

In re: Petition for the	:	No. 7 JUNE SESSIONS, 1953
Appointment of Viewers to	:	
Assess Damages or Benefits	:	IN THE COURT OF QUARTER SESSIONS
to land of H. M. Mohler and	:	OF CAMBRIA COUNTY, PENNSYLVANIA
Mary Edith Mohler, in the	:	
change of grade of Legisla-	:	
tive Route 62 Section 11	:	
O. R. 092 locally known as	:	<u>CONDEMNATION PROCEEDINGS</u>
Traffic Route 219 or Main	:	
Street in the Borough of	:	
Carrolltown, Cambria County,	:	
Pennsylvania.	:	

EXCEPTIONS TO VIEWERS' REPORT

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:-

AND NOW, to wit: this tenth day of February, 1954, comes the Borough of Carrolltown, by its Solicitor, Fred J. Fees, and takes Exception to the Report of the Board of Viewers filed January 11, 1954 in the above entitled proceeding, as follows:-

1. That said Report of the Board of Viewers is defective for the reason that it fails to set forth in brief and concise paragraphic forms all Findings of Fact and Conclusions of Law.

2. That said Report of the Board of Viewers is defective for the reason that it fails to have filed with it a map or plan showing the property reportedly damaged by the change of grade.

3. That said Report of the Board of Viewers and Award of Damages are null and void and of no effect whatsoever for the reason that the Court of Common Pleas has exclusive jurisdiction in proceedings brought by an owner of property in a Borough, seeking an award of damages for a change in grade of an adjoining road against a Borough and these proceedings have been brought in the Court of Quarter Sessions.

4. That said Report of the Board of Viewers and Award of Damages are null and void for the reason that the records do not indicate that the Viewers were duly sworn in the manner required by law, namely, P. L. 1621 Section 43, as amended on the 10th day of July, 1947.

5. That the petitioners in the above captioned proceeding expressly indicated at the hearing before your Honorable Board that if the extreme superelevation of the highway complained of, which caused the damages alleged should be eliminated, corrected and improved, that they would forego any claim they may have for damages against said Borough, and hence the Award of the Viewers fixing damages at this time is premature and of no necessity, due to the fact that the Highway Department of the Commonwealth of Pennsylvania has assured said Borough that the conditions which brought about the proceedings in question will be remedied, as is evidenced by copy of letter hereto attached, made a part hereof and marked Exhibit A, and this being done, no Award of Damages should be made or allowed.

6. That as late as Tuesday, February 9, 1954, Mr. C.R. Forbes, District Engineer, District 9 of the Department of Highways of the Commonwealth of Pennsylvania, informed Fred J. Fees, Borough Solicitor, that the Plans and Specifications were about ready for the correction of the present condition existing in said Highway and that he hoped work would be begun to remedy and correct this condition not later than the first Monday of May, 1954.

7. That said Report of the Board of Viewers and Award of Damages made thereon are in error for the reason that the damages awarded are based on a permanent change in grade,

when, in fact, the present change in grade is but a temporary change which will be corrected, remedied and alleviated by the Highway Department as hereinabove recited, and this being accomplished, no damages should be awarded.

WHEREFORE, Fred J. Fees, Solicitor of Carrolltown Borough, pursuant to resolution adopted by said Borough, files these Exceptions, hereinabove set forth, to the Report of the Board of Viewers and Award of Damages against said Borough and prays that said Award and Report should be set aside.



Solicitor of
Carrolltown Borough

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

Hollidaysburg

October 5, 1953

In reply refer to
Cambria County
L. R. 62
O. R. 091

Honorable Fred J. Fees, District Attorney
Cambria County,
Ebensburg, Pennsylvania.

Dear Sir:-

I am pleased to inform you that Chief Engineer C. H. Buckius has approved the change of location of the super-elevated curve at the American Legion Home on Route 62, Carrolltown Borough, and I have been instructed to prepare the necessary plans for the correction of the present condition, which plans of course must be approved by the Borough Council. I know that you will be glad to have this information and can pass it along to those who are interested.

Very truly yours,

C. R. FORBES
District Engineer
District 9

No. 7 June Sessions, 1953

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA.

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to land of H. M. MOHLER and MARY EDITH MOHLER, in the change of grade of Legislative Route 62, Section 11 O. R. 092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania.

EXCEPTIONS TO VIEWERS' REPORT

Filed Feb 10, 1954

LAW OFFICES
FRED. J. FEES
EBENSBURG, PENNSYLVANIA

John R. ...

IN RE: Petition for Appointment of Viewers to Assess Damages or Benefits to lands of H. M. Mohler and Mary Edith Mohler in change of grade of Legislative Route 62 Sec 11, O.R. 092 locally known as Traffic Route 219 or Main Street in Boro of Carrolltown, Cambria County, Pa. : No. 7 June Sessions 1953
: In the Court of Quarter Sessions of Cambria County, Penna.
: of Cambria County, Penna.
: of Cambria County, Penna.
: of Cambria County, Penna.
: of Cambria County, Penna.
: of Cambria County, Penna.
: CONDEMNATION PROCEEDINGS

REPORT OF VIEWERS

We, the undersigned Viewers members of the Permanent Board of Viewers of Cambria County having been appointed by the above Court to view and inspect land and premises owned by H. E. Mohler and Mary Edith Mohler his wife of the Borough of Carrolltown, Cambria County, Penna., to view and inspect said premises and to determine and estimate the damages or benefits that have resulted or that may seem likely to result by reason of the change of grade of Legislative Route 62 Section 11, O. R. 092 locally known as Traffic Route 219 or Main Street in Carrolltown Borough, County and State aforesaid and being more particularly described as follows:

No. 1- Fronting twenty-five feet on public road leading from Carrolltown to Spangler and being one-half of lot No 9 and

No. 2- Also fronting fifty feet on said public road leading from Carrolltown to Spangler and being lot No. 11.

That we were duly sworn or affirmed as Members of the Permanent Board of Viewers of Cambria County, Pennsylvania, as shown by the records filed in said Court; that due public notice of the time and place of the meeting of the viewers was given by posting ten hand bills upon the premises of H. M. Mohler and Mary Edith Mohler, his wife at least ten days before said view and by service on said H. M. Mohler and Mary Edith Mohler his wife and on J. Harrison Westover, Esq., Counsel for said owners and petitioners and on Fred J. Fees, Esq., Solicitor for the Boro of Carrolltown; upon C. R. Forbes, Distr. Engineer of the Pennsylvania Statehigh way Department with offices at Hollidaysburg, Blair County, Penna. and upon the Commissioners of

Cambria , Penna. all of whom have accepted service and acknowledge to have received of same. There was considerable confusion in the method used in getting the Order to View into the hands of your chairman. The order of Court appointing Viewers to the above Number 7 June Sessions 1953 and the other order entered to Number 8 June Sessions of the Court of Quarter Sessions caused considerable confusion and misunderstanding.

Pursuant to the said Notice designating the day and hour of the time of the view, the Viewers met on the premises of H. M. Mohler and Mary Edith Mohler, his wife on June 24th, 1953 at 10 o'clock EDT in the morning and proceeded with carrying out the duties of our appointment. All of the viewers were present as were H. M. Mohler and Mary Edith Mohler his wife, other owners who are interested in the matter were also in attendance. A very thorough view and inspection was made with reference to remedying the situation that has arisen because of the very high elevation of the grade on curve of highway adjoining the property of your petitioners. The problem resolves itself into one of drainage. This matter was gone into very carefully for it is one drainage. The location of the outlet of surface water that follows the inside curb of the highway cannot take care of the surface water of the highway thereby making surface water to flow on the land of your petitioners. All the elements of damages were explored and carefully examined. There were no representatives of the borough in attendance at the view. No definite arrangements could be made with reference to time of hearing. After some delay in failing to have agreement as to the time of hearing the Viewers agreed to have the hearing on 8th July 1953 at 10 o'clock eastern daylight savings time at the Council Rooms in the Municipal Building in the Borough of Carrolltown, county and State aforesaid. Said Notices for hearing were prepared and served on Fred J. Fees, Esq., Solicitor for the Boro of Carriltown and upon J. Harrison Westover, Esq., Counsel for the owners and petitioners and upon C. R. Forbes of the State High Department with headquarters in Hollidaysburg all of whom accepted service

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and acknowledged to have received a copy of said notice of hearing.

Pursuant to said notices and acceptances of service thereon of all parties interested we met on July 8th 1953 at 10 o'clock Daylight time in the morning in the Council Chambers of the Municipal Building in the Boro of Carrolltown, County and State aforesaid and proceeded with the duties of our appointment.

H. M. Maler and Mary Edith Mohler, his wife with their Counsel, J. Harrison Westover, Esq and Fred J. Fees, Esq., Solicitor for the Boro of Carrolltown. The petitioners testified and did several witness as to the value of their property before and after the improvements, the State Highway Department was represented by a Mr. Wallace who explained the plans and specifications followed in the improvement. There is an apparent misunderstanding between the said Borough and the State Highway Department as to the plans and that they were not followed as was promised to the property owners and the Borough of Carrolltown. The controversy as it exists was revealed by both attorneys in which there is no dispute. The high elevation of the grade at curve of the highway is responsible for the damage done to the owners and petitioners. Counsel in both instances want more time to work out some solution. There was a time fixed for the Exhibit of Schedule which was changed but finally the Viewers fixed 11 August at 10 o'clock 1953 at Council Chambers for the presentation for said Exhibit.

It was shown that the owners and petitioners merely desired that their property be put back in the same condition as it was before the improvement. All of the evidence and testimony was carefully considered together with other testimony that was offered at the time of the hearing.

The Viewers discussed fully and at length all the testimony presented. We took in all of the elements of damages and matters pertinent thereto and determined and estimated the amount of damages. We had made a careful and thorough inspection of the premises involved in the proceedings and after our view of same and hearing all evidence and testimony concerning the high elevation of

the grade at the curve of said highway as it affects said land of said H. M. Mohler and Mary Edith Mohler, his wife the owners and petitioners, we have estimated and determined the quality and quantity of the land so used and injured by the said public highway and having made just allowances for any benefits accrued thereto and damages sustained thereby which have resulted or which may seem likely to result to H. M. Mohler and Mary Edith Mohler, his wife the said owners and petitioners, we have estimated and determined the amount of damages and have prepared a Schedule thereof.

Pursuant to having fixed a time for the presenting of the Schedule of Damages, the viewers met at the Municipal Chambers in Municipal Hall in Boro of Carrolltown aforesaid on August 11, 1953 at 10 o'clock DLT but the parties in interest wanted more time to work out something between the State Highway Department and the Borough of Carrolltown. Numerous meetings between the Attorneys representing the Boro and the Owners the Exhibit of Schedule was continued. No time having been designated. No information having been received from either side or their respective Counsel Notices for the time and place for the presenting an Exhibit of Schedule awarding Damages was mailed to H. M. Mohler and Mary Edith Mohler, his wife. J. Harrison Westover, Esq their counsel, Fred J. Fees, Esq., Solicitor for the Boro of Carrolltown fixing Wednesday December 23, 1953 at 10 o'clock A.M. and Council Chambers in the Municipal Building of Carrolltown aforesaid as the place of meeting for Schedule of Award of Damages presentation.

Pursuant to the time set forth in said Notice for the presenting of Schedule of Damages, the Viewers met in the Council Room of the Municipal Building in Carrolltown aforesaid on 23d December 1953 at 10 o'clock in the morning and proceeded with the duties of our appointment. There were present the three Viewers, H. M. Mohler and Mary Edith Mohler, his wife and Fred J. Fees, Esq., Solicitor for the Borough of Carrolltown, county and state aforesaid. There was no further testimony offered. Considerable discussion

Report

consumed much time as to promises having been made by the State Highway Department at Hollidaysburg with the Borough of Carrolltown in making changes with reference to reducing the high elevation on grade of curve. These matters at this time were not relevant to the matter in issue. The Viewers proceeded with the duty for which the meeting was called. The Schedule of Award of Damages. Having taken into consideration all of the testimony offered and having viewed the premises in question we have agreed, estimated and determined the amount of damages and prepared a Schedule thereof. That after hearing all exceptions and all the testimony offered and giving all matters before us due consideration, we are of the opinion that the land of H. M. Mohler and Mary Edith Mohler, his wife owners aforesaid and petitioners because of the high elevation of the grade at curve of said public highway and as it affects their land, we have assessed no benefits and damages in the sum of Eleven hundred (\$1,100.00) Dollars to be paid by the Borough of Carrolltown, Cambria County, Pennsylvania to H. M. Mohler and Mary Edith Mohler, his wife as their interest may appear.

IN WITNESS WHEREOF we have hereunto set our hand and seal this seventh day of January, A. D. 1954.

Mahlon Baumgardner
 MAHLON BAUMGARDNER

Fred W. Claflin
 FRED W. CLAFLIN

Robert Mayer
 ROBERT MAYER
 Viewers

31 December 1953

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of H. M. Mohler and Mary Edith Mohler in the change of grade of Legislative Route 62 Sec. 11, C.R..092 locally known as Traffic Route 219 or Main Street in the Boro of Carrolltown, Cambria County, Pennsylvania. : No June 7- Court of Quarter Session of Cambria County, Pennsylvania
: CONDEMNATION PROCEEDINGS

EXHIBIT OF SCHEDULE OF DAMAGES

We, the undersigned Viewers appointed by the above named Court to View and examine the real estate of the above named petitioners have performed the duty and have taken into consideration all of the benefits or damages that have resulted or that may seem likely to result to the land of H. M. Mohler and Mary Edith Mohler, his wife by reason of the change of the grade of Legislative Route 62 Section 11, O. R. .092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania and having taken into consideration all of the elements and facts pertinent to the above proceedings have estimated, determined and assessed benefits and damages as follows:

<u>NAME</u>	<u>BENEFITS</u>	<u>DAMAGES</u>
H. M. MOHLER and MARY EDITH MOHLER, his wife	NONE	\$1,100.00

The above damages in the sum of Eleven Hundred (\$1,100.00) Dollars to be paid to H. M. Mohler and Mary Edith Mohler, his wife by the Borough of Carrolltown, County of Cambria and State of Pennsylvania as their interest may appear.

Mahlon Baumgardner
Mahlon Baumgardner

Fred W. Claflin
Fred W. Claflin

Robert Mayer
Robert Mayer

Viewers

IN RE: Petition for Appointment of Viewers to Assess Damages or Benefits to land of H. M. Mohler and Mary Edith Mohler in change of grade of Legislative Route 62 : No 7 June Sessions 1953 : in the Court of Quarter Sessions of Cambria County, Penna.

Sec. 11, O.R. .092 locally known as Traffic Route 219 or Main Street in Boro of Carrolltown, Cambria County, Penna. : CONDEMNATION PROCEEDINGS

CAMBERIA COUNTY in account with Mahlon Baumgardner, Fred W. Claflin and Robert Mayer.

Mahlon Baumgardner:

1953			
June 10-	Prepared Notices to View	\$12.00	
" 12-	Posted Notices to View and acceptance of service	12.00	
	Mileage 14 mi	1.40	
" 13-	Acceptance of service of notice of view	12.00	
	Mileage 38 mi	3.80	
" 24-	Made View at Carrolltown	12.00	
	Mileage 14 mi	1.40	
July 8-	Hearing at Carrolltown	12.00	
	Mileage	1.40	
" 17-	Conference estimating & determining damages	12.00	
Aug 5-	Data and preparing Exhibit of Schedule	12.00	
" 11-	Exhibit of Schedule, contd for further conferences	12.00	
	Mileage 14 mi	\$1.40	
Dec 23-	Exhibit of Schedule at Carrolltown	12.00	
" 31-	Preparing Report for filing Jan 11, 1954	12.00	\$129.40

Fred W. Claflin:

June 24-	Making View at Carrolltown	\$12.00	
	Mileage 64 mi	6.40	
July 8-	Hearing at Carrolltown	12.00	
	Mileage 62 mi	6.20	
" 17-	Conference estimating & determining damages	12.00	
	Mileage 6 mi	.60	
Aug 11-	Exhibit Schedule continued for conferences	12.00	
	Mileage 62 mi at Carrolltown	6.20	
Dec 23-	Exhibit of Schedule at Carrolltown	12.00	
	Mileage 62 mi	6.20	\$85.60

Robert Mayer:

June 28-	Making View at Carrolltown	12.00	
"	Mileage 62 mi	6.20	
July 8-	Hearing Carrolltown	12.00	
	Mileage 60 mi	6.00	
July 17-	Conference estimating & determining damages	12.00	
	Mileage 4 mi	.40	
Aug 11-	Exhibit Schedule -more conferences desired	12.00	
	Mileage 60 mi	6.00	
Dec 23-	Exhibit of Schedule Carrolltown	12.00	
	Mileage 60 mi	6.00	\$84.60

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of H. M. Mohler and Mary Edith Mohler in change of grade of Legislative Route 62 Section 11, O. R. 092 locally known as Traffic Route 219 or Main Street Carrolltown Borough, Cambria County, Penna.	: No 7 June Sessions 1953 : In the Court of Quarter Sessions : of Cambria County, Penna. : : : : <u>CONDEMNATION PROCEEDINGS</u>
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NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to View and Inspect two certain pieces or parcels of land owned by H. M. Mohler and Mary Edith Mohler of the Borough of Carrolltown, Cambria County Pa, and to determine and estimate the damages or benefits that have resulted or that may soon likely to result to the land and property of the petitioners and owners in the change of the grade of Legislative Route 62 Section 11, O.R. 092 locally known as Route 219 or Main Street, Boro of Carrolltown, Cambria County., Pa. and described in part as follows, to wit:

No. 1- Fronting twenty-five feet on public road leading from Carrolltown to Spangler and being one half of lot No. 9 and

No. 2- Also fronting fifty feet on said public road leading from Carrolltown to Spangler and being lot No. 11,

Will meet upon the premises on June ²⁴ 23, 1953 at 11:00 o'clock in the morning Eastern Daylight Time for the purpose of performing the duties of our appointment.

Mahlon J. Baumgardner

Fred W. Claflin

Robert Mayor
Viewers

NOW June ^{11th} 1953 I hereby accept service of the above Notice to View as Solicitor for the Borough of Carrolltown, Cambria County, Penna. and acknowledge to have received a copy of said Notice to View.


Solicitor Carrolltown Borough

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of H. M. Mohler and Mary Edith Mohler in change of grade of Legislative Route 62 Section 11, O. R. 092 locally known as Traffic Route 219 or Main Street Carrolltown Borough, Cambria County, Penna. : No 7 June Sessions 1953 : In the Court of Quarter Sessions of Cambria County, Penna. : CONDEMNATION PROCEEDINGS

NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to View and Inspect two certain pieces or parcels of land owned by H. M. Mohler and Mary Edith Mohler of the Borough of Carrolltown, Cambria County Pa, and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land and property of the petitioners and owners in the change of the grade of Legislative Route 62 Section 11, O.R. 092 locally known as Route 219 or Main Street, Boro of Carrolltown, Cambria County., Pa. and described in part as follows, to wit:

No. 1- Fronting twenty-five feet on public road leading from Carrolltown to Spangler and being one half of lot No. 9 and

No. 2- Also fronting fifty feet on said public road leading from Carrolltown to Spangler and being lot No. 11,

Will meet upon the premises on June ²⁴~~23~~, 1953 at 11:00 o'clock in the morning Eastern Daylight Time for the purpose of performing the duties of our appointment.

Mahlon J. Baumgardner

Fred W. Claflin

Robert Mayer
Viewers

NOW June ~~23~~²⁴ 1953 I hereby accept service of the above Notice to View as Attorney for H. M. Mohler and Mary Edith Mohler owners and petitioners and acknowledge to have received a copy of said Notice to View.

[Handwritten Signature]
Attorney for owners and petitioners
Mrs H M Mohler

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of H. M. Mohler and Mary Edith Mohler in the change of grade of Legislative Route 62 Section 11, O. R. 082 locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pa. : No 7 June Sessions 1953
: In the Court of Quarter Sessions, of Cambria County, Penna.
: CONDEMNATION PROCEEDINGS

NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to View and Inspect two certain pieces or parcels of land owned by H. M. Mohler and Mary Edith Mohler of the Borough of Carrolltown, Cambria County, Penna. and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land and property of the petitioners and owners in the change of the grade of Legislative Route 62 Section 11, O. R. 082, locally known as Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Penna., and described in part as follows, to wit:

No. 1- Fronting twenty-five feet on public road leading from Carrolltown to Spangler and being one half of lot No 9 and

No. 2- Also fronting fifty feet on said public road leading from Carrolltown to Spangler and being Lot No. 11


Will meet upon the premises on June ²⁴~~25~~, 1953 at 11 o'clock in the morning Eastern Daylight Time for the purpose of performing the duties of our appointment.

Mahlon J. Baumgardner

Fred W. Claflin

Robert Mayor
Viewers

NOW 12 June 1953 I hereby accept the within Notice to View for the State Highway Department and acknowledge to have received a copy of said Notice.


Distr. Engr State Highway Dept

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of H. H. Mohler and Mary Edith Mohler, in the change of grade of Legislative Route 62 Section 11, U.R. 092 locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania.

No 7 June Sessions 1953
in the Court of Quarter Sessions
of Cambria County, Penna.

CONFIDENTIAL PROCEEDINGS

NOTICE OF HEARING

We, the undersigned Viewers appointed by the above Court to View and Inspect two certain pieces or parcels of land owned by H. H. Mohler and Mary Edith Mohler of the Borough of Carrolltown, Cambria County, Penna., and to determine and estimate the damages or benefits that have resulted or that may soon likely to result to the land and property of the petitioners and owners in change of the grade of Legislative Route 62 Section 11, U. R. 092, locally known as Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pa. and described in part as follows, to wit:

No. 1- Fronting twenty-five foot on public road leading from Carrolltown to Spangler being one half of lot No. 9 and

No. 2- Also fronting fifty feet on said public road leading from Carrolltown to Spangler and being lot No. 11

Will meet in the Borough of Carrolltown Council building on on Wednesday June 8, 1953 at 10 o'clock in the morning for the purpose of taking testimony in the above proceedings.

Mahlon Baumgardner

Fred W. Clafin

Robert Elyer
Snyder

NOW ^U 26th June 1953 I hereby accept service of the within Notice of Hearing as Solicitor for the Borough of Carrolltown, Cambria County, Pennsylvania and acknowledge to have received a copy of same.

Fred Fees
Solicitor Borough of Carrolltown
Cambria County, Pennsylvania.

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of H. M. Mohler and Mary Edith Mohler, in the change of grade of Legislative Route 62 Section 11, C.R. 692 locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania.

: No 7 June Sessions 1953
: in the Court of Quarter Sessions
: of Cambria County, Penna.

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: CONDEMNATION PROCEEDINGS

NOTICE OF HEARING

We, the undersigned Viewers appointed by the above Court to View and Inspect two certain pieces or parcels of land owned by H. M. Mohler and Mary Edith Mohler of the Borough of Carrolltown, Cambria County, Penna., and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land and property of the petitioners and owners in change of the grade of Legislative Route 62 Section 11, O. R. 092, locally known as Route 219 or Main Street in the Borough of Carrolltown, Cambria County., Pa. and described in part as follows, to wit:

No. 1- Fronting twenty-five feet on public road leading from Carrolltown to Spangler being one half of lot No. 9 and

No. 2- Also fronting fifty feet on said public road leading from Carrolltown to Spangler and being lot No. 11

Will meet in the Borough of Carrolltown Council Building on on Wednesday July 8, 1953 at 10 o'clock in the morning for the purpose of taking testimony in the above proceedings.

Mahlon Baumgardner

Fred W. Claflin

Robert Mayer
Viewers

You are hereby requested to bring with you copies of plans and specifications followed in the construction of the above said State Highway as it affects the land herein above referred to and accept service of the above Notice of hearing and acknowledge to have received a copy of same. Dated 29 June 1953.


District Engineer

Commonwealth of Pennsylvania, }
County of Cambria } **SS.**

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the 23rd day of April A. D. 19 53, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Boro. Carrolltown, in the said County,

petition to the Court to appointment of Viewers to assess damages to the lands of H.M. Mohler and Mary Edith Mihler, in the change of grade of Legislative Route 62 Section 11. O.R. 092, locally known as Traffic Route 219 or Main Street, in the Borough of Carrolltown, Cambria County, Pa.

and therefore praying the Court to appoint proper persons to view and assess & ascertain to law. The Court, upon due consideration had of the premises, do order and appoint Mahlon J. Baumgardner surveyor, and Fred W. Claflin and Robert Mayer

viewers, to view same and make report of the shortest distance and the best ground for the same, having respect to the interests of the parties, and also the desires of the petitioners, and the report of their proceedings to the next Court of Quarter Sessions to be held for said County, 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 it may pass.

By the Court.

McKenrick, Judge.

Attest:

Clerk

Order to view the lands of
H.M. Mohler and Mary Edith
Mohler and assess damages
by the change of grade of
Leg. Route 62, Section 11, O.R.
.092, locally known as
Traffic Route 219 or Main
St., in the Boro of Carrolltown.

Mahlon J. Baumgardner

Fred W. Claflin

Robert Mayer

Viewers

Clerk

Joseph C. Wess

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the person or persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report at the next term of said Court, and in the said report shall state particularly:

First, who of them were present at the view; second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

NO 7 JUNE SESSIONS 1953
COURT OF QUARTER SESSIONS
CAMBRIA COUNTY, PENNA

Petition of H. M. Hohler and
Mary Edith Mohler, his wife for
Appointment of Viewers to inspect
Legislative Route 62 Sec 11, O.R.
.092 on Traffic Route 219 or
Main Street, Carrolltown Boro
Cambria County, Penna

REPORT OF VIEWERS

CONDEMNATION PROCEEDINGS

Filed
1-17-54
10:00 AM

MAHLON J. BAUMGARDNER
ATTORNEY AT LAW
JOHNSTOWN, PENNA.
EBENSBURG, PENNA.
SWANK BLDG.

RELEASE OF DAMAGES.

WHEREAS, the State Highway Department in the construction and improvement of State Highway Route No. 219 in Carrolltown, Cambria County, has damaged the property of H. M. Mohler and Mary Edith Mohler, his wife, and,

WHEREAS, by Agreement, the Borough of Carrolltown is liable for all damages caused by the change of location in the construction of the above mentioned highway route by the State Highway Department, and

WHEREAS, the Board of Viewers of Cambria County have awarded H. M. Mohler and Mary Edith Mohler, his wife, the sum of \$1,100.00 to be paid by the Borough of Carrolltown to compensate for damages to their properties.

AND WHEREAS, the State Highway Department is about to eliminate the causes of said damage by relocating the highway and reducing the grade in front of the property of H. M. Mohler and Mary Edith Mohler, his wife,

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that we, H. M. Mohler and Mary Edith Mohler, his wife, in consideration for the removal of the causes that are now damaging our property by the State Highway Department, we have remise, released, quitclaimed and forever discharged, and by these presents, for ourselves, our heirs, executors and administrators, do remise, release, quitclaim and forever discharge the said Borough of Carrolltown of and from all and all manner of actions, awards of viewers, suits, debts, accounts, reckoning claims and demands, which we now have or which our heirs, executors or administrators can have against the said ^{Borough of Carrolltown} ~~County of Cambria~~ for or by reason of the damage done to our property by the changing and improvement of State Highway Route No. 219 in Carrolltown, Cambria County.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 19th day of May, 1954.

Signed, sealed and delivered in the presence of:

H. M. Mohler (SEAL)

Johnson Weston

Mary Edith Mohler (SEAL)

STATE OF PENNSYLVANIA X
 X SS.
COUNTY OF CAMBRIA X

On the 19th day of May, 1954, before me the subscriber, a Notary Public, in and for the County of Cambria, Commonwealth of Pennsylvania, came the above named H. M. Mohler and Mary Edith Mohler, his wife, and acknowledged the above Indenture to be their act and deed and desired that the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

John Partridge
NOTARY PUBLIC
My Commission Expires January 15, 1959
Spangler Boro, Pa. Cambria County

Road Docket # 7 June 1953

RELEASE OF DAMAGES

From

H. M. MOHLER and
MARY EDITH MOHLER, his wife

-to-

BOROUGH OF CARROLLTOWN

Filed - 6-6-58 - J. L. W.

LAW OFFICES
FRED. J. FEES
EBENSBURG, PENNSYLVANIA

Petition for the Appointment of Viewers to assess damages to the lands of H. M. Mohler and Mary Edith Mohler, in the change of grade of Legislative Route 62 Section 11, O.R. 092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania.

In the Court of Quarter Sessions of Cambria County, Pennsylvania
No. _____ June Term 1953
Petition for Appointment of Viewers.

To the Honorable, the Judges of said Court.

The petition of H. M. Mohler and Mary Edith Mohler, respectfully represents:

1. That they are resident citizens of the Borough of Carrolltown, County of Cambria and State of Pennsylvania.
2. That they are the owners of all those two certain pieces or parcels of land situate in the Borough of Carrolltown, (formerly Township of Carroll) County of Cambria and State of Pennsylvania, bounded and described as follows, to wit: Beginning at a post and corner of Lot No. 11; thence North twenty eight degrees, fifteen minutes East one hundred fifty feet to an alley; thence turning and running South sixty one degrees forty five minutes East twenty five feet, more or less, to a stake; thence turning and running South twenty eight degrees fifteen minutes West one hundred fifty feet to a post and Public Road leading from Carrolltown to Spangler; thence turning and continuing by said Public Road, North sixty one degrees forty five minutes West twenty five feet, more or less, to a post and corner of Lot No. 11, the place of beginning, it being the one-half of Lot No. 9.

No. 2. Beginning at a post in the Public Road leading from Carrolltown to Spangler and corner of Lot No. 9, thence North sixty one degrees forty five minutes West fifty feet to a post and Lot No. 13; thence North thirty eight degrees fifteen minutes East one hundred fifty feet to a post and alley; thence along said alley South sixty one degrees forty five minutes East fifty feet

to a post and Lot No. 9; thence South twenty eight degrees fifteen minutes West one hundred and fifty feet to a post and place of beginning, it being Lot No. 11.

Excepting and reserving from the above described pieces or parcels of land all the coal and mining rights as fully and completely as excepted and reserved by former grantors in the line of this title.

Title vested in petitioners by deed of Mary Smith, dated October 6, 1925 and recorded in Cambria County in Deed Book Vol. 403 page 234.

3. On or about the 25th day of April, 1947, the above mentioned change of grade in the Borough of Carrolltown was approved by the Commonwealth of Pennsylvania.

4. On or about the 25th day of April, 1947, the above mentioned change of grade in the Borough of Carrolltown was approved by the Council of the Borough of Carrolltown.

5. That pursuant to the said approvals, the grade on Main Street was changed by raising the same approximately two feet in front of the property of petitioners, said raise in the grade of said street having been consummated in 1947 or early 1948.

6. That the property of the said Owners above mentioned, abuts on said street and that the change so made in the grade of the said street by the Commonwealth of Pennsylvania and the Borough of Carrolltown, was without the consent of said Owners and that the officers of said Borough have failed to agree with the Owners for the proper compensation for the damages done and sustained by reason of the change of grade of said street, and that although damage has been caused to the owners of said property above mentioned, no compensation can be agreed upon between the said owners and the officers of said Borough.

7. The damages that have resulted from said change of grade are extensive, serious and permanent.

Wherefore, your petitioners pray your Honorable Court to appoint Viewers to assess and ascertain the damages done to said property of your petitioners and to make report thereof to the Court in accordance with the Acts of Assembly in such cases made and provided.

H. M. Mohler
H. M. Mohler

Mary Edith Mohler
Mary Edith Mohler

STATE OF PENNSYLVANIA |
 | SS.
COUNTY OF CAMBRIA |

Before the undersigned, a *Jerry Public*
in and for said County and State, personally appeared H. M. Mohler
and Mary Edith Mohler, petitioners within named, who being duly
sworn according to law, say that the matters set forth in the
foregoing petition are true and correct.

H. M. Mohler

Mary Edith Mohler

Sworn to and subscribed before me this 23 day of
April, 1953.

Jerry Public
My Commission Expires
March 9, 1954
Jerry Public

D E C R E E.

And now, April 23rd ^{at 11 AM.} 1953, on consideration of the within petition, the Court appoints Wahlon Baumgardner
Led W. Claylin and Robert Neaper
Viewers, to assess and ascertain the damage done by raising of the grade of Main Street, Carrolltown, Pennsylvania to the property of petitioners referred to in the within petition in accordance with the prayer thereof, and to make report thereof to Court in accordance with the Acts of Assembly in such cases made and provided.

BY THE COURT.

McKenna
Judge.

Two Sept 8 - 1953 Report of viewers is hereby
returned to first Monday December 1953

By the Court
[Signature]
Judge

Road Docket

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA
NO. *7* JUNE TERM 1953

Petition for the Appointment
of Viewers to assess damages
to the lands of H. M. Mohler
and Mary Edith Mohler, in
the change of grade of
Legislative Route 62 Section
11, O. R. 092, locally known
as Traffic Route 219 or Main
Street, in the Borough of
Carrolltown, Cambria County,
Pennsylvania.

Filed
4/23/53

J. H. Spangler
LAW OFFICES OF *Westman*
FIRST NATIONAL BANK BUILDING
SPANGLER, PENNSYLVANIA