

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA
IN THE MATTER OF ROUTE NO. 222, : R.D. NO. 2, JUNE SESSIONS,
SECTION 9, IN THE TOWNSHIP OF :
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA : 1962

VIEWERS' REPORT

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

DONALD J. LETIZIA, Esquire, T. L. LOCHER and
ROBERT G. MAYER, three members of the permanent Board of Viewers
of Cambria County, Pennsylvania, appointed to view the premises
of CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, to assess
damages to their property arising from the improvement and
changes to State Highway Route No. 222, Section 9, in the Town-
ship of Richland, County of Cambria, and State of Pennsylvania,
and return the proceedings according to law, respectfully
report:

Pursuant to their appointment on March 30, 1962, the
Board of View set April 27, 1962, at 10:00 a.m., e.d.s.t., as
the time to view and inspect the premises owned by CLYDE DAVIS
and ERMA MAY DAVIS, husband and wife. Due notice thereof was
given to Andrew J. Gleason, Esquire, Attorney for Petitioners,
as shown by acceptance of service of notice attached hereto and
made a part hereof. Notice was likewise given to the Commonwealth
of Pennsylvania, as shown by notice attached hereto and made a
part hereof. A continuance was requested by the Commonwealth of
Pennsylvania and the view was thereafter scheduled for Friday,
May 18, 1962, at 10:00 a.m., Due notice thereof was given to
Andrew J. Gleason, Esquire, attorney for Petitioners as shown by
acceptance of service of notice, attached hereto and made a part
hereof. Notice was likewise given to Edward F. Peduzzi, Esquire,
Attorney for Commonwealth of Pennsylvania, as shown by acceptance

of service of notice attached hereto and made a part hereof. A continuance was requested by the Commonwealth of Pennsylvania and the view was re-scheduled for Friday, June 22, 1962, at 10:00 a.m., e.d.s.t., Due notice thereof was given to Andrew J. Gleason, Attorney for Petitioners, as shown by acceptance of service of notice hereto attached and made a part hereof. Notice was likewise given to the Commonwealth of Pennsylvania by its attorney, Edward F. Peduzzi, as shown by acceptance of service of notice attached hereto and made a part hereof. The Board of View thereafter set Wednesday, July 11, 1962, at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, as the time and place for hearing. Due notice thereof was given to Andrew J. Gleason, Attorney for Petitioners, as shown by acceptance of service of notice attached hereto and made a part hereof. Notice was likewise given to Edward F. Peduzzi, Esquire, Attorney for Commonwealth of Pennsylvania, as shown by acceptance of service of notice attached hereto and made a part hereof. The hearing was held at the time and place appointed and was attended thereat by Andrew J. Gleason, Esquire, Attorney for Petitioners, Erma May Davis, Owner, and Charles N. Glass, Real Estate Appraiser. The Commonwealth of Pennsylvania was represented by Edward F. Peduzzi, Esquire, Howard E. Breneman, District Right of Way Engineer, and John J. Mock, real estate appraiser. The Petitioner was thereupon examined upon the merits of the case and a full hearing was held thereon.

Due notice of the filing of this Report was given to the Petitioners through their attorney, Andrew J. Gleason, as shown by acceptance of service of notice hereto attached and made a part hereof. Due notice was likewise given to the Commonwealth of Pennsylvania through its attorney, Edward F. Peduzzi, as shown by acceptance of service of notice hereto attached and made a part hereof.

The original papers are attached hereto and made a part hereof.

The Board of View further reports as follows:

I. SERVICE OF PROCESS

The original papers and docket entries show that the Petitioners, Clyde Davis and Erma May Davis, husband and wife, filed a Petition with the Court of Quarter Sessions of Cambria County, Pennsylvania, on March 30, 1962, setting forth that they labored under inconvenience for want of an assessment of damages.

II. FINDINGS OF FACT

(1) That Clyde Davis and Erma May Davis, husband and wife, are the owners of parcels of ground situate in the Township of Richland, County of Cambria, and State of Pennsylvania, bounded and described as follows:

PARCEE NO. 1 - BEGINNING at a stake on the Westerly boundary line of Scalp Level Pike (Pa. Route No. 58) corner of land of Ross Weaver, et ux, South $74^{\circ} 58'$ West, a distance of 130 feet to a stake on the line dividing Lots Nos. 3 and 21 on the hereinafter mentioned Plan of Lots; thence, along the said dividing line North $15^{\circ} 02'$ West, a distance of 65 feet to a stake, common corner of Lots No. 3, 4, 20 and 21 on the said hereinafter mentioned Plan of Lots; thence along the line dividing Lots No. 3 and 4 on the hereinafter mentioned Plan of Lots, North $74^{\circ} 58'$ East, a distance of 130 feet to a stake on the Westerly boundary line of the said Route 58; thence along said boundary line South $15^{\circ} 02'$ East, a distance of 65 feet to a stake, the place of beginning.

BEING marked, known and designated on the Plan of Lots situate in Richland Township, as laid out for Abram C. Weaver Estate by Fetterman Engineering Comapny on April 24, 1946, as Lot No. 3

PARCEL NO. 2 - BEGINNING at a stake on the westerly boundary line of Scalp Level Pike (Pa. Route No. 58) corner of land now of Alonzo Weaver et ux; thence along the line of land of Alonzo Weaver et ux South $74^{\circ} 58'$ West, a distance of 130 feet to a stake on the line dividing Lots No. 2 and 22 on the hereinafter mentioned Plan of Lots; thence along said dividing line, North $15^{\circ} 02'$ West, a distance of 65 feet to a stake at the common corner of Lots Nos. 2, 3, 21 and 22 on the hereinafter mentioned plan of lots; thence along the line dividing Lots No. 2 and 3 on the

hereinafter mentioned Plan of Lots North 74° 58' East, a distance of 130 feet to a stake on the westerly boundary line of said Pennsylvania State Route No. 56; thence along said boundary line, South 15° 02' East, a distance of 65 feet to a stake, the place of beginning. Being marked, known and designated on the Plan of Lots situate in Richland Township, Cambria County, Pennsylvania, as laid out for Abram C. Weaver Estate by Fetterman Engineer Co., on April 24, 1946, as Lot No. 2.

(2) That on May 15, 1961, the Commonwealth of Pennsylvania condemned approximately .07 acres of the Petitioners property as shown on the map attached hereto, marked "Exhibit A", and colored in red.

(3) That the property owned by the Petitioners was used as a motel.

(4) That Erma May Davis testified that the loss suffered by the Petitioners because of the taking by the Commonwealth of Pennsylvania was \$40,000.

(5) That Charles N. Glass, real estate appraiser, testified that the loss suffered by the Petitioners because of the taking by the Commonwealth of Pennsylvania was \$35,000.

(6) That Howard E. Breneman, district Right-of-Way Engineer, testified that the Commonwealth of Pennsylvania, Department of Highways, condemned a parcel of ground 22 feet in width comprising approximately .07 acres of ground.

(7) That The Commonwealth of Pennsylvania testified that a partial payment to the Petitioners was made on February 2, 1962, which partial payment amounted to \$7,500.

(8) That John J. Mock, real estate appraiser, testified that the loss suffered by the Petitioners because of the taking by the Commonwealth of Pennsylvania was \$9,666.55.

III. OPINION

The Board of View has carefully examined the evidence offered in this case, has deducted therefrom certain facts, has carefully examined the law applicable, and is of the opinion that the Petitioners have presented a meritorious case.

The Petitioners allege that they are the owners of the property referred to herein and that in the construction, reconstruction, and improvements to State Highway Route No. 222, Section 9, in the Township of Richland, County of Cambria, and State of Pennsylvania, said property has sustained serious loss and damage and that compensation for such damage has not been fixed or agreed upon between the Commonwealth of Pennsylvania and the Petitioners.

The power of eminent domain is the power to take property for public use without the owner's consent. Briegel v. Briegel, 2160 A. 581, 307, Pa. 93, (1932). Eminent Domain is an inherited attribute of sovereignty and the provisions for compensation is not part of the power, but a limitation on its use by the Constitution, P. S. Const. Art. 1, Section 10.

The Constitution contains three sections relating to eminent domain, Article 1, Section 10, provides that private property shall not be taken or applied to public use, without authority of law and without just compensation being first made or secured. Article 16, Section 3, provides that "The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals invested with the power of eminent domain must make compensation for property taken, and prohibits the General Assembly from depriving any person of the right to appeal from any preliminary assessment of damages against any corporation or individual made by viewers or otherwise.

When a tract of land is taken, the owner is entitled to compensation equal to its market value. Market value should be determined on the basis of what price the property would bring if the owner were under no compulsion to sell and a purchaser under no compulsion to buy, taking into account all considerations that might be brought forward and reasonably be given substantial weight in bargaining for the property, such as location, improvements, productive quality, and the uses to which it may reasonably be put, taking in the light of sales of other property in the vicinity. United States v. 15.3 Acres of Land in the City of Scranton, Com. of Pa., 154 F. Supp. 770 (1957). While the value of the land should not be based upon speculation, everything which gives the land intrinsic value should be considered and it is not to be limited to a particular use, and any use to which the property is adapted or any prospective use may be considered.

The Petitioner testified that the fair market value of the property prior to the taking by the Commonwealth of Pennsylvania was \$60,000; that the value of the property after the taking was \$20,000; therefore, the loss suffered by the Petitioners was \$40,000.

Charles N. Glass, real estate appraiser, testified that the market value of the property prior to the taking by the Commonwealth of Pennsylvania was \$50,000; that the fair market value immediately after the taking was \$15,000; therefore, making a loss to the property owner because of the taking by the Commonwealth of Pennsylvania of \$35,000.

John J. Mock, real estate appraiser, testified that the market value of the Davis property before the taking was \$46,153.75; that the market value immediately after the taking was \$36,487.20; thereby making the loss as a result of the taking by the Commonwealth of Pennsylvania of \$9,666.55.

In arriving at a just determination of the fair market value the Board has, as criteria, the customarily widely disparate opinions of the real estate experts who testified for their respective sides. It is the province of the Board to weigh the credibility of the valuation witnesses' testimony and to determine what the land taken was fairly worth at the time of the condemnation. The Board has a right to, and did, bring to bear, in appraising the expert testimony, what they had perceived with respect to the property at the time they formally viewed it.

The Board is not required to take arbitrarily the Plaintiff's or the Defendant's figures in arriving at a just sum in condemnation cases, but may exercise deliberation in awarding a sum between the Plaintiff's and Defendant's figures. Harmony Realty Co. v. Com. 145 A. 2d 541, 395, Pa. 65 (1958).

CONCLUSION

The Board of View reports that after a full and impartial consideration of the testimony and evidence offered to them and acting according to their best judgment, they have estimated and determined the damages sustained by the owners and occupants of the said property by reason of the condemning of the property by the Commonwealth of Pennsylvania, as follows:

CLYDE DAVIS and ERMA MAY DAVIS, Husband and wife-----	\$15,000.00
Detention Damages-----	937.50

Respectfully submitted,



 Donald J. Letizia, Chairman



 T. L. Locher



 Robert G. Mayer

This print is made from sheet No. *38*, of Right-of-way
plan for Route No. *222* Section No. *9*, *CAMBRIDG*
County, approved by the Governor on *MAY 15, 1961*
which I we have examined and had explained to me us this
day of _____, 19____, and is to be attached to
the release herewith executed.

Witness _____ (Seal)

Witness _____ (Seal)

Witness _____ (Seal)

IN THE MATTER OF ROUTE NO. 222 : IN THE COURT OF QUARTERSESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNSYLVANIA
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA X NO. R.D. 2, JUNE SESSIONS, 1962

NOTICE

NOTICE is hereby given that the undersigned Viewers will file their Report in the above matter in the Court of Quarter Sessions of Cambria County, Pennsylvania, on the 6th day of August, 1962.

You will have thirty (30) days from said date within which to file exceptions to our report, if you so desire. If no exceptions are filed thereto within said thirty (30) days our report will be confirmed absolutely by the Court.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY

Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 25th day of July, 1962.

Edward F. Peduzzi
Attorney for

IN THE MATTER OF ROUTE NO. 222 : IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNSYLVANIA
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA : NO. R.D. 2, JUNE SESSIONS, 1962

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You will have thirty (30) days from said date within which to file exceptions to our report, if you so desire. If no exceptions are filed thereto within said thirty (30) days our report will be confirmed absolutely by the Court.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY


Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 24 day of July, 1962.


Attorney for

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNSYLVANIA
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA : R.D. NO. 2, JUNE SESSIONS, 1962

SCHEDULE OF AWARD

From the evidence submitted and the view of the premises affected by the condemning of the said property of the Petitioners by the Commonwealth of Pennsylvania, Department of Highways, the Board of View find the damages sustained by the owners and occupants of this proceedings as follows:

CLYDE DAVIS and ERMA MAY DAVIS,
Husband and wife-----\$15,000.00
Detention Damages----- 937.50

The Board of View have taken into consideration any benefits accruing to the property affected and hereby assess the damages as above awarded against the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman
(Board of View)

ACCEPTANCE OF SERVICE this 25th day of July, 1962.

Edward F. Peduzzi
Attorney for Commonwealth of
Pennsylvania

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNSYLVANIA
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA : R.D. NO. 2, JUNE SESSIONS, 1962

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Husband and wife-----\$15,000.00

Detention Damages----- 937.50

The Board of View have taken into consideration any benefits accruing to the property affected and hereby assess the damages as above awarded against the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAMER

BY *Donald J. Letizia*
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 24 day of July, 1962.

Robert Davis Gleason
Attorney for Petitioners

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER
SECTION 9, IN THE TOWNSHIP OF : SESSIONS OF CAMBRIA COUNTY,
RICHLAND, CAMBRIA COUNTY, : PENNSYLVANIA
PENNSYLVANIA :
: NO.R.D. 2, JUNE SESSIONS, 1962

NOTICE

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a meeting on the 24th day of July, 1962; at 10:00 a.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, at which time they will exhibit the Schedule of Damages caused as the result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 18th day of July, 1962.

Edward F. Podewy
Attorney for Dept of Highways

Wledge No. 1 *1 1/2*

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER
SECTION 9, IN THE TOWNSHIP OF : SESSIONS OF CAMBRIA COUNTY,
RICHLAND, CAMBRIA COUNTY, : PENNSYLVANIA
PENNSYLVANIA :
: NO.R.D. 2, JUNE SESSIONS, 1962

NOTICE

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a meeting on the 24th day of July, 1962, at 10:00 a.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, at which time they will exhibit the Schedule of Damages caused as the result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY

Donald J. Letizia

Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 18 day of July, 1962.

Andrew J. Kleasen

Attorney for

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNSYLVANIA
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA. : NO. R.D. 2, JUNE SESSIONS, 1962

NOTICE OF HEARING

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a hearing on Wednesday, July 11, 1962, at 1:30 p.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, at which time testimony will be taken to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman
(Board of View)

ACCEPTANCE OF SERVICE this 27th day of June, 1962.

Edward F. Peduzzi
Attorney for Com.

FN 27 1962

IN THE MATTER OF ROUTE NO. 222,) IN THE COURT OF QUARTER
SECTION 9, IN THE TOWNSHIP OF (SESSIONS OF CAMBRIA COUNTY,
RICHLAND, CAMBRIA COUNTY,) PENNSYLVANIA
PENNSYLVANIA (NO. RD. 2, JUNE SESSIONS, 1962

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, and to determine the damages sustained by and assess the benefits accruing to the property owners as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Friday, June 22, 1962, at 10:00 a.m., e.d.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

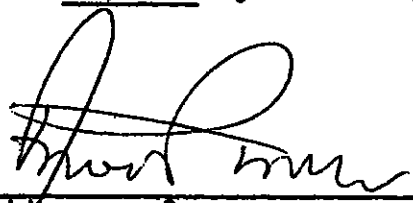
T. L. LOCHER

ROBERT G. MAYER

BY 
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 14th day of June, 1962.


Attorney for

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNA.
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA : NO. R.D. 2, JUNE SESSIONS, 1962

NOTICE OF CONTINUED VIEW

NOTICE is hereby given that the Viewrscheduled in the
above captioned matter for Friday, May 18, 1962, at 10:00 a.m.,
has been continued until further notice of the Board.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 12 day of May, 1962.

Edward F. Peduzzi
Attorney for

Chas. D. D.

IN THE MATTER OF ROUTE NO. 222, : IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF : OF CAMBRIA COUNTY, PENNA.
RICHLAND, CAMBRIA COUNTY, :
PENNSYLVANIA : NO. R.D. 2, JUNE SESSIONS, 1962

NOTICE OF CONTINUED VIEW

NOTICE is hereby given that the View scheduled in the above captioned matter for Friday, May 18, 1962, at 10:00 a.m., has been continued until further notice of the Board.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 12 day of May, 1962.

Thomas A. K...
Attorney for

IN THE MATTER OF ROUTE NO. 222,) IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF (OF CAMBRIA COUNTY, PENNA.
RICHLAND, CAMBRIA COUNTY, PENN-)
SYLVANIA. (NO. R.D. 2, JUNE SESSIONS, 1962

VIEWERS' NOTICE

WE, the undersigned viewers appointed by the above named Court to view and inspect the land and premises owned by CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, and to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Friday, May 18, 1962, at 10:00 a.m., e.^{d.}s.t., when and where all persons interested may appear if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 26 day of April, 1962.

Andrew J. Glasser
Attorney for

IN THE MATTER OF ROUTE NO. 222,) IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF (OF CAMBRIA COUNTY, PENNA.
RICHLAND, CAMBRIA COUNTY, PENN-)
SYLVANIA. (NO. R:D. 2; JUNE SESSIONS, 1962

VIEWERS' NOTICE

WE, the undersigned viewers appointed by the above named Court to view and inspect the land and premises owned by CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, and to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Friday, May 18, 1962, at 10:00 a.m., e/s.t., when and where all persons interested may appear if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 24 day of April, 1962.

Edward F. Peduzzi
Attorney for Dept of Highways.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF ROUTE NO. 222, : NO. R.D. 2
SECTION 9, IN THE TOWNSHIP OF : JUNE SESSIONS,
RICHLAND, CAMBRIA COUNTY, PENNSYL- :
VANIA. : 1962

NOTICE OF CONTINUED VIEW

The undersigned hereby give notice that the view scheduled for Friday, April 27, 1962, at 10:00 a.m., e.s.t., on the premises of CLYDE DAVIS and ERMA MAY DAVIS, has been continued until further notice at the request of the Commonwealth of Pennsylvania.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY

Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 25 day of April, 1962.

Andrew J. Gleason
Attorney for

Gleason

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF ROUTE NO. 222, : NO. R.D. 2
SECTION 9, IN THE TOWNSHIP OF : JUNE SESSIONS,
RICHLAND, CAMBRIA COUNTY, PENNSYL- :
VANIA. : 1962

NOTICE OF CONTINUED VIEW

The undersigned hereby give notice that the view scheduled for Friday, April 27, 1962, at 10:00 a.m., e.s.t., on the premises of CLYDE DAVIS and ERMA MAY DAVIS, has been continued until further notice at the request of the Commonwealth of Pennsylvania.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY *Donald J. Letizia*
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 19 day of April, 1962.

Edward F. Pedryga
Attorney for

IN THE MATTER OF ROUTE NO. 222,) IN THE COURT OF QUARTER SESSIONS
SECTION 9, IN THE TOWNSHIP OF (OF CAMBRIA COUNTY, PENNSYLVANIA
RICHLAND, CAMBRIA COUNTY, PENN-)
SYLVANIA. (NO.RD2, JUNE SESSIONS, 1962

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, and to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice thatt we will meet upon the premises on Friday, April 27, 1962, at 10:00 a.m., e.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 20 day of April, 1962.

Andrew J. Gleason
Attorney for Plaintiff

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 30 day of March A. D. 19 62,
before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Town-
ship of Richland, in the said County, setting forth that they labor under incon-
venience for want of a n assessment of Damages ~~to be assessed on highway to lead from~~

SEE ATTACHED PETITION.

and therefore praying the Court to appoint proper persons to assess damages ~~to be assessed on highway to lead from~~ according
to law. The Court, upon due consideration had of the premises, do order and appoint
Donald Letizia, Esq., T. L. Locher ~~to be assessors~~, and
Robert S. Mayers

viewers, to view the ground proposed for said road, and if they view the same and shall
agree that there is occasion for such 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 desires of the petitioners, and that
they make a 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, to-
gether with a plot or draft thereof, and the courses and distances, and references to the improvements
through which it may pass.

By the Court. *v/ Griffith, P.J.*

Attest:

James T. Tagan, Clerk

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. R. D. 2 June SESSIONS, 19 62

Order to view IN THE MATTER OF

ROUTE NO. 222, SECTION 9, IN

THE TOWNSHIP OF RICHLAND,

CAMBRIA COUNTY, PENNSYLVANIA

Viewers
Donald J. Letizia, Esq.

T. L. Locher

Robert S. Mayer

Clerk James T. Fagan, Clerk of

Courts

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

NO. R.D. 2, JUNE SESSIONS, 1962

IN THE MATTER OF ROUTE NO. 222,
SECTION 9, IN THE TOWNSHIP OF
RICHLAND, CAMBRIA COUNTY,
PENNSYLVANIA

Filed - Aug. 6, 1962

VIEWERS' REPORT

*Now, Sept. 7, 1962
the within Report
confirmed Absolute.*

By the Court:

Donald J. Letizia

DONALD J. LETIZIA
ATTORNEY AT LAW
JOHNSTOWN, PENNSYLVANIA

L.S.
NO. *2* JUNE SESSIONS, 1922

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN THE MATTER OF ROUTE NO.
222, SECTION 9, IN THE
TOWNSHIP OF RICHLAND,
CAMBRIA COUNTY, PENNSYLVANIA.

PETITION
FOR
APPOINTMENT OF VIEWERS

LAW OFFICES
GLEASON & KRUMENACKER
NINTH FLOOR FIRST NATIONAL BANK BUILDING
JOHNSTOWN, PENNSYLVANIA

IN THE MATTER OF ROUTE
NO. 222, SECTION 9,
IN THE TOWNSHIP OF RICHLAND,
CAMBRIA COUNTY, PENNSYL-
VANIA.

X IN THE COURT OF QUARTER SESSIONS
X OF CAMBRIA COUNTY
X PENNSYLVANIA
X NO. 2 JUNE SESSIONS 1962
X

**PETITION OF CLYDE DAVIS AND ERMA MAY DAVIS
HUSBAND AND WIFE, FOR THE
APPOINTMENT OF A BOARD OF VIEWERS**

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

The Petition of Clyde Davis and Erma May Davis,
husband and wife, by their Attorneys, Gleason & Krumenacker,
Esquires, respectfully represents:

1. Your Petitioners are Clyde Davis and Erma May
Davis, husband and wife, individuals who reside at 1314 Scalp
Avenue, Richland Township, Cambria County, Pennsylvania.

2. That your Petitioners are the owners of certain
property in the Township of Richland, Cambria County, Pennsylvania,
bounded and described as follows:

PARCEL NO. 1

BEGINNING at a stake on the Westerly boundary
line of Scalp Level Pike (Pa. Route No. 58)
corner of land of Ross Weaver et ux, South 74°
58' West, a distance of 130 feet to a stake on
the line dividing Lot Nos. 3 and 21 on the here-
inafter mentioned Plan of Lots; thence, along the
said dividing line North 15° 02' West, a distance
of 65 feet to a stake, common corner of Lots No.
3, 4, 20 and 21 on the said hereinafter mentioned
Plan of Lots; thence along the line dividing Lots
No. 3 and 4 on the hereinafter mentioned Plan of
Lots, North 74° 58' East, a distance of 130 feet
to a stake on the Westerly boundary line of the
said Route 58; thence along said boundary line
South 15° 02' East, a distance of 65 feet to a
stake, the place of beginning.

BEING marked, known and designated on the Plan
of Lots situate in Richland Township, as laid out
for Abram C. Weaver Estate by Fetterman Engineer-
ing Company on April 24, 1946, as Lot No. 3.

PARCEL NO. 2

BEGINNING at a stake on the Westerly boundary line of Scalp Level Pike (Pa. Route No. 58) corner of land now of Alonzo Weaver et ux; thence along the line of land of Alonzo Weaver et ux South $74^{\circ} 58'$ West, a distance of 130 feet to a stake on the line dividing Lots No. 2 and 22 on the hereinafter mentioned Plan of Lots; thence along the said dividing line, North $15^{\circ} 02'$ West, a distance of 65 feet to a stake at the common corner of Lots No. 2, 3, 21 and 22 on the hereinafter mentioned Plan of Lots; thence along the line dividing Lots No. 2 and 3 on the hereinafter mentioned Plan of Lots North $74^{\circ} 58'$ East, a distance of 130 feet to a stake on the Westerly boundary line of said Pennsylvania State Route No. 56; thence along said boundary line, South $15^{\circ} 02'$ East, a distance of 65 feet to a stake, the place of beginning. Being marked, known, and designated on the Plan of Lot situate in Richland Township, Cambria County, Pennsylvania, as laid out for Abram C. Weaver Estate by Fetterman Engineer Co., on April 24, 1946, as Lot No. 2.

3. That the Department of Highways of the Commonwealth of Pennsylvania is making or is about to make an improvement known as Legislative Route No. 22, Section 9, in the Township of Richland, Cambria County, Pennsylvania, which affects or will affect the above described properties owned by the Petitioners, and in furtherance thereof, have condemned portions of Petitioner's property described above.

4. That your Petitioners, Clyde Davis and Erma May Davis, husband and wife, aver that they are the owners of the parcel of land described above and that Petitioners are the only persons entitled to recover damages for the taking thereof.

5. Petitioners are advised, believe, and therefore aver that the following portion of land has been condemned and taken for public use:

- (a) A strip of land fronting approximately 150 feet on the westerly line of Legislative Route No. 222, Section 9, and extending back a distance of 30 feet between parallel lines.

6. The aforesaid location of Legislative Route No. 222, Section 9, which has been or will be made by the Department of Highways of the Commonwealth of Pennsylvania, has resulted or will result in the taking of large portions of Petitioner's property, as above set forth, and caused or will cause injury and damage to the remainder thereof.

7. The Commonwealth of Pennsylvania, under the Provisions of the Act of Assembly in such case made and provided, is required to assume all damages in connection with the aforesaid location of Legislative Route No. 222, Section 9.

8. The approval by the Governor of the plan locating Legislative Route No. 222, Section 9, as aforesaid, was dated May 15, 1961.

9. The Petitioners allege that the fair market value of the aforementioned land owned by your Petitioners immediately after the condemnation was less than the fair market value of the said land immediately before the condemnation.

10. Until this date, Petitioners and the Department of Highways of the Commonwealth of Pennsylvania, are unable to agree upon the amount of compensation to be made for the property taken.

WHEREFORE, your Petitioners, Clyde Davis and Erma May Davis, husband and wife, by their Attorneys, Gleason & Krumenacker, Esquires, pray your Honorable Court to appoint a Board of Viewers in the manner prescribed by law to ascertain and award just compensation to Petitioners for their property so condemned in accordance with the Acts of Assembly in such cases made and provided.

And they will ever pray, etc.

GLEASON & KRUMENACKER

BY: *Robert Davis Gleason*
ATTORNEY FOR PETITIONERS

STATE OF PENNSYLVANIA:

SS.

COUNTY OF CAMBRIA:

Before me, a Notary Public in and for said County and State, personally appeared CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, who, being duly sworn according to law, depose and say that they are the Petitioners named in the foregoing Petition, and that the statements therein set forth are true and correct to the best of their knowledge, information and belief.

Clyde Davis

Erma May Davis

Sworn to and subscribed before
me this _____ day of March, 1962.

IN THE MATTER OF ROUTE
NO. 222, SECTION 9,
IN THE TOWNSHIP OF RICHLAND,
CAMBRIA COUNTY, PENNSYL-
VANIA.

X IN THE COURT OF QUARTER SESSIONS
X OF CAMBRIA COUNTY
X PENNSYLVANIA
X NO. JUNE SESSIONS, 1962

O R D E R

AND NOW, this 30 day of March, 1962, on motion
of Gleason & Krumenacker, Esquires, Attorneys for the Petitioners,
and upon consideration of the within Petition, the Court hereby
appoints Donald Letzler, Esq. T. L. Locke
and Robert S. Meyer as a Board of Viewers upon the
within Petition, and further orders that the Board of Viewers
perform its duty in accordance with the law and Acts of
Assembly in such case made and provided.

BY THE COURT:

W. Griffith
P. J.

L.S.

NO. *2* JUNE SESSIONS 1962

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN THE MATTER OF ROUTE NO.
222, SECTION 9, IN THE
TOWNSHIP OF RICHLAND,
CAMBRIA COUNTY, PENNSYLVANIA

Filed - Mar. 30, 1962

PETITION
FOR
APPOINTMENT OF VIEWERS

*Bill Bob
Gleason*

LAW OFFICES
GLEASON & KRUMENACKER
NINTH FLOOR FIRST NATIONAL BANK BUILDING
JOHNSTOWN, PENNSYLVANIA

IN THE MATTER OF ROUTE
NO. 222, SECTION 9,
IN THE TOWNSHIP OF RICHLAND,
CAMBRIA COUNTY, PENNSYL-
VANIA.

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY
PENNSYLVANIA
NO. JUNE SESSIONS 1962

PETITION OF CLYDE DAVIS AND ERMA MAY DAVIS
HUSBAND AND WIFE, FOR THE
APPOINTMENT OF A BOARD OF VIEWERS

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

The Petition of Clyde Davis and Erma May Davis,
husband and wife, by their Attorneys, Gleason & Krumenacker,
Esquires, respectfully represents:

1. Your Petitioners are Clyde Davis and Erma May
Davis, husband and wife, individuals who reside at 1314 Scalp
Avenue, Richland Township, Cambria County, Pennsylvania.

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of 65 feet to a stake, common corner of Lots No.
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Plan of Lots; thence along the line dividing Lots
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Lots, North 74° 58' East, a distance of 130 feet
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said Route 58; thence along said boundary line
South 15° 02' East, a distance of 65 feet to a
stake, the place of beginning.

BEING marked, known and designated on the Plan
of LOTS situate in Richland Township, as laid out
for Abram C. Weaver Estate by Fetterman Engineer-
ing Company on April 24, 1946, as Lot No. 3.

PARCEL NO. 2

BEGINNING at a stake on the Westerly boundary line of Scalp Level Pike (Pa. Route No. 58) corner of land now of Alonzo Weaver et ux; thence along the line of land of Alonzo Weaver et ux South $74^{\circ} 58'$ West, a distance of 130 feet to a stake on the line dividing Lots No. 2 and 22 on the hereinafter mentioned Plan of Lots; thence along the said dividing line, North $15^{\circ} 02'$ West, a distance of 65 feet to a stake at the common corner of Lots No. 2, 3, 21 and 22 on the hereinafter mentioned Plan of Lots; thence along the line dividing Lots No. 2 and 3 on the hereinafter mentioned Plan of Lots North $74^{\circ} 58'$ East, a distance of 130 feet to a stake on the Westerly boundary line of said Pennsylvania State Route No. 56; thence along said boundary line, South $15^{\circ} 02'$ East, a distance of 65 feet to a stake, the place of beginning. Being marked, known, and designated on the Plan of Lot situate in Richland Township, Cambria County, Pennsylvania, as laid out for Abram C. Weaver Estate by Fetterman Engineer Co., on April 24, 1946, as Lot No. 2.

3. That the Department of Highways of the Commonwealth of Pennsylvania is making or is about to make an improvement known as Legislative Route No. 22, Section 9, in the Township of Richland, Cambria County, Pennsylvania, which affects or will affect the above described properties owned by the Petitioners, and in furtherance thereof, have condemned portions of Petitioner's property described above.

4. That your Petitioners, Clyde Davis and Erma May Davis, husband and wife, aver that they are the owners of the parcel of land described above and that Petitioners are the only persons entitled to recover damages for the taking thereof.

5. Petitioners are advised, believe, and therefore aver that the following portion of land has been condemned and taken for public use:

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6. The aforesaid location of Legislative Route No. 222, Section 9, which has been or will be made by the Department of Highways of the Commonwealth of Pennsylvania, has resulted or will result in the taking of large portions of Petitioner's property, as above set forth, and caused or will cause injury and damage to the remainder thereof.

7. The Commonwealth of Pennsylvania, under the Provisions of the Act of Assembly in such case made and provided, is required to assume all damages in connection with the aforesaid location of Legislative Route No. 222, Section 9.

8. The approval by the Governor of the plan locating Legislative Route No. 222, Section 9, as aforesaid, was dated May 15, 1961.

9. The Petitioners allege that the fair market value of the aforementioned land owned by your Petitioners immediately after the condemnation was less than the fair market value of the said land immediately before the condemnation.

10. Until this date, Petitioners and the Department of Highways of the Commonwealth of Pennsylvania, are unable to agree upon the amount of compensation to be made for the property taken.

WHEREFORE, your Petitioners, Clyde Davis and Erma May Davis, husband and wife, by their Attorneys, Gleason & Krumenacker, Esquires, pray your Honorable Court to appoint a Board of Viewers in the manner prescribed by law to ascertain and award just compensation to Petitioners for their property so condemned in accordance with the Acts of Assembly in such cases made and provided.

And they will ever pray, etc.

GLEASON & KRUMENACKER

BY: *Robert Davis Gleason*
ATTORNEY FOR PETITIONERS

STATE OF PENNSYLVANIA:

SS.

COUNTY OF CAMBRIA:

Before me, a Notary Public in and for said County and State, personally appeared CLYDE DAVIS and ERMA MAY DAVIS, husband and wife, who, being duly sworn according to law, depose and say that they are the Petitioners named in the foregoing Petition, and that the statements therein set forth are true and correct to the best of their knowledge, information and belief.

Clyde Davis
Erma May Davis

Sworn to and subscribed before
me this 23rd day of March, 1962.

Rosemarie A. Licastro

ROSEMARIE A. LICASTRO, Notary Public
Johnstown, Cambria County, Penna.
My Commission Expires Dec. 12, 1962

IN THE MATTER OF ROUTE
NO. 222, SECTION 9,
IN THE TOWNSHIP OF RICHLAND,
CAMBRIA COUNTY, PENNSYL-
VANIA.

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY
PENNSYLVANIA
NO. JUNE SESSIONS, 1962

O R D E R

AND NOW, this 30 day of March, 1962, on motion
of Gleason & Krumenacker, Esquires, Attorneys for the Petitioners,
and upon consideration of the within Petition, the Court hereby
appoints Donald J. Letzinger Esq., T. L. Locher
and Robert S. Mayer, as a Board of Viewers upon the
within Petition, and further orders that the Board of Viewers
perform its duty in accordance with the law and Acts of
Assembly in such case made and provided.

BY THE COURT:

Griffith
P. J.