

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA, :

Respondent : NO. R. D. 3, JUNE SESSIONS, 1962
vs. :

ALBERT E. KUHNE, JR. and
THELMA JANE KUHNE,

Petitioners :

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 ALBERT E. KUHNE, JR. and THELMA JANE KUHNE, Husband and wife, to assess damages to their property arising from the improvement and changes to Legislative Route No. 11012, Section 5, in the Township of Stonycreek, County of Cambria, and State of Pennsylvania, and return the proceedings according to law, respectfully report;

Pursuant to their appointment on April 16, 1962, the Board of View set May 18, 1962, at 3:00 p.m., e.d.s.t., as the time to view and inspect the premises owned by ALBERT E. KUHNE, JR. and THELMA JANE KUHNE, husband and wife. Due notice thereof was given to Benjamin Hinchman III, Esquire, 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 as shown by Registered Mail Return Receipt No. 973197 attached hereto and made a part hereof. A continuance was requested by the Commonwealth of Pennsylvania, and the view was thereafter set for Friday, June 22, 1962, at 11:00 a.m., e.d.s.t. Due notice thereof was given to Benjamin Hinchman, III, Attorney for Petitioners, as

shown by acceptance of service of notice attached hereto and made a part hereof. Notice was likewise given to Arnold D. Smorto, Esquire, attorney for the Commonwealth of Pennsylvania, as shown by acceptance of service of notice hereto attached and made a part hereof. The Board of View thereafter set Wednesday, July 11, 1962, at 10:00 a.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, as the time and place for hearing. Due notice thereof was given to Benjamin Hinchman, III., 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 by its attorney, Arnold D. Smorto, Esquire, 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 Benjamin Hinchman, III., Esquire, Attorney for Petitioners, James A. Graham, Esquire, Albert E. Kuhne, Jr., Owner, and Meade Cauffiel, Real Estate appraiser. The Commonwealth of Pennsylvania was represented by Arnold D. Smorto, Esquire, Howard E. Breneman, District Right of Way Engineer, and Donald J. Sharpe and John J. Mock, real estate appraisers. 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, Benjamin Hinchman, III, Esquire, as shown by acceptance of service of notice hereto attached and made a part hereof. Due notice thereof was also given to the Commonwealth of Pennsylvania through its attorney, Arnold D. Smorto, 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, Albert E. Kuhne Jr., and Thelma Jane Kuhne, husband and wife, filed a Petition with the Court of Quarter Sessions of Cambria County, Pennsylvania, on April 6, 1962, setting forth that they labored under inconvenience for want of an assessment of damages.

II. FINDINGS OF FACT

(1) That Albert E. Kuhne, Jr., and Thelma Jane Kuhne, husband and wife, are the owners of parcels of ground situate in the Township of Stonycreek, County of Cambria, and State of Pennsylvania, bounded and described as follows:

NO. 1 - BEGINNING at a point on land (formerly other land of Albert E. Kuhne Sr.) on the southerly side of the road leading from Johnstown to South Fork by way of Solomon Run, Route #11012; thence by the road north 86 degrees 14 minutes east a distance of 105.27 feet; thence by the road, South 83 degrees 03 minutes east a distance of 127.85 feet; thence leaving the road south 11 degrees 15 minutes west a distance of 312.70 feet; thence south 78 degrees 45 minutes east a distance of 150 feet to a point; thence south 11 degrees 15 minutes west a distance of 368.63 feet; thence south 79 degrees 15 minutes east a distance of 140.42 feet; thence south 22 degrees 33 minutes west a distance of 566.81 feet; thence north 20 degrees 28 minutes west a distance of 217.02 feet to a point; thence north 17 degrees 13 minutes west a distance of 119.52 feet to a point; thence north 68 degrees 40 minutes west a distance of 167.87 feet to a point; thence south 59 degrees 27 minutes west a distance of 133.19 feet to a point; thence north 20 degrees 29 minutes west a distance of 474.57 feet to a point; thence south 86 degrees 35 minutes west a distance of 103.06 feet to a post at line of land of (formerly Kuhne Sr.); thence by the same north 3 degrees 23 minutes west a distance of 89.42 feet to a point; thence by land of same the following three courses and distances; north 76 degrees 00 minutes east a distance of 366.111 feet; north 55 degrees 59 minutes east a distance of 250.61 feet; north 19 degrees 59 minutes west a distance of 200.41 feet, to the place of beginning, containing 11.01 acres.

NO. 2 - BEGINNING at a rock corner of land of Jennie Buck; thence by the same North 2 degrees east 13 perches to a post on Public Road; thence by the same North 69 degrees east 33 perches to post corner of land now or late of George Moyer; thence by the same

south 16 degrees east 14 perches to stone, corner of lands now or late of George Moyer; thence by the same South 70 degrees west 15.2 perches to post; thence by the same south 80 degrees west 22.2 perches to rock corner land now or late of Jennie Buck, and the place of beginning, containing 3 acres and 6 perches.

NO. 3 - BEGINNING at corner of Lot No. 20 on the South side of Public Road; thence along said Road south 89 degrees 20 minutes east 104 feet to corner of land now or late of F. M. Shaffer Ice Company; thence along said land south 40 degrees west 300 feet, more or less, to a street; thence along said street, 104 feet to corner of Lot No. 20; thence along line of Lot No. 20 to public road, and the place of beginning. The above described lots being Lots Nos. 21 and 22 on the Plan of Lots laid out by Lewis W. Buck.

(2) That on May 15, 1961, the Commonwealth of Pennsylvania condemned approximately 1.25 acres of the property owned by the Petitioners as shown on the map attached hereto, marked Exhibit "A" and colored in red and green.

(3) That Albert E. Kuhne, Jr., owner, testified that the loss suffered because of the taking by the Commonwealth of Pennsylvania was \$30,000 to \$32,000.

(4) That Meade Cauffiel, real estate appraiser, testified that the loss suffered by the Petitioners because of the taking by the Commonwealth of Pennsylvania was \$31,085.

(5) That Howard E. Breneman is District Right-of-Way Engineer for the Department of Highways.

(6) That Howard E. Breneman testified that approximately 9.12 acres was taken for the service road, and .262 acres was taken for the channel change.

(7) That Donald J. Sharpe, real estate appraiser, testified that the loss suffered by the Petitioners because of the taking by the Commonwealth of Pennsylvania was \$9,568.

(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 \$5,545.

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, re-construction, and improvements to Legislative Route No. 11012, Section 5, in the Township of Stonycreek, County of Cambria, and State of Pennsylvania, and said property has sustained serious loss and damages and that compensation for such damages 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. Briegl 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, Sec. 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 \$60,000.00; that the value of the property after the taking was \$28,000.00 to \$30,000.00; therefore the loss suffered by the Petitioner because of the taking by the Commonwealth of Pennsylvania was \$30,000.00 to \$32,000.00.

Meade Cauffiel, real estate appraiser, testified that the market value of the Petitioners property prior to the taking was \$53,085; that the fair market value of the property immediately after the taking was \$22,000; therefore, making a loss to the petitioners because of the taking by the Commonwealth

of Pennsylvania of \$31,085.

Donald J. Sharpe, real estate appraiser called by the Commonwealth of Pennsylvania, testified that the market value of the Petitioners property prior to the taking by the Commonwealth of Pennsylvania, was \$33,252.50; that the fair market value of the property immediately after the taking was \$23,684.50, thereby making the loss as a result of the taking by the Commonwealth of Pennsylvania of \$9,568.

John J. Mock, real estate appraiser called by the Commonwealth of Pennsylvania, testified that the market value of the Petitioners property prior to the taking by the Commonwealth of Pennsylvania, was \$31,183.40; that the market value of the property immediately after the taking was \$25,738.40; thereby making the loss as a result of the taking by the Commonwealth of Pennsylvania of \$5,445.

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 apprising 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 just sum between the Plaintiff's and Defendant's figures. Harmony Realty Company 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 said property by the Commonwealth of Pennsylvania, as follows:

ALBERT E. KUHNE, JR. and
THELMA JANE KUHNE, Husband and wife---\$12,000.00

Respectfully submitted,



Donald J. Letizia, Chairman



T. L. Locher



Robert G. Mayer

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF
COMMONWEALTH OF PENNSYLVANIA,

Plaintiff

vs.

ALBERT E. KUHNE, JR., AND
THELMA JANE KUHNE,

Defendants

: NO. R. D. 3
:
: 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


Chairman

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


Attorney for

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF
COMMONWEALTH OF PENNSYLVANIA,

(NO. R.D. 3
) JUNE SESSIONS
) 1962
(
)
(

Plaintiff

vs

ALBERT E. KUHNE, JR. AND
THELMA JANE KUHNE,

Defendants

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 in this proceeding as follows:

ALBERT E. KUHNE, JR. and THELMA JANE
KUHNE, Husband and wife, ----- \$12,000.00

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 29th day of July, 1962.

Herbert Rosen
Attorney for Commonwealth of
Pennsylvania

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF
COMMONWEALTH OF PENNSYLVANIA,

(NO. R.D. 3
)
(JUNE SESSIONS
)
(1962
)
(
)
(

Plaintiff

vs

ALBERT E. KUHNE, JR. AND
THELMA JANE KUHNE,

Defendants

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 occupantst in this proceeding as follows:

ALBERT E. KUHNE, JR. and THELMA JANE
KUHNE, Husband and wife,----- \$12,000.00

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 24th day of July, 1962.

Bey Hinchman III
Attorney for Petitioners

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF : NO. R. D. 3
COMMONWEALTH OF PENNSYLVANIA, :
 : JUNE SESSIONS
Plaintiff :
 : 1962
vs. :
 :
ALBERT E. KUHNE, JR., AND :
THELMA JANE KUHNE, :
 :
Defendants ;

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

ACCEPTANCE OF SERVICE this 24th day of July, 1962.

Ray Hinchman III
Attorney for Defendants

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF :
COMMONWEALTH OF PENNSYLVANIA, : NO. R.D. 3
Plaintiff : JUNE SESSIONS,
vs. : 1962
ALBERT E. KUHNE, JR. and :
THELMA JANE KUHNE, :
Defendants :

NOTICE OF EXHIBIT

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 22nd day of July, 1962, at 10:15 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 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 19th day of July, 1962.

Bey. H. H. H. H. H.
Attorney for Defendants

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF :
COMMONWEALTH OF PENNSYLVANIA, : NO. R.D. 3
Plaintiff : JUNE SESSIONS,
vs. : 1962
ALBERT E. KUHNE, JR. and :
THELMA JANE KUHNE, :
Defendants :

NOTICE OF EXHIBIT

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 10:15 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 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 19th day of July, 1962.

[Signature]
Attorney for

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF COMMONWEALTH OF PENNSYLVANIA, Plaintiff) ((NO. R. D. 3) (JUNE SESSIONS,) (1962) (
vs.	
ALBERT E. KUHNE, JR., and THELMA JANE KUHNE, Defendant	

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 10:00 a.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 30th day of June, 1962.

BY [Signature]
Attorney for

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF COMMONWEALTH OF PENNSYLVANIA, Plaintiff) ((NO. R. D. 3) (JUNE SESSIONS,) (1962) (
vs.	
ALBERT E. KUHNE, JR., and THELMA JANE KUHNE, Defendant	

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 10:00 a.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.

BY Bess Hirschman
Attorney for Defendants

IN THE MATTER OF	:	IN THE COURT OF QUARTER SESSIONS
COMMONWEALTH OF PENNSYLVANIA	:	OF CAMBRIA COUNTY, PENNSYLVANIA
Plaintiff	:	
V.	:	
ALBERT E. KUHNE, JR., and	:	NO. R.D. 3, JUNE SESSIONS, 1962
THELMA JANE KUHNE,	:	
Defendants	:	

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by ALBERT E. KUHNE, JR. and THELMA JANE KUHNE, 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 May 18, 1962, at 10:30 a.m., e/s.t.,^{d.} 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.

George R. Dwyer
Attorney for Department of Highways

IN THE MATTER OF	:	IN THE COURT OF QUARTER SESSIONS
COMMONWEALTH OF PENNSYLVANIA;	:	OF CAMBRIA COUNTY, PENNSYLVANIA
Plaintiff	:	
	:	
vs.	:	
	:	
ALBERT E. KUHNE, JR., and	:	NO. R.D. 3, JUNE SESSIONS, 1962
THELMA JANE KUHNE,	:	
Defendants	:	

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by ALBERT E. KUHNE, JR., and THELMA JANE KUHNE, 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 11:00 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 15th day of June, 1962.

[Signature]
Attorney for

IN THE MATTER OF	::	IN THE COURT OF QUARTER SESSIONS
	:::	OF CAMBRIA COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA,	:::	
	::	
Plaintiff	::	
	:::	
vs.	:::	NO. R.D. 3, JUNE SESSIONS, 1962
	::	
ALBERT E. KUHNE, JR., and	::	
THELMA JANE KUHNE,	::	
Defendants	::	

NOTICE OF CONTINUED VIEW

Notice is hereby given that the View scheduled for Friday, May 18, 1962, has been continued until further notice by the Board, 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 11th day of May, 1962.

[Signature]
Attorney for

IN THE MATTER OF	::	IN THE COURT OF QUARTER SESSIONS
	::	OF CAMBRIA COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA,	:::	
	::	
Plaintiff	::	
	::	
vs.	:::	NO. R.D. 3, JUNE SESSIONS, 1962
	::	
ALBERT E. KUHNE, JR., and	::	
THELMA JANE KUHNE,	::	
Defendants	::	

NOTICE OF CONTINUED VIEW

Notice is hereby given that the View scheduled for Friday, May 18, 1962, has been continued until further notice by the Board, 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 9th day of May, 1962.

Ray Hirschman III
Attorney for Defendants

IN THE MATTER OF
COMMONWEALTH OF PENNSYLVANIA
Plaintiff
V.
ALBERT E. KUHNE, JR., and
THELMA JANE KUHNE,
Defendants

: IN THE COURT OF QUARTER SESSIONS
: OF CAMBRIA COUNTY, PENNSYLVANIA
:
:
: NO. R.D. 3, 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 ALBERT E. KUHNE, JR. and THELMA JANE KUHNE, 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 May 18, 1962, at ~~10:30 a.m.~~ ^{3:00 P.M.} ^{d.}, 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 24th day of April, 1962.

Benny W. Hirschman III
Attorney for

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver **ONLY** to addressee Show address where delivered

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

State Highway Department

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

ADDRESS WHERE DELIVERED (only if requested in item #1)

APR 24 1962

CS5-16-71548-4 GPO

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO Com. of Pa.		POSTMARK OR DATE Apr. 23, 1962
STREET AND NO. Secretary of Highways		
CITY AND STATE Harrisburg, Pennsylvania, Pa.		
If you want a return receipt, check which <input type="checkbox"/> 10¢ shows to whom and when delivered <input checked="" type="checkbox"/> 30¢ shows to whom, when, and address where delivered		If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee
FEE\$ ADDITIONAL TO 20¢ FEE		

POD Form 3800
Apr 1960

SEE OTHER SIDE

No. 973197

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300



POSTMARK OF
DELIVERING OFFICE

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN
TO

REGISTERED NO.	NAME OF SENDER DONALDJ. LETIZIA
CERTIFIED NO. 973197	STREET AND NO. OR P. O. BOX 802 First National Bank Bldg
INSURED NO.	CITY, ZONE AND STATE JOHNSTOWN, PA.

CSB-16-71648-4

POD Form 3811 Jan. 1958

- Stick postage stamps to your article to pay:
 20¢ certified mail fee
 First-class or airmail postage
 Either return receipt fee—10¢ or 35¢ (optional)
 Restricted delivery fee—50¢ (optional)
 Special-delivery fee (optional)
- If you want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, leaving the receipt attached, and present the article to a postal employee.
- If you do not want this receipt postmarked, stick the gummed stub on the left portion of the address side of the article, detach and retain the receipt, and mail the article.
- If you want a return receipt, write the certified-mail number and your name and address on a return receipt card, Form 3811, and attach it to the back of the article by means of the gummed ends. Endorse front of article RETURN RECEIPT REQUESTED.
- If you want the article delivered only to the addressee, endorse it on the front DELIVER TO ADDRESSEE ONLY. Place the same endorsement in line 2 of the return receipt card.
- Save this receipt and present it if you make inquiry.

16-71648-8 * ONE

IN THE MATTER OF	:	IN THE COURT OF QUARTER SESSIONS
	:	OF CAMBRIA COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA	:	
Plaintiff	:	
V.	:	
	:	NO. R.D. 3, JUNE SESSIONS, 1962
ALBERT E. KUHNE, JR., and	:	
THELMA JANE KUHNE,	:	
Defendants	:	

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by ALBERT E. KUHNE, JR. and THELMA JANE KUHNE, 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 May 18, 1962, at 10:30 a.m., ^{d.} e/s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. FAYER

BY _____
Chairman

(Board of View)

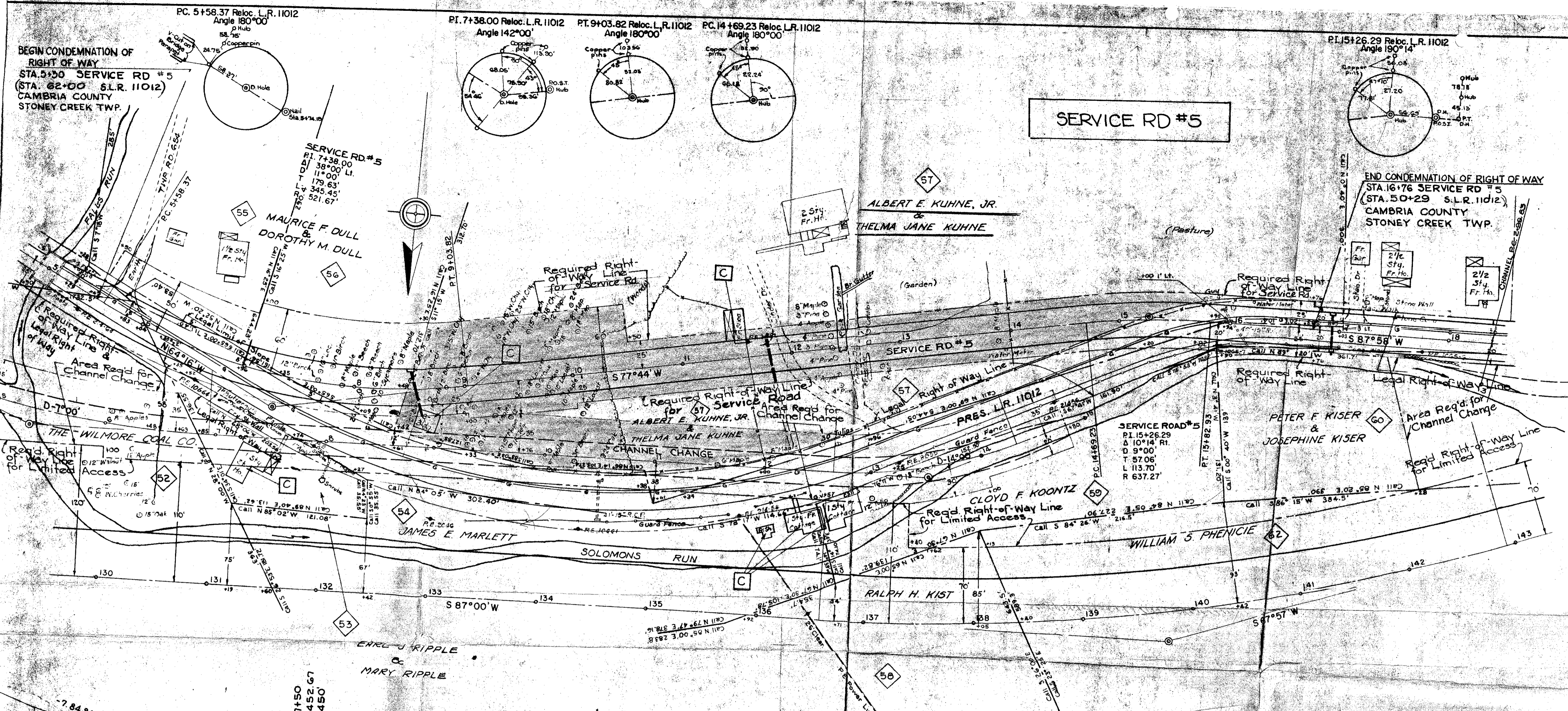
ACCEPTANCE OF SERVICE this _____ day of April, 1962.

Attorney for

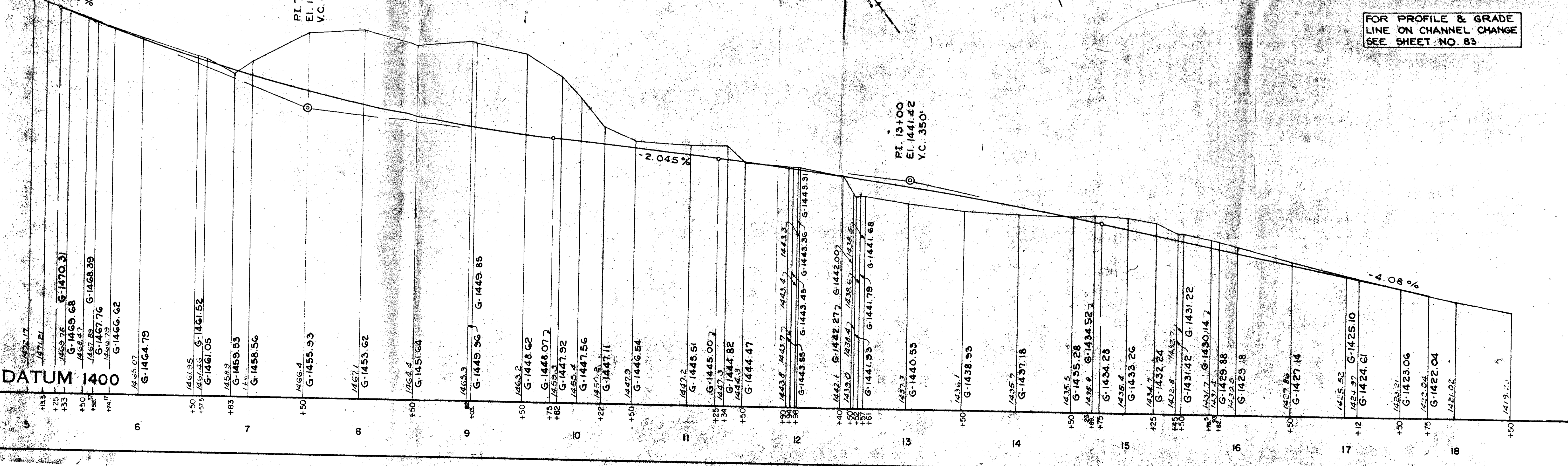
M 12 1 G-1442-272 G-1442-003

This print is made from sheet No. 72, of Right-of-way
plan for Route No. 11012 Section No. 59W, CAMBRIDA
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)
Witness _____ (Seal)



SERVICE RD #5



FOR PROFILE & GRADE LINE ON CHANNEL CHANGE SEE SHEET NO. 83

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. ROAD DOCKET 2 JUNE SESSIONS, 19.62

Order to view TO ASSESS DAMAGES
SUSTAINED BY PETITIONERS, ALBERT E.
AND THELMA JANE KUHNE

Viewers

DONALD J. LETIZIA, ESQ.

TELFORD LOCHER

ROBERT G. MAYER

Clerk JAMES T. FAGAN

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY, PA
R.D. NO. 3, JUNE SESSIONS, 1962

COMMONWEALTH OF PENNSYLVANIA,
Respondent

vs.

ALBERT E. KUHNE, JR. and
THELMA JANE, KUHNE,
Petitioners

VIEWERS' REPORT

Filed - Aug. 6, 1962

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

McDonald
J.

DONALD J. LETIZIA
ATTORNEY AT LAW
JOHNSTOWN, PENNSYLVANIA

In the Court of Quarter Sessions of
Cambria County, Pennsylvania

No. R.D. 3 June Sessions, 1962

COMMONWEALTH OF PENNSYLVANIA

VS.

ALBERT E. KUHNE, JR.
THELMA JANE KUHNE

PETITION FOR APPOINTMENT
OF VIEWERS

Filed - April 16, 1962

JAMES A. GRAHAM, ESQ.

BENJ. HINCHMAN III

ATTORNEY AT LAW

JOHNSTOWN, PENNA.

COMMONWEALTH OF PENNSYLVANIA : In the Court of Quarter Sessions of
: Cambria County, Pennsylvania
VS. :
: No. R.D. 3 June Sessions, 1962
ALBERT E. KUHNE, JR. :
THELMA JANE KUHNE :

PETITION FOR APPOINTMENT OF VIEWERS

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

1. The petitioners are Albert E. Kuhne, Jr. and Thelma Jane Kuhne, husband and wife, residing at 1448 Solomon Street, Stonycreek Township, Cambria County, Pennsylvania, (Post Office, Johnstown).
2. The Respondent is the Commonwealth of Pennsylvania, acting through the Secretary of Highways of the Department of Highways.
3. That petitioners are the owners in fee of All those certain lots or pieces of land, with the buildings and improvements erected thereon situate in Stonycreek Township, Cambria County, Pennsylvania, separately bounded and described as follows:

No. 1 BEGINNING at a point on land (formerly other land of Albert E. Kuhne Sr) on the southerly side of the road leading from Johnstown to South Fork by way of Solomon Run, Route #11012; thence by the road north 86 degrees 14 minutes east a distance of 105.27 feet; thence by the road, south 83 degrees 03 minutes east a distance of 127.85 feet; thence leaving the road south 11 degrees 15 minutes west a distance of 312.70 feet; thence south 78 degrees 45 minutes east a distance of 150 feet to a point; thence south 11 degrees 15 minutes west a distance of 368.63 feet; thence south 79 degrees 15 minutes east a distance of 140.42 feet; thence south 22 degrees 33 minutes west a distance of 566.81 feet; thence north 20 degrees 28 minutes west a distance of 217.02 feet to a point; thence north 17 degrees 13 minutes west a distance of 119.52 feet to a point; thence north 68 degrees 40 minutes west a distance of 167.87 feet to a point; thence south 59 degrees 27 minutes west a distance of 133.19 feet to a point; thence north 20 degrees 29 minutes west a distance of 474.57 feet to a point; thence south 86 degrees 35 minutes west a distance of 103.06 feet to a post at line of land of (formerly Kuhne Sr); thence by the same north 3 degrees 23 minutes west a distance of 89.42 feet to a point; thence by land of same the following three courses and distances; north 76 degrees 00 minutes east a distance of 366.11 feet; north 55 degrees 59 minutes east a distance of 250.61 feet; north 19 degrees 59 minutes west a distance of 200.41 feet, to the place of beginning, containing 11.01 acres.

No. 2 BEGINNING at a rock corner of land of Jennie Buck; thence by the same north 2 degrees east 13 perches to a post on Public Road; thence by the same north 69 degrees east 33 perches to post corner of land now or late of George Moyer; thence by the same south 16 degrees east 14 perches to stone, corner of lands now or late of George

Moyer; thence by the same south 70 degrees west 15.2 perches to post; thence by the same south 80 degrees west 22.2 perches to rock corner land now or late of Jennie Buck, and the place of beginning, containing 3 acres and 6 perches.

No. 3 BEGINNING at corner of Lot No. 20 on the south side of Public Road; thence along said Road south 89 degrees 20 minutes east 104 feet to corner of land now or late of F. M. Shaffer Ice Company; thence along said land south 40 degrees west 300 feet, more or less, to a street; thence along said street, 104 feet to corner of Lot No. 20; thence along line of Lot No. 20 to public road, and the place of beginning. The above described lots being Lots Nos. 21 and 22 on the Plan of Lots laid out by Lewis W. Buck.

Together with all other lands, rights, privileges, rights of way, easements, waters as the same were vested in Albert E. Kuhne Sr. by a deed from the F. M. Shaffer Ice Co. dated July 2, 1941, and recorded December 19, 1941, in Deed Book Vol. 507, page 327 and by a deed from Daniel Younker and wife, dated November 28, 1941, and recorded December 19, 1941, in Deed Book Vol. 502, page 668.
The dwelling on the above land is called 1448 Solomon Street.

BEING the same premises which vested in ALBERT E. KUHNE JR. by Award of Orphans' Court of Cambria County, Pa., recorded April 24, 1958, in Deed Book Vol. 711, Page 344.

4. That in connection with the improvement of Legislative Route No. 11012, Section 5, in Cambria County, Pennsylvania, a portion of the above described premises owned and occupied by petitioners has been condemned by the Commonwealth for highway purposes by a plan signed by the Governor of Pennsylvania on May 15, 1961.

5. That your petitioners and the Respondent have been unable to agree upon the compensation to be made for the property condemned and appropriated by Respondent.

WHEREFORE, your petitioners therefore pray your Honorable Court to appoint three viewers from the Board of Viewers of Cambria County to assess the damages to which your petitioners are entitled by reason of the appropriation, and report the same to your Honorable Court sec. leg.

Ben. Hirschman

James A. Brubaker
Attorneys for Petitioners

COMMONWEALTH OF PENNSYLVANIA:

:
: SS:
:

COUNTY OF CAMBRIA

Before me, a Notary Public in and for said County and State, personally appeared ALBERT E. KUBNE, JR. and THELMA JANE KUBNE, the above named petitioners, who, being duly sworn according to law, depose and say that the facts set forth in the foregoing petition are true and correct to the best of their knowledge, information and belief.

Albert E. Kubne, Jr.

Thelma Jane Kubne

Sworn to and subscribed before me this 13th day of April, 1962.

Agnes Smith
Notary Public

NOTARY PUBLIC
MY COMMISSION EXPIRES JANUARY 7, 1963
JOHNSTOWN, PA CAMBRIA COUNTY

COMMONWEALTH OF PENNSYLVANIA

In the Court of Quarter Sessions of
Cambria County, Pennsylvania

VS.

No. R.D. 3

June Sessions, 1962

ALBERT E. KUHNE, JR.
THELMA JANE KUHNE

DECREE

AND NOW, this 16th day of April, 1962, upon consideration of the foregoing Petition, the Court appoints Donald J. Letizia, Esq.
Telford Hooper and Robert G. Mayer.

as a Board of View to assess the damages sustained by petitioners as a result of the condemnation and taking of said property by the Commonwealth of Pennsylvania, Department of Highways in connection with the improvement of Legislative Route No. 11012, Section 5, and further orders that the said Board of View shall perform its duties in accordance with the Acts of Assembly and Rules of Court in such case made and provided.

BY THE COURT

(S) M^c Donald

J.

CERTIFIED on this,

the 16th day of April

A. D., 1962

James T. Hagan
Clerk of Courts

Quarter Sessions
In the Court of ~~Common Pleas~~ of Cambria County

Petition for appointment
of Viewers, assessors
& Damages for
Property of: Albert
E. and Helma Jane
Kubine

No. 3

June

Sessions
Term, 1962

Enter my appearance

for Commonwealth - Dept of Highways
in above stated case

To Prothonotary of said County.

Arnold D. Smart

Attorney for Dept of Highway.

In the Court of Quarter Sessions of
Cambria County, Pennsylvania

No. R.D. *R.D-3* June Sessions, 1962

COMMONWEALTH OF PENNSYLVANIA

VS.

ALBERT E. KUHNE, JR.
THELMA JANE KUHNE

PETITION FOR APPOINTMENT
OF VIEWERS

Filed - April 16, 1962

JAMES A. GRAHAM, ESQ.
BENJ. HINCHMAN III -
ATTORNEY AT LAW
JOHNSTOWN, PENNA.

COMMONWEALTH OF PENNSYLVANIA : In the Court of Quarter Sessions of
: :
: Cambria County, Pennsylvania
VS. :
: :
: No. R.D. 3 June Sessions, 1962
ALBERT E. KUHNE, JR. :
THELMA JANE KUHNE :

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WHEREFORE, your petitioners therefore pray your Honorable Court to appoint three viewers from the Board of Viewers of Cambria County to assess the damages to which your petitioners are entitled by reason of the appropriation, and report the same to your Honorable Court sec. leg.

Ben Hinshman III
Lawrence Drahem
Attorneys for Petitioners

COMMONWEALTH OF PENNSYLVANIA:

:

: SS:

:

COUNTY OF CAMBRIA

Before me, a Notary Public in and for said County and State, personally appeared ALBERT E. KUHNE, JR. and THELMA JANE KUHNE, the above named petitioners, who, being duly sworn according to law, depose and say that the facts set forth in the foregoing petition are true and correct to the best of their knowledge, information and belief.

Albert E. Kuhne, Jr.

Thelma Jane Kuhne

Sworn to and subscribed before me this 13th day of April, 1962.

Agnis Smith
Notary Public

NOTARY PUBLIC
MY COMMISSION EXPIRES JANUARY 7, 1963
JOHNSTOWN, PA CAMBRIA COUNTY

COMMONWEALTH OF PENNSYLVANIA :

In the Court of Quarter Sessions of

VS. :

Cambria County, Pennsylvania

ALBERT E. KUHNE, JR.
THELMA JANE KUHNE

No. R.D. ~~2~~ 3 June Sessions, 1962

DE C R E E

AND NOW, this 16 day of April, 1962, upon consideration of the foregoing Petition, the Court appoints Donald J. Letizia Esq.
Telford Locher and Robert G. Meyer

as a Board of View to assess the damages sustained by petitioners as a result of the condemnation and taking of said property by the Commonwealth of Pennsylvania, Department of Highways in connection with the improvement of Legislative Route No. 11012, Section 5, and further orders that the said Board of View shall perform its duties in accordance with the Acts of Assembly and Rules of Court in such case made and provided.

BY THE COURT

McDonald J.