

T Road

No. No. 1 June Term, 1952

Received 11/10/ 1952

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James L. Lipp

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Robert E. Shober  
Atty. for

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

IN THE MATTER OF THE RECONSTRUCTION OF STATE HIGHWAY ROUTE NO. 11046 BETWEEN THE BOROUGH OF SPANGLER AND THE VILLAGE OF NICKTOWN, IN CAMBRIA COUNTY.

PETITION OF COUNTY COMMISSIONERS FOR APPROVAL OF PAYMENT OF ADDITIONAL DAMAGES TO MICHAEL S. LUBERT, A PROPERTY OWNER ON THE ROUTE OF SAID HIGHWAY.

TO THE HONORABLE THE JUDGES OF THE ABOVE NAMED COURT:

The Petition of Pat Farrell, Thomas A. Owens and Cyrus W. Davis respectfully represents:

1. Your petitioners are the duly elected and acting Commissioners of the County of Cambria.
2. Many years past, there was constructed as a state highway a public road leading from the Borough of Spangler to the Village of Nicktown traversing lands in Barr Township, in said County of Cambria.
3. In or about the year 1947, the Department of Highways of the Commonwealth of Pennsylvania proceeded to relocate portions of said state highway above referred to and the County of Cambria, through action on the part of the then County Commissioners, agreed to pay the damages found to be due to property owners along the line of said reconstructed highway, as occasion for such payment should arise.
4. Among the owners of real estate entitled to damages for the construction of said relocated highway is one Michael S. Lubert, and your petitioners and said Michael S. Lubert agreed upon the amount of \$850.00 as representing the damages to which said Michael S. Lubert was entitled by reason of the taking of a portion of his land and the consequent injury to the remaining parts thereof. Said Michael S. Lubert and his wife executed and delivered to the County of Cambria their Release in proper form dated the 24th day of May, 1951, and since recorded in the office for the recording of deeds, etc., in and for said County of Cambria in Deed Book Vol. 623 at page 163.
5. The owner of the land on the southwestern side of the land of Michael S. Lubert, at the time when the construction of said highway was in

progress, was one Mary Popovich, a portion of whose land was taken in the construction of said highway and damages thereby resulted to the remaining portion of said land. Your petitioners as County Commissioners agreed to pay said Mary Popovich as the amount of damages which she should receive on account of the matters above mentioned, and said amount was duly paid to said Mary Popovich and her Release in proper form taken by the County of Cambria.

6. By reason of the fact that the highway as now located precludes the owner of the land above mentioned as having been owned by Mary Popovich from having access thereto by automobile, this being in part due to the contour of the road and the land of the said Mary Popovich, and it is absolutely necessary that the owner of said Popovich land have a right of way over that portion of the land of Michael S. Lubert which was not considered in arriving at the damages which were settled and paid by the County of Cambria to said Michael S. Lubert as above recited.

7. Said Michael S. Lubert has agreed to execute and deliver to George Popovich, who is the present owner of the land above referred to as having belonged to Mary Popovich, a deed for a small triangular parcel of land containing 372 square feet, being the land necessarily used by said George Popovich in having access to his property by means of motor vehicles. The land to be so conveyed is bounded and described as follows:

Beginning at a post on the line of land of George Popovich and Michael S. Lubert and the right of way of State Highway Route No. 11046; thence North  $21^{\circ} 55'$  East 16 feet along line of said Highway and land of Michael S. Lubert to a post; thence North  $68^{\circ} 5'$  West 46.5 feet along land of Michael S. Lubert to a post at land of Michael S. Lubert and George Popovich; thence south  $49^{\circ} 9'$  East 49.1 feet along land of George Popovich and Michael S. Lubert to a post, the place of beginning, containing 372 square feet.

8. Your petitioners further aver that the necessity which has arisen for Michael S. Lubert to convey to George Popovich the small parcel of land above mentioned is a direct result of the relocation of the above mentioned

state highway and is a part of the damages sustained by said Michael S. Lubert as a property owner along the line of said highway. Your petitioners are not in a position legally to pay to George Popovich any sums whatever on account of the fact that his property is without access for vehicles because all damages properly payable to the owner of said property have heretofore been agreed upon and paid to Mary Popovich, former owner of said land. The necessity which has arisen of the execution of a deed from Michael S. Lubert to George Popovich is in the opinion of your petitioners a situation brought about by the relocation and construction of the above mentioned state highway and it is proper that the County of Cambria pay the amount which is necessary to secure for said George Popovich title to the land which he must use in reaching his property by vehicles. Michael S. Lubert has agreed to convey said small parcel of land for the consideration of One Hundred (100) Dollars which, in the opinion of the petitioners, is a fair and reasonable amount for the same.

WHEREFORE, your petitioners conceiving it to be their duty have agreed to pay to said Michael S. Lubert said sum of \$100.00 as a consideration for the execution of said deed, but have hesitated to make such payment without having sanction for the same by an order of this Court because of the somewhat unusual circumstances attending the damages sought to be compensated by such payment, and therefore pray the Court for an order and decree authorizing and approving payment by them to Michael S. Lubert of the sum of One Hundred Dollars, being the consideration to be paid for the small parcel of land about to be conveyed by said Michael S. Lubert to George Popovich and that said payment shall be treated in all respects as a payment for damages arising from the relocation and construction of the above mentioned state highway route.

And they will ever pray, etc.

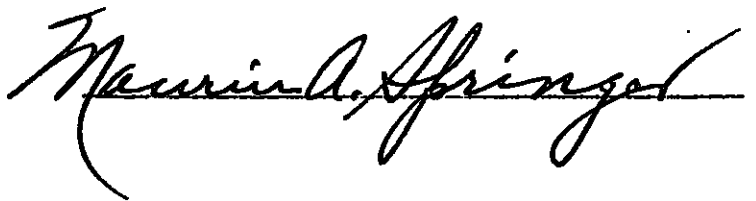
*Pat Jurell*

*Thomas G. Owens*

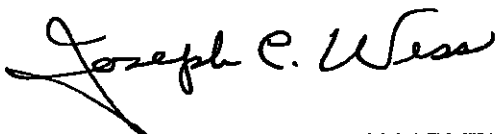
*Raymond W. Davis*  
County Commissioners of Cambria County

STATE OF PENNSYLVANIA    §  
                                  §   SS:  
COUNTY OF CAMBRIA       §

Maurice A. Springer, being duly sworn according to law, says that he is Chief Clerk to the County Commissioners of Cambria County and that the matters averred in the foregoing Petition are true and correct as he verily believes.



Sworn and subscribed before me  
this 8<sup>th</sup> day of May, 1952.



Clerk of Courts

O R D E R

NOW, May 12<sup>th</sup>, 1952, <sup>at 10 AM - D.S.T.</sup> the within petition having been read and presented to the Court, IT IS THEREUPON ORDERED AND DECREED that the County Commissioners of the County of Cambria are hereby authorized to make payment of the sum of One Hundred (100) Dollars to Michael S. Lubert, being the amount of the consideration to be paid to him for delivery of a deed to George Popovich for the land within described, the Court being of the opinion that the payment of said sum is reasonable and is a proper payment of funds of the County of Cambria in connection with damages to property caused by the relocation and construction of state highway route 11046.

BY THE COURT:

Griffith  
J.

In the Court of Quarter Sessions of  
Cambria County, Pennsylvania

*No. 2 June Session 1952*

In the Matter of the Reconstruction of  
State Highway Route No. 11046 Between the  
Borough of Spangler and the Village of  
Nicktown, in Cambria County.

PETITION OF COUNTY COMMISSIONERS FOR  
APPROVAL OF PAYMENT OF ADDITIONAL DAMAGES  
TO MICHAEL S. LUBERT, A PROPERTY OWNER ON  
THE ROUTE OF SAID HIGHWAY

*Filed  
5/12/52*

*Chg. to C. S. S.*

SHETTIG & SWOPE  
ATTORNEYS AT LAW  
EBENSBURG, PA.