

R. D.

No. 2 December Sessions, 1962

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA

IN THE MATTER OF ROUTE NO.
11012-5, IN THE 17th WARD OF
THE CITY OF JOHNSTOWN AND
THE TOWNSHIP OF STONYCREEK,
CAMBRIA COUNTY, PENNSYLVANIA

Filed - Oct. 1, 1962

PETITION FOR APPOINTMENT
OF BOARD OF VIEWERS

DINO S. PERSIO
ATTORNEY-AT-LAW
213 S. CENTER STREET
EBENSBURG, PENNSYLVANIA

IN THE MATTER OF ROUTE NO.
11012-5, IN THE 17th WARD
OF THE CITY OF JOHNSTOWN AND
THE TOWNSHIP OF STONYCREEK,
CAMBRIA COUNTY, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA
D.S.
No. *2* December Sessions, 1962

PETITION OF JOHN A. BOMBA AND THOMAS BOMBA
FOR THE APPOINTMENT OF BOARD OF VIEWERS

TO THE HONORABLE JUDGES OF THE ABOVE NAMED COURT:

The Petition of JOHN A. BOMBA and THOMAS BOMBA, by
their Attorney, Dino S. Persio, Esquire, respectfully represent:

-1-

That one of your Petitioners is John A. Bomba, an
individual who resides at 1335 Solomon Street, Johnstown, Cambria
County, Pennsylvania.

-2-

That your other Petitioner is Thomas Bomba, an indi-
vidual who resides at 1299 Solomon Street, Johnstown, Cambria
County, Pennsylvania.

-3-

That your Petitioners are the owners of certain parcels
of land situate partly in the 17th Ward of the City of Johnstown
and partly in the Township of Stonycreek, Cambria County, Penn-
sylvania, bounded and described as follows:

ALL those certain pieces or parcels of land
situate partly in the 17th Ward of the City of
Johnstown and partly in the Township of Stony-
creek, in the County of Cambria and State of
Pennsylvania, bounded and described as follows:

No. 1 - Being the same premises sold by the
County Treasurer of Cambria County at public
sale for delinquent taxes in 1938 to Cambria
County; said premises having been assessed and

sold as the property of Solomon Run Coal Company and identified on the Assessment Rolls of Cambria County as Property No. 87-1803, 7 acres, 1 house, Solomon Road, 17th Ward, Johnstown.

No. 2 - Adjoining lands now or formerly of Lewis Buck, lands now or formerly of D. L. Parsons, lands of Emma I. Glass, said last mentioned lands being a portion of the larger tract of which the land hereby described was a part, and other, containing 5 acres, more or less.

No. 3 - Bounded on the South by a public road, on the East by Lot No. 23, on the North by Lot now or late of J. C. Horner and Lot No. 35, and on the West by Lot No. 25, containing 5 acres and 49 perches, and known as Lot 24 on Plot or Plan of the Jacoby Heirs. There is erected on said last mentioned land a one-story brick building.

No. 4 - Beginning at a point at the edge of a public road and corner of Elizabeth Kountz's Lot No. 24; thence by the public road South 84° East 17 perches to a post corner of L. W. Buck's Lot No. 22; thence by said lot due North 54 perches, more or less, to a post on the original line; thence by said line and lands of J. C. Horner due West 17 perches to a post corner of Lot No. 24 now Elizabeth Kountz; thence by said lot due South 50 perches, more or less, to the place of beginning. Containing 5 acres and 49 perches, more or less.

Parcel No. 1 above described being the same premises title to which became vested in John A. Bomba and Thomas Bomba by deed of Norman A. Krumenacker, et ux. dated February 19, 1959 and recorded on April 25, 1959 in the Recorder of Deeds Office, in and for Cambria County, in Deed Book Volume 726, at Page 17.

Parcels Nos. 2, 3 and 4 above described being the same premises title to which became vested in John A. Bomba and Thomas Bomba by deed of Norman A. Krumenacker, et ux., dated February 19, 1959 and recorded on April 25, 1959 in the Recorder of Deeds Office, in and for Cambria County, in Deed Book Volume 726, at Page 19.

The above described pieces or parcels of ground being more accurately described as one parcel in accordance with a survey made by H. J. Bosler, Registered Surveyor, on August 29, 1960, as follows:

Beginning at a stake on the Northerly side of Solomon Street and at the Southeasterly corner of Lot No. 25 on the hereinafter mentioned plan of lots; thence along the line of said Lot No. 25 North 1° 53' 55" West 803.84 feet to a point

on line of land now or late of J. C. Horner; thence along the line of land now or late of J. C. Horner North $87^{\circ} 36' 05''$ East 827.28 feet to a point on line of Lot No. 21 on the said plan of lots; thence along the line of Lot No. 21 South $3^{\circ} 21' 15''$ East to an iron pin on the Northerly side of Solomon Street; thence along the Northerly side of Solomon Street the following courses and distances: South $63^{\circ} 58' 05''$ East 79.67 feet to a point; thence by a curve to the right, having a radius of 553.69 feet, an arc distance of 279.44 feet, to a point; thence North $86^{\circ} 23' 55''$ West 497.06 feet to the place of beginning; being Lots Nos. 22, 23 and 24 on the Peter Jacoby Plan of Lots or the Plan of the Jacoby Heirs which is not recorded.

-4-

There is excluded from the above described premises a portion thereof which was conveyed to John Bomba by Thomas Bomba, Single, deed dated September 12, 1960 and recorded in Cambria County in Deed Book Volume 746, at Page 189, and which is described as follows:

ALL that certain lot or piece of land situate in the 17th Ward of the City of Johnstown, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at a point on the Northerly side of Solomon Street which is distant South $86^{\circ} 23' 55''$ East 240 feet from the Southeasterly corner of Lot No. 25 as marked and known on the Plan of the Jacoby Heirs; thence from said point of beginning and through land of which the piece hereby conveyed was a part, the following three courses and distances: North $2^{\circ} 53' 05''$ East 150 feet to a point; thence South $87^{\circ} 06' 55''$ East 120 feet to a point; thence South $2^{\circ} 53' 05''$ West 150 feet to a point on the Northerly line of Solomon Street; thence along the Northerly line of Solomon Street North $86^{\circ} 23' 55''$ West 120 feet to a point and place of beginning.

-5-

That the Department of Highways of the Commonwealth of Pennsylvania, is making or is about to make, an improvement known as Legislative Route No. 11012-5, in the 17th Ward of the City of Johnstown, and the Township of Stonycreek, Cambria County,

Pennsylvania, which affects, or will affect the above described premises owned by the Petitioners, and in furtherance thereof have condemned portions of Petitioners' premises described above.

-6-

That your Petitioners, John A. Bomba and Thomas Bomba aver that they are the owners of the parcels of land described above and that Petitioners, John A. Bomba and Thomas Bomba are the only persons entitled to recover damages for the taking thereof.

-7-

A list of liens, that appear of record against the Petitioners, is as follows:

- A. A mortgage against John Bomba in favor of the Windber Trust Company dated February 24, 1961 and recorded on February 25, 1961 in the Recorder of Deeds Office, in and for Cambria County, in Mortgage Book Volume 338, at Page 640.
- B. A judgment against Thomas Bomba in favor of Winslow-Cohu-Stetson, Inc. was entered in the Prothonotary's Office, in and for Cambria County, to No. 400 March Term, 1961.

-8-

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

A strip of land which totals approximately 7 acres, fronting along Legislative Route No. 11012-5.

-9-

The aforesaid location of Legislative Route No. 11012-5 which has been or will be made by the Department of

Highways of the Commonwealth of Pennsylvania has resulted in the taking of large portions of Petitioners' premises, as above set forth, and caused or will cause injury and damage to the remainder thereof.

-10-

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. 11012-5.

-11-

The approval by the Governor of the plan locating Legislative Route No. 11012-5, as aforesaid, was dated May 15, 1961.

-12-

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

-13-

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 premises taken.

WHEREFORE, your Petitioners, John A. Bomba and Thomas Bomba, by their attorney, Dinc S. Persic, Esquire, 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.

DINO S. PERSIO



Attorney for Petitioners

STATE OF PENNSYLVANIA
COUNTY OF CAMBRIA


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SS:

JOHN A. BOMBA, one of the within Petitioners, being duly sworn according to law, deposes and says that the matters and facts set forth in the foregoing Petition are true and correct to the best of his knowledge, information and belief.


John A. Bomba

Sworn and subscribed to before me
this 28th day of September,
1962.


Justice of the Peace
My Com. Exp 1st Nov Jan, 1968

IN THE MATTER OF ROUTE NO. 11012-5, IN THE 17th WARD OF THE CITY OF JOHNSTOWN AND THE TOWNSHIP OF STONYCREEK, CAMBRIA COUNTY, PENNSYLVANIA

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IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA
No. December Sessions, 1962

ORDER

AND NOW, to-wit, this 1 day of October, 1962, on motion of Dino S. Persio, Esquire, Attorney for Petitioners, and upon consideration of the within Petition, the Court hereby appoints Donald J. Letizia, Esq., Telford Locker, and Owen Heeney, as a Board of Viewers upon the within Petition, and further order 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. J. J.

X. J.

Road Bucket #2 Dec. 1962

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA

No. _____, March Term, 1963

JOHN A. BOMBA and
THOMAS BOMBA

vs.

COMMONWEALTH OF PENNSYLVANIA

APPEAL FROM REPORT OF VIEWERS

Filed Feb. 2, 1963

*Myers, Taylor v Peduzzi
Ebensburg, Pa.*

John A. Bomba and
Thomas Bomba

vs.

Commonwealth of Pennsylvania

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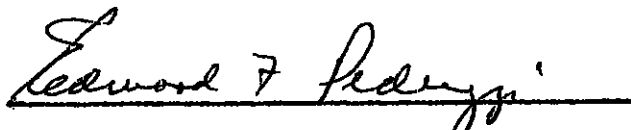
In the Court of Common Pleas of
Cambria County, Pennsylvania

No. 1046, March Term, 1963

APPEAL FROM REPORT OF VIEWERS

TO THE HONORABLE, THE JUDGES OF SAID COURT:

AND NOW, to wit, this 31st day of January, 1963, the Commonwealth of Pennsylvania, Department of Highways, does hereby appeal from the report of the Board of View in the above entitled case, filed January 28, 1963, No. 2 December Sessions, in the Court of Quarter Sessions of Cambria County, Pennsylvania, and does demand that the lawful damages caused by the taking, injury or destruction of the subject property shall be determined by your Honorable Court, according to the provisions of the Act of June 1, 1945, P. L. 1242, Article III, Sections 303,304 (36 Purdon's Statutes Sections 670-303, -304).



Attorney for Department of
Highways

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF DAUPHIN

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: SS
:

Before me, the undersigned officer, personally appeared
George R. Specter, Assistant Attorney General

who, being duly sworn according to law, declares that he is authorized
to make this affidavit on behalf of the Commonwealth of Pennsylvania, and,
in accordance with his authority, avers that this appeal is not taken for
the purpose of delay but because he firmly believes that the Commonwealth
of Pennsylvania is suffering an injustice from the assessment from which
it desires to appeal.

/s/ George R. Specter

Sworn to and subscribed

before me on this 21st

day of January

1963 .

/s/ Margaret I. Albright

Notary Public

My Commission Expires 2-5-64

ORDER

AND NOW, this thirty-first day of January, 1963, it appearing to the Court that the foregoing Appeal is in proper form and within the time limit, the proceedings are hereby directed to be certified from the Court of Quarter Sessions to the Court of Common Pleas for trial of the issues therein, in accordance with the provisions of the Act of June 1, 1945, P. L. 1242, Article III, Sections 303, 304.

BY THE COURT:

/s/ Shettig J.

CERTIFIED on file.

the 31 day of JAN

A. D. 1963

Thomas M. Nelson
Clerk of Courts

Extract from the record.
Certified this 31 day of January,
A. D. 1963.

Joseph C. Dolan
Prothonotary