In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe. IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISION

No. _____ September Term, 1973

APPEAL

1.

Clarence W. Dillon, Jr. is an individual who resides at R. D. #2, Box 107, Ebensburg, Pennsylvania.

2.

On May 8, 1968, Clarence W. Dillon, Jr. and his wife, Ruth Dillon, entered into an Agreement with Clarence W. Dillon and Marie C. Dillon, husband and wife, for the purchase of one tract of land in Cambria Township, Cambria County, Pennsylvania, and three tracts of land in Barr Township, Cambria County, Pennsylvania. Said Agreement being recorded in Cambria County in Deed Book Volume 855, Page 342.

3.

The parcel of land described as II, No. 3 in said Agreement of Sale contains 73.02 Acres and fronts on the northerly side of Township Route No. 500.

4.

Since May 8, 1968, the date of the aforesaid Agreement and for many years prior thereto, Clarence W. Dillon, Jr. has engaged in farming on said tract of land containing 73.02 Acres and access thereto with farm machinery and equipment has been from said Township Route No. 500.

5.

In March of 1973 the Supervisors of Barr Township, Cambria County, Pennsylvania, deepened the drainage ditch on the northerly side of Township Route No. 500 to such an extent that Clarence W. Dillon, Jr. is no longer able to gain access with farm machinery and equipment to the 73.02 Acre tract of land from Township Route No. 500.

On or about March 31, 1973, Clarence W. Dillon, Jr. installed a pipe in a portion of the said ditch for the purpose of enabling him to gain access to the 73.02 Acre tract of land with farm machinery and equipment.

7.

On April 4, 1973, the Solicitor for Barr Township, Cambria County, Pennsylvania, Blair V. Pawlowski, Esquire, filed a Criminal Complaint against Clarence W. Dillon, Jr. before Justice of the Peace Raymond M. Niebauer, Nicktown, Pennsylvania, for constructing a drainage facility without first submitting a plan thereof to the Supervisors of Barr Township, Cambria County, Pennsylvania, for their approval.

8.

Clarence W. Dillon, Jr. was not aware that any such approval was required under the circumstances until he received a copy of the aforesaid Criminal Complaint.

9.

Subsequent to March 31, 1973, Clarence W. Dillon, Jr. requested an application for a permit for the installation of said pipe from Barr Township Supervisors who refused to give an application therefor to Clarence W. Dillon, Jr.

10.

By letter dated August 17, 1973, the Solicitor for Barr Township Supervisors notified Attorney John W. Taylor who represents Clarence W. Dillon, Jr. that the Barr Township Supervisors had instructed him that the permit requested by Clarence W. Dillon, Jr. to install a drainage pipe was denied.

11.

In view of the action of the Barr Township Supervisors in refusing a permit, Clarence W. Dillon, Jr. is deprived of access to the aforesaid parcel of land in Barr Township from Township Route No. 500.

The action of the Barr Township Supervisors in denying an application and a permit to Clarence W. Dillon, Jr. is arbitrary and capricious.

WHEREFORE, Clarence W. Dillon, Jr. appeals from the denial of the granting of a permit in accordance with the provision of the Second Class Township Code "53 P.S. 66141".

MYERS, TAYLOR & PEDUZZI

Attorneys for Clarence W. Dillon, Jr

COMMONWEALTH OF PENNSYLVANIA : SS.:
COUNTY OF CAMBRIA !

CLARENCE W. DILLON, JR., being duly sworn according to law, deposes and says that the statements set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

Clarence W. Dillon, Sr.

Sworn to and subscribed before me, this 39.4/2 day of August, 1973.

Georgina Ran Krempasky

GEORGINA ANN KREMPASKY, Notary Public Ebensburg, Cambria Co., Pa. Ebensburg, Cambria September 27, 1976 My Commission Expires September 27, 1976 In the Matter of the Appeal of Clarence W. Dillon, Jr. from X CAMBRIA COUNTY, PENNSYLVAN IA Refusal of Barr Township Supervisors to Grant a Permit for X CRIMINAL DIVISION

Installation of Pipe.

AND NOW, this 30th day of August, 1973, a hearing on the within Appeal is scheduled for August, the 5th day of August, 1973, at 10:00 o'clock A.M. in Court Room No. at the Court House, Ebensburg, Pennsylvania.

BY THE COURT,

me williams

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISION

In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe.

APPEAL

LAW OFFICES

MYERS, TAYLOR & PEDUZZI

213 SOUTH CENTER STREET

EBENSBURG, PENNSYLVANIA 15931

FILED CLERK OF COURTS CAMBRIA CO. PA.

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STEPHEN D. UJLAUNOVICH CLERK OF COURTS

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In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe.

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISON

R.D. No. 5 September Term, 1973

AFFIDAVIT OF SERVICE

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COMMONWEALTH OF PENNSYLVANIA SS.: COUNTY OF CAMBRIA

DALE M. SINGER, being duly sworn according to law, deposes and says that he is Deputy Constable for Jackson Township, Cambria County, Pennsylvania; that he served a copy of the attached Appeal on Vincent J. Reber, Chairman of the Board of Supervisors of Barr Township, Cambria County, Pennsylvania, by handing a true and correct copy to him personally at the Nicktown Hotel located in Nicktown, Pennsylvania, at 10:05 o'clock A.M., E.D.S.T, on Saturday, September 1, 1973.

Okle M. Singer

Sworn to and subscribed before me, this 4th day of September, 1973

> JUDITH A. SHANK, Notary Public Eboneburg, Cambria Co., Pa.

My Commission Expires Doc. 16, 1974

In the Matter of the Appeal of Clarence H. Dillon, Jr. from Rafunal of Barr Township Supervisors to Grant a Permit for Installation of Pipe. CAMBRIA COURTY, PENNSYLVAJIA
CRIMINAL DIVISION

R.D.

September Term, 1973

APPEAL

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Clarence W. Dillon, Jr. is an individual who resides at R. D. \$2, Box 107, Ebonoburg, Pennsylvania.

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3.

The parcel of land described as II, No. 3 in said Agreement of Sale contains 73.02 Acres and fronts on the northerly side of Township Route No. 500.

4.

Since May 8, 1968, the date of the aforesaid Agreement and for many years prior thereto, Clarence W. Dillon, Jr. has engaged in farming on said tract of land containing 73.02 Acres and access thereto with farm machinery and equipment has been from said Township Route No. 500.

5.

In March of 1973 the Supervisors of Barr Township, Cambria County, Pennsylvania, deepened the drainage ditch on the northerly side of Township Route Do. 500 to such an axtent that Clarence W. Dillon, Jr. is no longer abla to gain access with form machinery and equipment to the 73.02 Acre tract of land from Township Route No. 500.

On or about March 31, 1973, Clarence W. Dillon, Jr. installed a pipe in a portion of the said ditch for the purpose of enabling him to gain access to the 73.02 Acre tract of land with form machinery and equipment.

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On April 4, 1973, the Solicitor for Barr Township, Cambria County, Pennsylvania, Blair V. Pawlowski, Esquire, filed a Criminal Complaint against Clarence W. Dillon, Jr. before Justice of the Peace Raymond M. Niebauer, Nicktown, Pennsylvania, for constructing a drainage facility without first submitting a plan thereof to the Supervisors of Barr Township, Cambria County, Pennsylvania, for their approval.

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Clarence W. Dillon, Jr. was not aware that any such approval was required under the circumstances until he received a copy of the aforesaid Criminal Complaint.

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Subsequent to March 31, 1973, Clarence W. Dillon, Jr. requested an application for a permit for the installation of said pipe from Barr Township Supervisors who refused to give an application therefor to Clarence W. Dillon, Jr.

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By letter dated August 17, 1973, the Solicitor for Barr Founship
Supervisors notified Attorney John W. Taylor who represents Clarence W. Dillon,
Jr. that the Barr Township Supervisors had instructed him that the permit requested by Clarence W. Dillon, Jr. to install a drainage pipe was denicd.

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In view of the action of the Barr Township Supervisors in refusing a parmit, Clarence W. Dillon, Jr. is deprived of access to the aforesaid parcel of land in Barr Township from Township Route No. 500.

The action of the Borr Township Supervisors in denying an application and a permit to Clarence W. Dillon, Jr. is arbitrary and capricious.

WHEREFORE, Clarence W. Dillon, Jr. appeals from the denial of the granting of a permit in accordance with the provision of the Second Class Township Code "53 P.S. 66141".

MYERS, TAYLOR & PEDUZZI

By /s/ John W. laylor
Attorneys for Clarence W. Dillon, Jr.

COMMONWEALTH OF PERMSYLVANIA : SS.:
COUNTY OF CAMBRIA !

CLARENCE W. DILLOW, JR., being duly sworn according to law, deposes and says that the statements set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

/s/ Clarence W. Dillon, Jr.
Clarence W. Dillon, Jr.

Sworn to and subscribed before me, this 29th day of August, 1973.

(SEAL) /s/ Georgina Ann Krempasky

GEORGINA ANN KREMPASKY, Notary Public Ebensburg, Cambria Co., Pa. My Commission Expires September 27, 1976 Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for No. 5 September Term, 1973 Installation of Pipe. ORDER AND NOW, this <a href="https://www.now.no.mon.now.no.mon.n House, Ebensburg, Pennsylvania. BY THE COURT,

/s/ McWilliams

In the Motter of the Appeal of

IN THE COURT OF COMMON PLEAS OF

CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISION

R.D. No. 5 September Term, 1973

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISON

In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe.

AFFIDAVIT OF SERVICE

LAW OFFICES

MYERS, TAYLOR & PEDUZZI

213 SOUTH CENTER STREET
EBENSBURG, PENNSYLVANIA 1893!

FILED CLERK OF COURTS CAMBRIA CO. PA.

SEP 5 9 42 AH '73

STEPHEN C. GBLACKOVICH CLERK OF COURTS In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe. IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISION

R.D. No. 5 September Term, 1973

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA ; SS.:
COUNTY OF CAMBRIA ;

DALE M. SINGER, being duly sworn according to law, deposes and says that he is Deputy Constable for Jackson Township, Cambria County, Pennsylvania; that he served a copy of the attached Appeal on Vernon Krug, Secretary of the Board of Supervisors of Barr Township, Cambria County, Pennsylvania, by handing a true and correct copy to him personally at his residence located in Nicktown, Pennsylvania, at 9:50 o'clock A.M., E.D.S.T., on Saturday, September 1, 1973.

Dale M. Singer

Sworn to and subscribed before me, this 4th day of September, 1973

> JUDITH A. SHANK, Notary Public Ebensburg, Cambria Co., Pa. My Commission Expires Dec. 16, 1976

In the Enter of the Append of Claresse W. Dillon, Jr. from Referred of Part Termelia Supervices to Great a Possit for Installation of Pipe.

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CATERIA COULTY, PRETYLIZZIA CHIMITAL DIVISIO

R.D.

Soptober Toro, 1979

APPRAL

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Clorenzo V. Dillez, Jr. is an individual who recides at R. D. (2).
Box 107, Ebenseury, Pennsylvania.

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In March of 1973 the Supervisors of Barr Township, Combrid County, Pennsylvenia, desponed the drainage ditch on the northerly side of Terachip Barre Do. 300 to such as extent that Clarence W. Dillon, Jr. 10 no leaser able to gain access with form mechinary and equipment to the 73.02 Acre track of land from Termship Reste No. 300.

On or about March 31, 1973, Clarence W. Dillon, Jr. installed a pipo in a portion of the said ditch for the purpose of enabling him to gain access to the 73.02 Acre tract of land with farm machinery and equipment.

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By letter dated August 17, 1973, the Solicitor for Barr Township
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In view of the action of the Barr Township Supervisors in refusing a pormit, Clarence W. Dillon, Jr. 1s deprived of access to the aforesaid parcel of land in Barr Township from Township Route No. 500.

The action of the Barr Township Supervisors in denying an application and a permit to Clarence W. Dillon, Jr. is arbitrary and capricious.

WHEREFORE, Clarence W. Dillon, Jr. appeals from the denial of the granting of a permit in accordance with the provision of the Second Class Township Code "53 P.S. 66141".

MYERS, TAYLOR & PEDUZZI

By /s/ John W. Taylor
Attorneys for Clarence W. Dillon, Jr.

COMMONWEALTH OF PENNSYLVANIA : SS.:
COUNTY OF CAMBRIA !

CLARENCE W. DILLON, JR., being duly sworn according to law, deposes and says that the statements set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

/s/ Clarence W. Dillon, Jr.
Clarence W. Dillon, Jr.

Sworn to and subscribed before me, this 29th day of August, 1973.

(SEAL) /s/ Georgina Ann krempasky

GEORGINA ANN KREMPASKY, Notary Public Ebensburg, Cambria Co., Pa. My Commission Expires September 27, 1476

ORDER	
AND NOW, this <a 57.="" feeth,="" feeth,<="" href="https://www.no.mithin Appeal is scheduled for feeth," of="" th="" the=""><th>day of <u>licters</u>.</th>	day of <u>licters</u> .
BY THE COURT,	
·s/ Mc Williams	J.

HILII

IN THE COURT OF COMMON PLEAS OF

No. 5 September Term, 1973

CAMBRIA COUNTY, PENNSYLVAN IA CRIMINAL DIVISION

In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe. R. D. No. 5 September Term, 1973

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA CRIMINAL DIVISION

In the Matter of the Appeal of Clarence W. Dillon, Jr. from Refusal of Barr Township Supervisors to Grant a Permit for Installation of Pipe.

AFFIDAVIT OF SERVICE

LAW OFFICES

MYERS, TAYLOR & PEDUZZI

213 SOUTH CENTER STREET
EBENSBURG, PENNSYLVANIA 15931

FILED CLERK OF COURTS CAMERIA CO. PA.

SEP 5 9 42 AM '73

STEPHEN D. OBLACKOVICH CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA ROAD DOCKET DIVISION

In the Matter of the Appeal of Clarence W. Dillon from refusal : of Barr Township Supervisors to : No. R. D. 5, September 1973 grant a permit for installation of : pipe.

AND NOW, this day of February, 1974, the Appeal in the above captioned matter is sustained. Costs to be paid by Barr Township. BY THE COURT:

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IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA

In the Matter of the Appeal of Clarence W. Dillon from refusal of Barr Township Supervisors to grant a permit for installation of pipe.

O R D E R

Judges' Chambers Joseph F. O'Kicki 47th Judicial District Ebensburg, Pennsylvania 15931 GLERK OF COURTS CAMERIA CO. PA.

MAR 8 9 31 AH '74

STEPHEN D. UDLACKOVICH CLERK OF COURTS