

IN RE: Opening and fixing
lines, grades, etc.,
on part of Main Street
and Portage Street on
State Highway Route No.
276, Section 5 B from
Station 1053 plus 8 to
Station 1068 plus 95 a
distance of 1507 feet in
Borough of Cassandra,
Cambria County, Pennsylvania

In the Court of Quarter-Sess-
ions of Cambria County, Pa.

No. _____, Dec. Term
Sessions
1929.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of Emme Franey, widow, and abutting property owner on the aforesaid State Highway Route No. 276, Section 5 B, in the Borough of Cassandra, respectfully represents:

That the Borough of Cassandra, by an Ordinance or Resolution entitled, "Resolution of the Council of the Borough of Cassandra, Pennsylvania, approving the lines, grades, drainage structures and all other structures appearing on plans showing proposed reconstruction work in said borough" on State Highway Route No. 276, Section 5 B, from station 1053 plus 8 to station 1068 plus 95, a distance of fifteen hundred and seven (1507) feet as shown by the plans of said State Highway Department approved February 21st, 1922, which Resolution was approved by Council of the Borough of Cassandra on the 26th day of April, A. D., 1923 and known as "RESOLUTION OF THE COUNCIL OF THE BOROUGH OF CASSANDRA, PENNSYLVANIA, APPROVING THE LINES, GRADES, DRAINAGE STRUCTURES AND ALL OTHER STRUCTURES APPEARING ON PLANS SHOWING PROPOSED RECONSTRUCTION WORK IN SAID BOROUGH OF CASSANDRA", a copy of which Ordinance or Resolution is hereto attached and made a part of this petition, has established the lines, grades and width of streets of Main Street and Portage Street in the Borough of Cassandra, between the line dividing the Borough of Cassandra and the Township of Washington in a Northwesterly direction from station 1053 plus 8 to station 1068 plus 95 a distance of fifteen hundred and seven (1507) feet as shown by the

plans of said State Highway Department and Resolution hereto attached.

That compensation for all damages done and accruing from said improvement has not been agreed upon between the Borough of Cassandre and the owners of property abutting on part of Main Street and Portage Street through the Borough of Cassandre, your petitioner, Emme Franey, being one of these owners of property with whom the Borough of Cassandre has not agreed upon compensation; and all of the same cannot be amicably agreed upon between the Borough of Cassandre and your petitioner for damages done to her property.

Your petitioner therefore prays the Court to appoint three viewers of the Board of Viewers of Cambris County to meet on the line of land of said improvement and to view and ascertain the damages done and the benefits which have accrued to the property of your petitioner by reason of the said taking, use and improvement.

Emme Franey

State of Pennsylvania ↓
County of Cambria ↓ SS:

Before me, the subscriber, a Justice of the Peace, in and for the said County and State, personally appeared, Emma Franey, widow, the within petitioner, who being by me duly sworn according to law, deposes and says that the matters and statements contained and set forth in the foregoing petition are true and correct to the best of her knowledge, information and belief.

Emma Franey

Sworn to and subscribed
before me this 28th day of
Sept, A. D., 1927.

William Franey

Justice of the Peace.

My commission expires 1st Monday of January, 1932.

RESOLUTION OF COUNCIL OF THE BOROUGH OF CASSANDRA, PENNSYLVANIA,
APPROVING THE LINES, GRADES, DRAINAGE STRUCTURES AND ALL OTHER
STRUCTURES APPEARING ON PLANS SHOWING PROPOSED RECONSTRUCTION
WORK IN SAID BOROUGH.

WHEREAS, the State Highway Department has submitted to the Borough Council of Cassandra, Pennsylvania, plans showing proposed construction work on State Highway Route No. 276, Section 5 B from Station 1053 plus 8 to Station 1068 plus 95, a distance of fifteen hundred and seven (1507) feet as shown by the plans of said State Highway Department approved February 21, 1922,

THEREFORE BE IT RESOLVED AND ORDAINED, on motion of Jerry Diehl, seconded by Albert Wolford, and carried, that the Borough and Council of the said Borough of Cassandra, Cambria County, Pennsylvania, ordain the said plans of the State Highway Department together with lines, grades, drainage structures and all other structures thereon shown with full force and effect as the action of said Borough, and

BE IT FURTHER ORDAINED, that all Ordinances or parts of Ordinances inconsistent herewith be and the same are hereby repealed.

Passed and enacted at a session of Council of the Borough of Cassandra held this 26th day of April, A. D., 1923.

President.

Attest:

C. S. Hosler
Secretary.

Approved by me this 26th day of April, A. D., 1923.

Burgess
Cassandra, Pa., April 26, 1923.

I hereby certify that the foregoing is a copy of Resolution enacted by the Council of the Borough of Cassandra on the 26th day of April, A. D., 1923, and approved by the Burgess on the 26th day of April, A. D., 1923.

C. S. Hosler
Secretary to Council.

D E C R E E

AND NOW, the 18th day of July, A. D., 1929, the petition of Emma Franey, of the Borough of Cassandra, setting forth that the Borough of Cassandra by Ordinance or Resolution approved the 26th day of April, A. D., 1923, has established the lines, grades and width of streets of part of Main Street and Portage Street in the Borough of Cassandra in accordance with the foregoing petition and Resolution; that compensation for all damages done and benefits accruing to the property of your petitioner, Emma Franey, has not been agreed upon between the Borough of Cassandra and your petitioner and owner of property abutting on Main Street in the Borough of Cassandra, that the same cannot be amicably agreed upon between your petitioner and the Borough of Cassandra, and praying for the appointment of three members of the Board of Viewers of Cambria County to ascertain the damages done and the benefits which have accrued by reason of said taking, use and improvement of the property of your petitioner, was presented and read and the Court grant the prayer thereof and appoint Chas. E. ... and Adam ..., of the Board of Viewers of Cambria County, viewers who shall meet on the line of said improvement and view and ascertain the damages done and the benefits which have accrued by reason of said taking, use and improvement.

The viewers shall meet on the premises on Tuesday the 19th day of March, A. D., 1929, at ten o'clock A. M., of which time and place of meeting, the petitioner, Emma Franey, shall give at least ten days notice to said viewers and all parties interested by publication in the Johnstown Daily Tribune and by hand bills posted on the premises. Said viewers shall be duly sworn or affirmed to faithfully, justly and im-

vertially decide and a true report to make concerning all matters and things to be submitted to them in relation to which they are authorized to inquire and having viewed the premises shall estimate and determine the quantity, quality and value of said land or lands so taken and occupied or injured by said improvement, and having a due regard to, and making a just allowance for the advantages which may have resulted, or which may seem likely to result to the owner of said land, in consequence of the making of said improvement, and having made a fair and just comparison of said advantages and disadvantages, they shall estimate and determine their value, whether any and if any, to whom the same is payable, and after having determined the damages sustained by the petitioner, Emma Franey, effected by said improvement, together with the benefits resulting from said improvement, they shall prepare a schedule thereof, and give notice to all parties interested, of a time, not less than ten days thereafter, of the place where the said Viewers shall meet and exhibit said schedule and hear all exceptions thereto and evidence.

Notice of the time and place of said meeting shall be given to all parties interested, by personal service upon some adult member residing or living on the premises effected by said improvement, and by publication in two issues of the Johnstown Daily Tribune. After making whatever changes are deemed necessary, said Viewers shall make report to the Court, showing the damages and benefits allowed and assessed, and to whom payable and by whom payable, and file therewith a plan showing the improvement and the property affected, injured or destroyed, and the property benefited thereby. When said report is filed notice thereof shall be given by publication in one issue of the Johnstown Daily Tribune. Said notice shall state the date of filing the report, and shall contain a schedule of damages and benefits as assessed therein, and shall further state that unless exceptions thereto be filed within thirty days from the

date of the filing said report may be confirmed absolutely.

By the Court
E. A. Brown

In the Court of Quarter
Sessions of Cambria County

In Re: Opening and fixing
lines, grades, etc., on part
of Main Street and Portage
Street on State Highway
Route No. 276, Section 5B
from Station 1053 plus 8
to Station 1068 plus 95 a
distance of 1507 feet in
the Borough of Cassandra,
Cambria County, Pennsyl-
vania.

PETITION FOR APPOINTMENT
OF VIEWERS.

Filed 18 July, 1929
10:15 A.M.

THOMAS W. BENDER
ATTORNEY AT LAW
SMITH BUILDING
LILLY, PA.

In Re: Opening and fixing lines, grades, etc., on part of Main Street and Portage Street on State Highway Route No. 276, Section 5 B from Station 1053 plus 8 to Station 1068 plus 95 a distance of 1507 feet in Borough of Cassandra, Cambria County, Pennsylvania.)

In the Court of Quarter Sessions
of Cambria County.

No. 8 December Sessions 1928.

Appeal from Award of Viewers.

Now, May 15th, 1929, the Borough of Cassandra, a municipal corporation, by *Jerry Diehl, President of Cassandra Borough Council* by virtue and under the authority and direction of a resolution duly passed by the Council of the Borough of Cassandra, appears and appeals from the report of the viewers in the above stated case in the assessment of damages in favor of Emma Franey along the line of said improvement which damages are to be paid by the Borough of Cassandra, and demands that the damages sustained by and the benefits resulting to the said Emma Franey by reason of the said improvement shall be determined by the Court and jury according to the course of the common law in accordance with the Constitution of Pennsylvania and the Acts of Assembly in such case made and provided.

The Borough of Cassandra assigns as reasons for taking this appeal, that:

(1) The amount awarded to the said Emma Franey as damages on the line of said improvement is excessive.

(2) The Board of Viewers failed to take into consideration the benefits actually resulting to the said property along the line of said improvement.

(3) The property of the said Emma Franey has not sustained damages or injury to the amount of \$645.00 as set forth in the Sche-

dule in the Report of Viewers, but the Borough of Cassandra by its duly authorized officer avers that the said property of Emma Franey has been benefitted by the construction of the said improved highway.

Borough of Cassandra
By Jerry Diehl
President of Council

State of Pennsylvania

County of Cambria

} SS:

Before me, the subscriber, A Justice of the Peace personally appears Jerry Diehl, President of Council

who, being by me duly sworn according to law, deposes and says that the foregoing appeal is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done.

Sworn to and subscribed before me

this 15 day of May, 1929.

Charles P. Rowlands
Justice of the Peace:
My Com. expires April
1st Mon. of Jan., 1934.

Jerry Diehl
President of Council

In the Court of Quarter
Sessions of Cambria County.
No. 8 December Sessions 1928.

In Re: Opening and fixing
lines, grades, etc.,
on part of Main Street and
Portage Street on State
Highway Route No. 278,
Section 5B from Station
I053 plus 8 to Station
I068 plus 95 a distance of
1507 feet, in Cassandra
Borough.

Appeal from Award of
Board of Viewers.

Filed 16 May 1929.

MATHIOT READE
ATTORNEY AT LAW
EBENSBURG, PA.

HENRY HALL, PRINTER, INDIANA, PA.

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REPORT OF VIEWERS.

To the Honorable, the Judges of the Court of Quarter Sessions of
Cambria County, Pennsylvania.

We, the undersigned members of the Permanent Board of Viewers of Cambria County, appointed by your honorable Court to view and determine the damages, if any, sustained by Emma Franey, of Cassandra Borough, said county and state, by reason of the change or alteration of the line or grade and the improvement of State Highway Route No. 276, Section 5 B, where same passes through and over her premises, in said borough of Cassandra; respectfully report:

That having received notice of the view, as directed by the decree of the Court set forth in the attached order to view, and due and legal notice having been served upon the Borough Council of the Borough of Cassandra and the petitioners and notice having been published as directed by the Court; we, the undersigned viewers, having been first duly sworn according to law to faithfully, justly and impartially decide and a true report to make concerning all matters and things regarding which we were authorized to enquire; having carefully viewed the premises and at a time agreed upon; of which all parties in interest had due notice; we sat at the Court House in Ebensburg and heard all the testimony the parties then had to offer and later, having served ten days written notice on the parties interested and their Attorneys, and having had said attorneys accept service of said notice, we again met at the Court House and exhibited our schedule of benefits and damages, prepared after a careful examination of the premises and study of all the testimony offered and again heard additional testimony which the parties in interest had to offer and having carefully considered the amount of damages which have resulted or which seem likely to result to Emma Franey, the petitioner, by reason of the change and occupancy of the land, above referred to, and having estimated and determined the quantity, quality and value of the land so taken and occupied and having offset the benefits against the damages; we have at length estimated and determined that the Borough of Cassandra should pay the said Emma Franey Five Hundred Forth Five Dollars damages, the amount we believe

she has sustained by reason of the change and alteration of the line and grade and the improvement of said State Highway Route NO. 276, Section 5 B.

A plot or draft showing the location of the property of the petitioner and so far as possible the change and alterations of the line and grade of the highway where the same passes through and over her premises is hereto attached and made a part of this report.

The above referred to highway, where it crosses land of the petitioner, has been widened and considerably raised; much of her fence on either side of said highway has been destroyed and much of the walk along the premises has been wholly or partially covered by the berm; the lot on the Northerly side of the highway-formerly used for gardening-is practically rendered useless for that purpose, and the system of drainage on the premises has been materially interfeared with to the detriment of the petitioner.

Witness our hands this eighteenth day of April, A. D., 1929.

Adam Skuman

J. D. Ritter

A. M. Shoemaker

Viewers.

VIEWER'S NOTICE.

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions to view and determine the damages, if any, sustained or which seem likely to be sustained by Emma Franey, of Cassandra Borough, Cambria County, Pennsylvania, by reason of the change or alteration of the line and grade of what is now State Highway Route No. 276, Section 5 B.; having carefully viewed the premises, heard the testimony of the parties concerned and, after carefully considering the premises and the evidence offered and fixing a schedule of the benefits and damages which have been sustained or which seem likely to be sustained, if any, we will sit at the Court House in Ebensburg, Cambria County, Pennsylvania on the 2nd day of April, A. D., 1929, at 9:30 o'clock a. m. for the purpose of exhibiting said schedule of benefits awarded and damages assessed and to hear any and all exceptions thereto and such additional evidence as the parties interested may have to offer.

A. M. Shoemaker,
J. D. Ritter and
Adam Shuman,
Viewers.

Now, March 23, 1929, service of the above notice is hereby accepted by the undersigned Attorneys representing the Petitioner and the Borough of Cassandra.

Thomas W. Bender
Attorney for the Petitioner.

Mathias Peade
Attorney for the Borough of
Cassandra.

VIEWER'S NOTICE.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa. to view and determine the damages, if any, sustained by Emma Franey by reason of the change or alteration of the grade or line of State Highway Route No. 276 Sec. 5 B. through or over her premises in the Borough of Cassandra: having viewed the premises, heard the testimony offered by the parties interested and fixed a schedule of benefits and damages; the undersigned viewers will meet at the Court House, Ebensburg, Pa. April 2nd 1929, at 9:30 a. m. to exhibit said schedule and hear any exceptions thereto and evidence the parties in interest may have to offer.

A. M. Shoemaker,

J. D. Ritter,

Adam Shuman,

Viewers.

N O T I C E T O V I E W

In re opening and fixing lines, grades, etc., on part of Main Street and Portage Street on State Highway Route No. 276, Section 5 B, from Station 1053 plus 8 to Station 1068 plus 95 a distance of fifteen hundred and seven feet in the Borough of Cassandra, Cambria County, Pennsylvania.

In the Court of Quarter Sessions of Cambria County, Pennsylvania, No. _____, March Sessions, 1929. Condemnation.

NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to view the above premises and determine and estimate the damages and benefits that have resulted or that may seem likely to result by reason of the improving of part of Main Street and Portage Street in the Borough of Cassandra, where said improvement abuts on the land of Emma Franey, an abutting property owner, will meet on the premises in the Borough of Cassandra, on Tuesday, the 19th day of March, A. D., 1929, at ten o'clock A. M., for the purpose of performing the duties of our appointment. When and where all persons interested may appear.

A. M. Shoemaker,

J. D. Ritter,

A. M. Shuman,

Viewers,

Dated February 27th, 1929.

Now, February 28th, 1929, service of the above notice is hereby accepted by the undersigned viewers.

A. M. Shuman

J. D. Ritter

A. M. Shoemaker

Viewers.

SCHEDULE.

The undersigned viewers, appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and determine the damages, if any, sustained by Emma Franey, by reason of the change in the line or grade of State Highway Route No. 276 Sec. 5 B., through and over her premises in Cassandra Borough, said county and state; having viewed the premises in question, heard and considered the testimony offered by the parties in interest: We have estimated and determined that the benefits ^{resulting} ~~resulting~~ and damages sustained by the said Emma Franey are as follows; viz:

Benefits resulting	- - - - -	\$100.00.
Damages sustained	- - - - -	<u>\$645.00.</u>
Damages payable to Emma Franey	- - - - -	\$545.00.

J. D. Ritter,
Adam Shuman,
A. M. Shoemaker,

Shensburg, Pa.

This is to certify that a
careful examination of the
records of Cambria County
does not disclose any liens
or encumbrances against
the property of Emma Franey
in Cassandra Borough,
Cambria County, Pa.

April 15th 1929. A. M. Shoemaker

Costs of View

A. M. Shoemaker	
Day on View	\$12 00
Auto hire to Cassandra	3 50
Day at hearing	12 00
Preparing written notices of sitting to exhibit schedule and making personal service of same, also notices of sitting for publication and preparing of schedules	12 00
Advertising notices of Ex of sched	7 00
Stenographer & stationery	3 50
Sitting to exhibit schedule and hear testimony	12 00
Hearing of testimony (3rd day)	12 00
Meeting of viewers to go over testimony and decide on awards and second meeting; after schedule exhibited, to review testimony and determine on final award	12 00
Engineering work, plotting, drafting, transportation &c	63 50
Examination of records for liens and encumbrances & certificate	12 00
Preparing, having signed, assembling & filing report and preparing notice for publication of final report	24 00
Publication of final notice and schedule	4 00
Stenographer and stationery	4 25
	\$193 75

J. D. Ritter	
5 1/2 Days	\$66 00
298 miles @ 10¢ five trips to Ebensburg and two Ebensburg & Cassandra	298 00
	\$95 80

Adam Shuman	
5 1/2 Days	\$66 00
Auto hire - three trips and two trips to Cassandra	23 00
	\$89 00

RECEIVED
 COUNTY CLERK
 JUNE 10 1905

CERTIFIED
 COUNTY CONTROLLER
 JUNE 10 1905

19375
 9580
 8700
 37655

Resolution hereto attached.

That compensation for all damages done and accruing from said improvement has not been agreed upon between the Borough of Cassandra and the owners of property abutting on part of Main Street and Portage Street through the Borough of Cassandra, your petitioner, Emma Franey, being one of these owners of property with whom the Borough of Cassandra has not agreed upon compensation; and all of the same cannot be amicably agreed upon between the Borough of Cassandra and your petitioner for damages done to her property.

Your petitioner therefore prays the Court to appoint three viewers of the Board of Viewers of Cambria County to meet on the line of land of said improvement and to view and ascertain the damages done and the benefits which have accrued to the property of your petitioner by reason of the said taking, use and improvement.

Emma Franey.

D E C R E E .

And now, the 18th day of Feby. A. D. 1929, the petition of Emma Franey, of the Borough of Cassandra, setting forth that the Borough of Cassandra by Ordinance or Resolution approved the 26th day of April, A. D. 1923, has established the lines, grades and width of streets of part of Main Street and Portage Street in the Borough of Cassandra in accordance with the foregoing petition and Resolution: that compensation for all damages done and benefits accruing to the property of your petitioner, Emma Franey, has not been agreed upon between the Borough of Cassandra and your petitioner and owner of property abutting on Main Street in the Borough of Cassandra, that the same cannot be amicably agreed upon between your petitioner and the Borough of Cassandra, and praying for the appointment of three members of the Board of Viewers of Cambria County to ascertain the damages done and the benefits which have accrued by reason of said taking, use and improvement of the property of your petitioner, was

presented and read the Court grant the prayer thereof and appoint A. M. Shoemaker, Esq., J. D. Ritter and Adam Shuman, of the Board of Viewers of Cambria County, viewers who shall meet on the line of said improvement and view and ascertain the damages done and the benefits which have accrued by reason of said taking, use and improvement.

The viewers shall meet on the premises on Tuesday the 19th day of March, A. D. 1929, at ten o'clock A. M., of which time and place of meeting, the petitioner, Emma Franey, shall give at least ten days notice to said viewers and all parties interested by publication in the Johnstown Daily Tribune and by hand bills posted on the premises. Said viewers shall be duly sworn or affirmed to faithfully, justly and impartially decide and a true report to make concerning all matters and things to be submitted to them in relation to which they are authorized to inquire and having viewed the premises shall estimate and determine the quantity, quality and value of said land or lands so taken and occupied or injured by said improvement, and having a due regard to, and making a just allowance for the advantages which may have resulted, or which may seem likely to result to the owner of said land, in consequence of the the making of said improvement, and having made a fair and just comparison of said advantages and disadvantages, they shall estimate and determine their value, whether any and if any, to whom the same is payable, and after having determined the damages sustained by the petitioner, Emma Franey, affected by said improvement, together with the benefits resulting from said improvement, they shall prepare a schedule thereof, and give notice to all parties interested, of a time, not less than ten days thereafter, of the place where the said Viewers shall meet and exhibit said schedule and hear all exceptions thereto and evidence.

Notice of the time and place of said meeting shall be given to all parties interested, by personal service upon some adult member residing or living on the premises affected by said improvement, and by publication in two issues of the Johnstown Daily Tribune.

After making whatever changes are deemed necessary, said Viewers shall make report to the Court, showing the damages and benefits allowed and assessed, and to whom payable and by whom payable, and file therewith a plan showing the improvement and the property affected, injured or destroyed, and the property benefited thereby. When said report is filed notice thereof shall be given by publication in one issue of the Johnstown Daily Tribune. Said notice shall state the date of filing the report, and shall contain a schedule of damages and benefits as assessed therein, and shall further state that unless exceptions thereto be filed within thirty days from the date of the filing said report may be confirmed absolutely.

By the Court,

Evans, P. J.

Extract from the Record.
Certified this 19th day
of February, A. D. 1929.

Frank E. Rolt

Clerk of the Court of Quarter
Sessions.

No 8 Dec Sess. 1928 R.D.

In the Court of Quar-
ter Sessions of
Cambria County,
Pennsylvania

In re Claim for
damages by Emma
Francis of Cassan-
dra Boro., Cambria
Co. Pa.

Order to View
and

Report of Viewers.

Filed 19 April 1929

CERTIFIED

Shirley Cannon
COUNTY CONTROLLER

A. M. Shoemaker.

Plot or draft showing the location of the Emma Franey property, in Cassandra Borough, Cambria County, Pennsylvania, with reference to the location and grade of old road, before same was improved as part of State Highway Route No. 276 Sec. 5 B, and also after said improvement, together with location and grade of the improved highway as it passes over and along her property.

Viewed upon an order of the Court of Quarter Sessions of Cambria County, Pennsylvania dated the 18th Feb'y, A. D., 1929.

A. M. Shoemaker,
J. D. Ritter and
Adam Shuman,
Viewers.

