180000
CA	LLANT	Viola Hockenberry

DEED  
(Fee Simple)

THIS INDENTURE, made 7 MARCH 2005 by Viola Hockenberry of Westover Borough, Clearfield County, Pennsylvania, owner(s) of property affected by the construction or improvement of the above mentioned State Route, her heirs, executors, administrators, successors, and/or assigns, hereinafter, whether singular or plural, called the GRANTOR, and to the Commonwealth of Pennsylvania, Department of Transportation, hereinafter called the COMMONWEALTH,

WITNESSETH:

WHEREAS the COMMONWEALTH has recorded a plan in the Recorder of Deeds Office of the aforesaid County indicating its authorization to condemn property for the above highway from the aforesaid property; and

WHEREAS the parties hereto have agreed that, in lieu of condemnation, the GRANTOR will convey in fee simple and such other lesser estate(s) as designated, if any, to the COMMONWEALTH the property or portion thereof required by the COMMONWEALTH,

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the GRANTOR does hereby grant and convey to the COMMONWEALTH

In fee simple the premises described in exhibit "A".

In fee simple that portion of the aforesaid premises designated as required right-of-way on the plot plan attached hereto and made apart hereof; and those areas, if any, designated as required for other than right-of-way in the easement(s) identified by the plot plan.

BEING all or a portion of the same property conveyed or devised to the GRANTOR by Letters of Administration of Richard C. Hockenberry, deceased, dated September 14, 2004 and recorded in File #1704-0623. Recorded on October 27, 2004 in the Clearfield County Register of Wills Office. This conveyance contains 0.4635 acres as required right-of-way for borough park and flood control and is identified on the Commonwealth's plan as Parcel 9. Tax Map Number 20-E17-357-94. Together with the improvements, hereditaments and appurtenances thereto and the GRANTOR warrants GENERALLY the property hereby conveyed.

RESERVING, however, to the GRANTOR the right to deep mine minerals and remove gas and oil within the areas hereunder acquired from a minimum depth to be determined by the COMMONWEALTH, from mine shafts or by means of wells located off the right-of-way.

The GRANTOR does further remise, release, quitclaim and forever discharge the COMMONWEALTH or any agency or political subdivision thereof or its or their employees or representatives of and from all suits, damages, claims and demands which the GRANTOR might otherwise have been entitled to assert under the provisions of the Eminent Domain Code, Act of June 22, 1964, P.L. 84, as amended (26 P.S. 1-101 et seq.,) for or on account of this conveyance and any injury to or destruction of the aforesaid property of the GRANTOR through or by reason of the aforesaid highway construction or improvement, except damages, if any, under Section 610 (Limited Reimbursement of Appraisal, Attorney and Engineering Fees) and Section 610.1 (Payment on Account of Increased Mortgage Costs) of the Eminent Domain Code; provided, however, that if relocation of a residence or business or farm operation is involved, this release shall likewise not apply to damages, if any, under Section 601-A(a) (Moving Expenses) and/or Section 602-A and/or Section 603-A (Replacement Housing) of the Eminent Domain Code.

The GRANTOR does further indemnify the COMMONWEALTH against any claim made by any lessee of the aforesaid property who has not entered into a Settlement Agreement with the COMMONWEALTH.

EXHIBIT A-2

IN WITNESS WHEREOF the GRANTOR has executed or caused to be executed these presents, intending to be legally bound thereby.

Witness D. H. K.

Viola Hockenberry (SEAL)

Witness Approved as to Form and Legality (SEAL)

Witness By Amanda G. Phily (SEAL)

Witness Assistant Counsel, RW 6-24-05 (SEAL)

Amanda G. Phily

I attest to the signature of the officer who has executed this deed and certify that execution hereof has been duly authorized, by the

BD. OF DIRS., MAJORITY VOTE OF ASSOC., ETC.

of

CORPORATION, ASSOCIATION, CLUB, ETC.

Secretary (SE AL)

By: \_\_\_\_\_ President

INDIVIDUAL(S), ASSOCIATION, CLUB, etc.

CORPORATION

<p>COMMONWEALTH OF PENNSYLVANIA : COUNTY OF CLEARFIELD : On <u>May 27, 2005</u>, before me, the undersigned officer, personally appeared Viola Hockenberry Known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledge that she executed the same.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand and official seal.</p> <p>(SEAL)</p> <p><u>Wendelin L. Crouse</u></p> <p>COMMONWEALTH OF PENNSYLVANIA Notarial Seal Wendelin L. Crouse, Notary Public Rush Twp., Centre County My Commission Expires July 27, 2008 Member, Pennsylvania Association Of Notaries</p>	<p>COMMONWEALTH OF PENNSYLVANIA : COUNTY OF : On , before me, the undersigned officer, personally appeared Who acknowledged himself/herself to be the of A corporation, and that he/she as such officer, being authorized to do so, executed the foregoing instrument on behalf of the said corporation.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand and official seal.</p> <p>(SEAL)</p>
<p>COMMONWEALTH OF PENNSYLVANIA : COUNTY OF : Recorded in the Office of the Recorder of Deeds in and For the aforesaid County in Deed Book Page Witness my hand and seal of office on</p> <p>Recorder of Deeds</p>	<p>I certify that, upon recording, the within instrument should be mailed to: PENNSYLVANIA DEPARTMENT OF TRANSPORTATION Michael Hnat 1924 Daisy Street Extension PO Box 342 Clearfield, PA 16830</p> <p>Agent for the Commonwealth of Pennsylvania Department of Transportation</p>

A-C

EXHIBIT A-3

FOR THE USE OF THE PUBLIC.  
THE ROAD IS DESIGNED FOR  
THE USE OF THE PUBLIC.  
THE ROAD IS DESIGNED FOR  
THE USE OF THE PUBLIC.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING RECORD, RECORDED SUBDIVISION PLAT, AND THE PROPERTY LINES, ARE SURVEYED ONLY BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PLAT, AND ESTABLISHED BY FIELD SURVEY, AND NOT BY SURVEYORIAL FEATURES AND LIMITED FIELD DATA.

STA 2+37.00  
WATER STREET  
WESTOVER BOROUGH  
CLEARFIELD COUNTY

$\Delta = 45^{\circ}28'03''$  LT  
 $\delta = 08^{\circ}52'14''$   
 $t = 348^{\circ}42'$

L-75.23  
PC STA 0+00.00  
PT STA 6+61.78

 REQUIRED RIGHT-OF-WAY AREA  
**LEGEND**

25  
0  
25  
50  
SCALE IN FEET

The image contains two circular labels, one above the other. The top label is for 'Presto K N S S' and the bottom label is for 'Presto G G C C'. Both labels feature the 'Presto' brand name at the top, followed by the product name in the center, and 'MADE IN U.S.A.' at the bottom. The labels have decorative borders.

INSTRUMENT NO.		RIGHT-OF-WAY CLAIM INFORMATION	
		COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF TRANSPORTATION	
SR. NO. 9		PARCEL NO. 9	
PROPERTY OWNER(S) RICHARD C. HOCKERBERG		SHEET NO. 5	
GRANTOR(S) RICHARD C. HOCKERBERG		CITY/UNO. PHILADELPHIA, PENNSYLVANIA	
DATE OF DEED 2014-07-21		DATE OF RECORD 2014-12-01	
CALCULATED ADJUSTED		ADJUSTED	
LEGAL RW		TOTAL RW	
EFFECTIVE DATE 04-01-14		TOTAL RW 0.4613	
TOTAL REQ'D RW 0.4613		TOTAL RESIDE 0.4613	
REQ'D RESIDE 0.00		VERIFICATION DATE 2015-02-24	
REQUE RT 0		INFORMATION BY 2015-02-24	
REQUE RT 0		AS SHOWN	

DISTRICT	COUNTY	NAME	STATE	WATER
2-0	CLEARFIELD	SIR JOSH BOYD	PA	2
		WESTOVER BOROUGH		
WATER				
WATER				

EXHIBIT A-4

**COMMONWEALTH OF PENNSYLVANIA**  
**DEPARTMENT OF TRANSPORTATION**

REMRIS PROJ. NO.	020113
COUNTY	Clearfield
S.R.-SECTION	3006-B01
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	17002180000
CLAIMANT	Viola Hockenberry



**ADVANCE NOTICE OF  
MOVE DATE**

Date: 9 May 05

Dear Ms. Hockenberry:

The Department of Transportation is acquiring the property that you occupy in connection with the referenced highway project. One of the most important concerns that you may have is when the Department will require possession of the property. At this time we do not know the exact date when the property will be needed; however, this notice is provided to you as the Department's assurance that you **WILL NOT** be required to vacate this property and/or move your personal property, in any event, for at least ninety (90) days from

Additionally, when the time approaches, a representative of the Department will inform you of the date the property will be needed. At that time you will be given a written **NOTICE TO VACATE** which will indicate the date by which you must move. If you elect to move before you receive the final Notice to Vacate, please notify this office.

The Department of Transportation provides **RELOCATION ASSISTANCE** to help you find a suitable replacement property. The Right-of-Way Representative whose name and telephone number are listed below, will contact you with information to help you plan your relocation, including:

- Listings of residential or commercial properties available for sale or lease.
- Names and addresses of moving companies, real estate agencies, financial institutions, and building contractors. You will have the option of selecting the firm(s) you wish to deal with; the Department makes no recommendations or referrals.
- Local Mortgage requirements.
- Names and addresses of local or state social service agencies which may be able to assist you with specific problems.
- A review of your entitlements to certain relocation assistance payments.

In the mean time, if you need additional information concerning this notice or your relocation, feel free to contact your Right-of-Way Representative at the telephone number listed below.

Sincerely,

Michael Hnat  
 District Right-of-Way Administrator  
 Engineering District 2-0

Attachment:

Your Right-of-Way Representative is: Kent S. Kiesewetter Interstate Acquisition Services  
 Telephone No: 814-342-1070

1-8

EXHIBIT B

**COMMONWEALTH OF PENNSYLVANIA**  
**DEPARTMENT OF TRANSPORTATION**



REMS PROJ. NO.	020113
COUNTY	Clearfield
S.R. - SECTION	3006-B01
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	17002180000
CLAIMANT	Viola Hockenberry

Date: 9/11/05

Viola Hockenberry  
 P.O. Box 119  
 Westover, PA 16692

**REPLACEMENT HOUSING  
 SUPPLEMENT  
 OFFER LETTER**

Dear Ms. Hockenberry:

As the owner-occupant of a dwelling to be acquired by the Department of Transportation, you are entitled to a Supplemental Housing Payment. This payment is in addition to the Acquisition Cost Payment which has been offered to you.

You may choose one of the following payments:

- (a) Replacement Housing Supplement
- (b) Rent Supplement
- (c) Down Payment Supplement

This letter will explain your Replacement Housing Supplement Offer and the qualifications that must be met in order for you to receive a payment. If you prefer to rent a dwelling, please notify your Relocation Advisor.

**REPLACEMENT HOUSING SUPPLEMENT**

This payment consists of three parts: the Supplement, Closing Costs, and Increased Mortgage Costs. The maximum amount of your Replacement Housing Supplement Offer is \$31,900. This offer was determined by calculating the difference between the amount determined by the Department as necessary to purchase a comparable dwelling and the Department's Acquisition Cost for the dwelling being acquired. The calculation is as follows:

Probable selling price of a comparable dwelling:	<u>\$59,900</u>
Minus Acquisition Cost of the acquired dwelling:	<u>\$28,000</u>
Replacement Housing Supplement maximum offer:	<u>\$31,900</u>

The amount of the Replacement Housing Supplement cannot be more than the maximum offer but may be less than the amount offered, since by law the payment must be based on the lesser of: (a) the amount determined by the Department as necessary to purchase a comparable dwelling or (b) the amount you actually pay for a replacement dwelling minus (c) the Acquisition Cost of the acquired dwelling. A dwelling as referred to in this letter means a single-family residential.

unit and a normal-sized lot and does not include excess land or buildings or parts of buildings not used for residential purposes. If you purchase and occupy a decent, safe, and sanitary replacement dwelling that costs the same or more than the probable selling price of the comparable dwelling. You will receive the full amount of this offer. Any additional amount above the probable selling price of the comparable dwelling must be paid by you. If you purchase and occupy a decent, safe, and sanitary replacement dwelling which costs less than the price of the comparable dwelling, you will receive the difference between the actual cost of the replacement dwelling and the Acquisition Cost of the acquired dwelling.

IN ADDITION to the Replacement Housing Supplement, you may also qualify for the following payments:

**Closing Costs** - The reasonable expenses incurred for closing and related costs incidental to the purchase of the replacement dwelling. Closing costs do not include loan origination fees, purchaser points, or prepaid expenses such as taxes and insurance.

**Increased Mortgage Interest Costs** - The amount necessary to compensate you for increased mortgage costs caused by refinancing your mortgage. To qualify for this payment, your dwelling must have been encumbered by a bona fide mortgage that was a valid lien on your dwelling for not less than 180 days prior to the date of initiation of negotiations for the acquisition of your current dwelling. If you qualify for this payment, you may be reimbursed for increased mortgage interest costs, loan origination fees, and/or purchaser points.

## QUALIFICATIONS

To qualify for the Replacement Housing Supplement, you must:

1. Have owned and occupied the acquired dwelling for at least one hundred and eighty (180) consecutive days immediately prior to the date of initiation of negotiations for its acquisition.
2. Purchase and occupy a decent, safe, and sanitary dwelling within one (1) year from the date that you move or one (1) year from the date that you receive final payment for the acquisition cost of the acquired dwelling, whichever date is later.
3. Your replacement dwelling must meet the Department's minimum Decent, Safe, and Sanitary Standards, found in Bulletin 47. No payment can be made to you unless and until the replacement dwelling is determined by the Department to be decent, safe, and sanitary. Before you purchase a replacement dwelling, have it inspected by the Department. NOTE: The decent, safe, and sanitary inspection is made solely to establish your eligibility to receive the supplemental payment and is not a representation for any other purpose. The Department does not warrant or guarantee the condition of the replacement dwelling.
3. File an application for payment within eighteen (18) months of the applicable date in Paragraph 2 above. A Department representative will assist you in filing your application once you have made arrangements to purchase a replacement dwelling.

2-10

EXHIBIT C-2

If you desire, your supplemental payment can be processed in advance of the purchase of the replacement dwelling. To accomplish this, an application for payment must be filed with the Department not less than sixty (60) days prior to the scheduled purchase settlement date. The Department will process your application as quickly as possible, and under normal circumstances sixty (60) days is sufficient time to process a check. However, the check will be given to you only after you occupy the replacement dwelling.

Please review the information in this letter with the Department representative to make sure that you fully understand your entitlement to the payments and the steps that must be taken in order to receive them. For additional benefits and details, please read *Bulletin 47*, which has been given to you.

Sincerely,

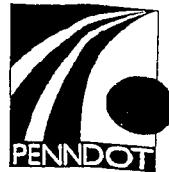


Michael Hnat  
District Right-of-Way Administrator  
Engineering District 2-0

The comparable dwelling(s) used in this calculation is (are) located at:  
Comparable No. 1 - 596 East 8<sup>th</sup> Street, Clearfield, PA 16830

A-11

Exhibit C-3

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

REMSI PROJ. NO.	020113
COUNTY	Clearfield
S.R. - SECTION	3006-B01
MUNICIPALITY	Westover Borough
PARCEL NO.	9
CLAIM NO.	1700218000
CLAIMANT	Viola Hockenberry

Date: August 25, 2005

Viola Hockenberry  
PO Box 119  
Westover, PA 16692

**NOTICE TO  
VACATE**

Dear Ms. Hockenberry:

On May 9, 2005 you were given an "*Advanced Notice of Moving Date*". This Notice was the Department's assurance that you would not be required to vacate the referenced property and/or move your personal property for at least ninety days from the date of the notice.

The purpose of this letter is to advise you that the Department must now obtain actual possession of the property in order to clear the right-of-way. Accordingly, this is your **NOTICE TO VACATE** the referenced property by no later than **September 26, 2005**. Any lease agreement between you and the Department will be terminated and you will be required to vacate the property by this date. Please notify the person named below of your moving plans and, if applicable, make arrangements to turn over the keys to the property, as soon as you have moved.

In the meantime, if you have any questions concerning this notice, the Department's project or your relocation, please contact the Right-of-Way Representative at the telephone number indicated below.

Sincerely,

Michael Hnat  
District Right-of-Way Administrator  
Engineering District 2-0

Attachment: copy of the RW-591

Your Right-of-Way Representative is: Wendy L. Crouse  
Telephone No: toll free 1-866-671-3090

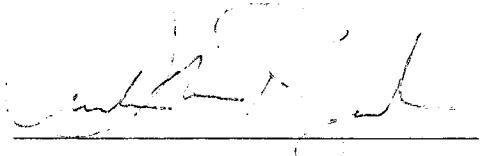
7-12

EXHIBIT D

**VERIFICATION**

I, Andrew M. Rapach, Assistant Counsel, do hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



ANDREW M. RAPACH  
ASSISTANT COUNSEL  
PA. ID #62016

OFFICE OF CHIEF COUNSEL  
FIRM #052  
1209 STATE OFFICE BUILDING  
300 LIBERTY AVENUE  
PITTSBURGH, PA 15222

412.565.7555

A-13

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

NO: 2006-88-00

VIOLA HOCKENBERRY

**R U L E**

Please take notice that a Rule to Show Cause Why Writ of Possession  
Should Not Issue has been issued in the above matter. You must reply to this Rule  
in five (5) days or the Rule will be made absolute and possession may be granted  
to the Commonwealth of Pennsylvania, Department of Transportation.

BY THE PROTHONOTARY



WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

I hereby certify this to be a true  
and correct copy of the original  
document.

1/11/10

Exhibit B

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101218  
NO: 06-88-CD  
SERVICE # 1 OF 1  
RULE; PRAECIPE FOR RULE TO SHOW CAUSE

PLAIN TIFF: IN RE; CONDEMNATION BY THE COMM. OF PA., DEPT. OF TRANSPORTATION, OF  
RIGHT OF WAY FOR STATE ROUTE 3006, SECTOIN B01, IN WESTOVER BOROUGH  
vs.

DEFENDANT: VIOLA HOCKENBERRY

**SHERIFF RETURN**

---

NOW, February 08, 2006 AT 2:51 PM SERVED THE WITHIN RULE; PRAECIPE FOR RULE TO SHOW CAUSE  
ON VIOLA HOCKENBERRY DEFENDANT AT 45 WATER STREET EXT., WESTOVER, CLEARFIELD COUNTY,  
PENNSYLVANIA, BY HANDING TO VIOLA HOCKENBERRY, DEFENDANT A TRUE AND ATTESTED COPY OF  
THE ORIGINAL RULE; PRAECIPE FOR RULE TO SHOW CAUSE AND MADE KNOWN THE CONTENTS  
THEREOF.

SERVED BY: DAVIS / MORGILLO

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	COMM.OFFPA./DOT	723	10.00
SHERIFF HAWKINS	COMM.OFFPA/DOT	723	76.74

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2006



Chester A. Hawkins  
Sheriff

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101218  
NO: 06-88-CD  
SERVICE # 1 OF 1  
RULE; PRAECIPE FOR RULE TO SHOW CAUSE

PLAINTIFF: IN RE; CONDEMNATION BY THE COMM. OF PA., DEPT. OF TRANSPORTATION, OF  
RIGHT OF WAY FOR STATE ROUTE 3006, SECTOIN B01, IN WESTOVER BOROUGH  
VS.  
DEFENDANT: VIOLA HOCKENBERRY

SHERIFF RETURN

---

NOW, February 08, 2006 AT 2:51 PM SERVED THE WITHIN RULE; PRAECIPE FOR RULE TO SHOW CAUSE  
ON VIOLA HOCKENBERRY DEFENDANT AT 45 WATER STREET EXT., WESTOVER, CLEARFIELD COUNTY,  
PENNSYLVANIA, BY HANDING TO VIOLA HOCKENBERRY, DEFENDANT A TRUE AND ATTESTED COPY OF  
THE ORIGINAL RULE; PRAECIPE FOR RULE TO SHOW CAUSE AND MADE KNOWN THE CONTENTS  
THEREOF.

SERVED BY: DAVIS / MORGILLO

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	COMM.OFPA./DOT	723	10.00
SHERIFF HAWKINS	COMM.OFPA/DOT	723	76.74

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2006



Chester A. Hawkins  
Sheriff

Exhibit D

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW**

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

NO: 2006-88 C.D.

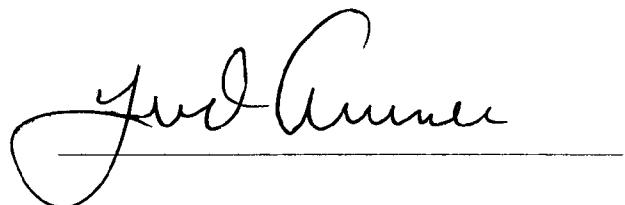
VIOLA HOCKENBERRY

**COURT OF COURT**

AND NOW, this 3<sup>RD</sup> day of March, 2006, in

consideration of the Commonwealth of Pennsylvania, Department of Transportation's, Petition to  
Issue a Writ of Possession, it is hereby ORDERED, ADJUDGED and DECREED that argument  
is scheduled for March 28, 2006 at 9:00 A .M. in Courtroom 1  
of the Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:



FILED  
134301  
MAR 07 2006  
Atty Rapach  
GK

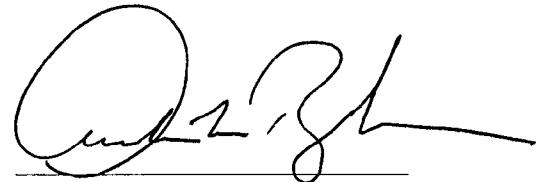
William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

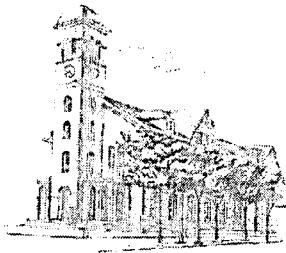
I hereby certify that on the date set forth below a true and correct copy of the foregoing document(s) was served upon all parties or their counsel of record as indicated below by regular United States first class mail, postage prepaid:

Viola Hockenberry  
P.O. Box 119  
Westover, PA 16692

Date: 3/1/2004



\_\_\_\_\_  
Andrew M. Rapach  
Assistant Counsel



## Clearfield County Office of the Prothonotary and Clerk of Courts

**William A. Shaw**  
Prothonotary/Clerk of Courts

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw  
Prothonotary

DATE: 3/7/00

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW**

IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT OF WAY FOR STATE ROUTE  
3006, SECTION B01, IN WESTOVER  
BOROUGH

VIOLA HOCKENBERRY

**FILED**  
0/9.07 cm 3cc to Atty  
Rapach  
NO: 2006-88 C.D. MAR 28 2006 (will serve)  
Courtesy copy to Sheriff

William A. Shaw *(initials)*  
Prothonotary

**COURT OF COURT**

AND NOW, this 28<sup>th</sup> day of March, 2006, in

consideration of the Commonwealth of Pennsylvania, Department of Transportation's, Petition to  
Issue a Writ of Possession, it is hereby ORDERED, ADJUDGED and DECREED that

- (1) the Rule to Show Cause Why Writ of Possession Should Not Issue is made absolute and a Writ of Possession is issued;
- (2) the Sheriff of Clearfield County is directed to evict Viola Hockenberry from the premises at 45 Water Street Extension, Westover Borough, Clearfield County, and to surrender possession of the premises to the Commonwealth of Pennsylvania, Department of Transportation;
- (3) the Sheriff of Clearfield County is to remain at the premises while the personal property is packed and removed to an off-premises storage location and the property is secured by PennDOT or its representatives; and,
- (4) Sheriff costs and costs for removal, transfer and storage of the personal property are to be paid by the Commonwealth of Pennsylvania, Department of Transportation.

BY THE COURT:

