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IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

CARMELO F. DAVID and  
HELENA DAVID, Plaintiffs

: No. 1980- 1756

R.D. #2-1980

vs.

EMIL DANIEL, WILLIAM VALKO  
and CHARLES WEYANDT,  
Chairman, ADAMS TOWNSHIP  
SUPERVISORS, Defendants

: APPEAL FROM AND  
: EXCEPTIONS TO ORDINANCE AND  
: PETITION FOR REVIEW

TO THE HONORABLE JUDGES OF THE ABOVE NAMED COURT:

NOW COME, CARMELO F. DAVID and HELENA DAVID, and file  
exceptions to the Ordinance of Adams Township, Cambria County,  
Pennsylvania, passed March 27, 1980, and petition the Honorable  
Court to appoint viewers for the purpose of reviewing the Ordinance  
and these exceptions, and aver as follows:

1. On March 27, 1980, at a meeting, the Supervisors of  
Adams Township voted in favor of Ordinance No. 3-80 vacating a  
segment of an existing unnamed street and relaying and relocating  
the same in the Village of Mine 42 in said Township, a copy of  
said Ordinance is attached hereto and made a part hereof.

2. Carmelo F. David and Helena David are husband and wife  
and reside at 803 Woodside Drive, Wantagh, Long Island, New York  
11793.

3. The Defendants are the duly elected and qualified  
Supervisors of Adams Township, a second class township and a  
governmental division of Cambria County, Pennsylvania.

4. Plaintiffs are the owners of Lot 21, Lot 22 and an  
unnumbered piece of land 90 x 200 feet in size on the Plan of

Mine 42 in Adams Township, Cambria County, Pennsylvania, by Deeds of record in Cambria County Deed Book Vol. 775, Page 561 and Vol. 922, Page 467.

5. Plaintiffs were the Plaintiffs in a civil action in equity in the Court of Common Pleas of Cambria County, to No. 1978-5306 vs. Hugh L. Ronald and Edith M. Ronald, Defendants, upon which a hearing was held by the Court of Common Pleas before the Honorable President Judge H. Clifton McWilliams, after which an Order dated January 2, 1980, was handed down, and the Ordinance aforesaid was prepared, offered and enacted subsequent to the aforesaid Court Order, and is in direct contraversion of the aforesaid Order of the Court.

6. The Ordinance purportedly enacted under the second class township code is arbitrary, capricious and unreasonable and contrary to law. To the best of Plaintiff's knowledge, the Ordinance was enacted without petition and the relocating and relaying of the street is not necessary, and the Ordinance was enacted wholly for the benefit of private individuals and against the interests of the public. The Ordinance is an unconscionable deprivation of Plaintiffs' property rights, will create inconvenience to them and a detriment to their property to which access by the street being vacated was provided for many years.

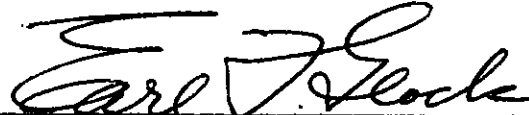
7. The enactment of said Ordinance is an abuse of discretion of the Supervisors of Adams Township and is of no benefit to the public, but in fact is against the public interest and contrary to good governmental policy.

8. The procedures for enactment of the Ordinance were

improper, illegal and contrary to law.

9. The act of the Supervisors in passing said Ordinance is without legal authority and in direct violation of the law and represents misconduct on the part of the Supervisors in favoring a private individual because among other things, their action is not necessary for public convenience.

WHEREFORE, Petitioners except to the passing of the Ordinance and appeal therefrom and petition for a review thereof in accordance with the Act of Assembly, June 1, 1956, P.S. 2021 §14, as amended.

A handwritten signature in dark ink, appearing to read "Earl F. Glock", written over a horizontal line.

Earl F. Glock, Attorney for  
Plaintiffs-Petitioners

STATE OF PENNSYLVANIA :  
 : SS:  
COUNTY OF CAMBRIA :

EARL F. GLOCK, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief; and that the verification of the Plaintiffs is not made because Plaintiffs are outside the jurisdiction of the court and reside in Wantagh, New York, and their verification cannot be obtained within the time allowed for filing the pleading in that a copy of the petition and form of verification was mailed to them from Johnstown on April 18, 1980, and was not received by them as of the date hereof so that is the reason why the verification of the Plaintiffs is not submitted.

Earl F. Glock

Sworn to and subscribed before me  
this -28- day of April, 1980.

Deborah Ann Gregg

DEBORAH ANN GREGG, Notary Public  
Johnstown, Cambria County, Pa.  
My Commission Expires Sept. 29, 1983

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Attorney for Applicant  
360 Stonycreek Street  
Johnstown, Pennsylvania 15901

NOTICE

NOTICE in compliance with the Sec-  
ond Class Township Code, and the  
Open Meeting Law, Act No. 175 of  
1974, is hereby given that the follow-  
ing Ordinance will be considered for  
adoption at a duly convened meeting  
to be held at the St. Michael Firehall,  
March 27, 1980, at 7:30 P.M., prevail-  
ing time, by the Supervisors of the  
Township of Adams, Cambria County,  
Pennsylvania.

ORDINANCE NO. 3

AN ORDINANCE VACATING A  
SEGMENT OF AN EXISTING UN-  
NAMED STREET AND RELAYING AND  
RELOCATING THE SAME IN THE VIL-  
LAGE OF MINE 42, TOWNSHIP OF  
ADAMS, COUNTY OF CAMBRIA, AND  
STATE OF PENNSYLVANIA.

BE IT ENACTED AND ORDAINED by  
the Supervisors of Adams Township,  
that an existing public street, 40 feet in  
width running from the southerly side  
of Pennsylvania Legislative Route  
11096 a distance of 140 feet to the  
northerly line of an unnamed alley be,  
and hereby is, abandoned and vacated  
from its present location.

BE IT FURTHER ENACTED AND OR-  
DAINED that the aforesaid street be,  
and hereby is, relayed and relocated to  
run from the southerly line of Pennsyl-  
vania Legislative Route 11096 to the  
northerly line of an unnamed alley, the  
said road to be bounded and de-  
scribed as follows:

BEGINNING at a point on Pennsyl-  
vania Legislative Route 11096, said  
point being at the common northerly  
corner of Lots Nos. 35 and 36 in the  
Plan of Lots for Mine 42; thence by an  
arc, along the southerly side of Pennsyl-  
vania Legislative Route 11096, having  
a radius of 358.20 feet, a distance of  
43.32 feet in an easterly direction to a  
point; thence S 50° 44' 30" W 138  
feet, more or less to the northerly line  
of an unnamed alley; thence along the  
northerly side of said unnamed alley, N  
39° 15' 30" W 40 feet to a point at the  
common southerly corner of the afore-  
said Lots Nos. 35 and 36; thence N 50°  
44' 30" E 127.77 feet to a point, the  
place of beginning.

BE IT FURTHER ENACTED AND OR-  
DAINED that a copy of this ordinance,  
together with a copy of the survey  
made in connection herewith, shall be  
filed with the Clerk of Courts of Cam-  
bria County.

Phyllis Gdula, Secretary  
Adams Township Supervisors

EXECUTRICES' NOTICE

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said County at Johnstown, Pennsylvania, this 26th day of March, 1980.

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IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

CARMELO F. DAVID and  
HELENA DAVID, Plaintiffs

: No. 1980 - 1756

vs.

EMIL DANIEL, WILLIAM VALKO  
and CHARLES WEYANDT,  
Chairman, ADAMS TOWNSHIP  
SUPERVISORS, Defendants

: PLAINTIFFS' BOND

KNOW ALL MEN BY THESE PRESENTS, that the undersigned CARMELO F. DAVID and HELENA DAVID, petitioners in the above captioned action, having filed exceptions and a petition for review from Ordinance No. 3-80 of the Supervisors of Adams Township, Cambria County, Pennsylvania, relating to the vacating and relaying of an unnamed street in the Village of Mine 42, come into Court with PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, HARRISBURG, Pa.

their Surety and they acknowledge themselves bounded and indebted to the Commonwealth of Pennsylvania for the use of the Adams Township Supervisors, Defendants named in the said action, in the sum of Five Hundred Dollars (\$500.00) lawful money to be paid to the said Defendants, their successors or assigns.

This Bond is conditioned that the said petitioners shall prosecute the appeal, exceptions and petition with effect and abide with the order or decree of the Court of Common Pleas and pay all costs awarded by the Court or legally charged against

them, if any, the above bond and obligation to be void, otherwise,  
to remain in full force and virtue.

Signed and sealed this -28- day of April, 1980.

WITNESS:

\_\_\_\_\_

Carmelo F. David (SEAL)

\_\_\_\_\_

Helene David (SEAL)

\_\_\_\_\_

PENNSYLVANIA NATIONAL MUTUAL  
CASUALTY INSURANCE COMPANY

(SEAL)

Ann Freuteh

John R. Boyd (SEAL)  
ATTORNEY-IN-FACT

POWER OF ATTORNEY ATTACHED.

**MUTUAL CASUALTY INSURANCE COMPANY**  
Harrisburg, Pennsylvania

**POWER OF ATTORNEY**

All Men by these Presents, That PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, a corporation of the Commonwealth of Pennsylvania, does hereby make, constitute and appoint

R. Koontz, Jr. and John R. Renfrew, Jr., both of Johnstown, Pennsylvania (EACH)

true and lawful Attorney(s)-in-Fact to make, execute, seal and deliver for and on its behalf as surety, as act and deed:

and all bonds and undertakings provided the amount of no one bond or undertaking exceeds the sum of One Hundred Fifty Thousand Dollars (\$150,000.00)-----

the execution of such bonds in pursuance of these presents shall be as binding upon said Company, as and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the duly elected officers of the Company at its office in Harrisburg, Pennsylvania, in their own proper names.

appointment is made by and under the authorization of a resolution adopted by the Board of Directors of the Company on October 24, 1973 at Harrisburg, Pennsylvania, which resolution is shown on reverse side hereof and is now in full force and effect.

In Witness Whereof, PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY has caused these presents to be signed and its corporate seal to be hereto affixed on August 30, 1974.

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY

(SEAL)

By Thomas G. Rigling

Vice President

Commonwealth of Pennsylvania, County of Dauphin - ss:

August 30, 1974, before me appeared Thomas G. Rigling to me personally known, being by me duly sworn, did say that he resides in the Commonwealth of Pennsylvania, that he is a President of PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, he is the individual described in and who executed the preceding instrument, and that the seal affixed to said instrument is the corporate seal of said Company, and that said instrument was signed and sealed on behalf of said Company by authority and direction of said Company, and the said officer acknowledged said instrument to be the free act and deed of said Company.

(NOTARIAL SEAL)

C. Woodrow Slaybaugh

Notary Public of Pennsylvania

My Commission Expires November 20, 1976

Commonwealth of Pennsylvania, County of Dauphin - ss:

James V. Folmer, Secretary - Surety of the PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY, a corporation of the Commonwealth of Pennsylvania, do hereby certify that the foregoing is a true and correct copy of a Power of Attorney, executed by the said Company, and is still in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Company on April 28, 1980

*James V. Folmer*  
Secretary - Surety



IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

CARMELO F. DAVID and  
HELENA DAVID, Plaintiffs

: No. 1980- 1756  
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vs.

EMIL DANEL, WILLIAM VALKO  
and CHARLES WEYANDT,  
Chairman, ADAMS TOWNSHIP  
SUPERVISORS, Defendants

ORDER

NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 1980,  
upon consideration of the foregoing Petition, upon motion of  
Earl F. Glock, Attorney for Petitioners, the Court appoints

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\_\_\_\_\_  
\_\_\_\_\_

as a Board of Viewers for the purpose of reviewing the Ordinance  
referred to in said petition and the exceptions thereto in  
accordance with the Second Class Township Code 1956 June 1 P.L.  
(1955) 2021, §14 as amended 53 P.S. 66102.

BY THE COURT:

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No. 1980-

IN THE COURT OF COMMON PLEAS  
OF  
CAMBRIA COUNTY, PENNSYLVANIA  
CIVIL ACTION-LAW

CARMELO F. DAVID and HELENA  
DAVID, Plaintiffs

vs.

EMIL DANIEL, WILLIAM VALKO  
and CHARLES WEYANDT, Chairman,  
ADAMS TOWNSHIP SUPERVISORS,  
Defendants

I HEREBY CERTIFY THE WITHIN  
TO BE A TRUE AND CORRECT  
PHOTOCOPY AND REPRODUCTION  
OF THE PART OF THE EXCEPTIONS  
TO ORDINANCE AND PETITION FOR  
REVIEW IN THE CAPTIONED ACTION  
FILED ON APRIL 28, 1980 IN THE  
COURT OF COMMON PLEAS OF CAMBRIA  
COUNTY, PENNSYLVANIA TO NO.  
1980 - 1756.

*Earl F. Glock*  
EARL F. GLOCK,

Attorney for Plaintiff.

EXCEPTIONS TO ORDINANCE  
AND PETITION FOR REVIEW  
PLAINTIFFS' BOND

ORDER

*50.504p  
Glock  
ms*

AN ORDINANCE VACATING A SEGMENT OF AN EXISTING UNNAMED STREET AND RELAYING AND RELOCATING THE SAME IN THE VILLAGE OF MINE 42, TOWNSHIP OF ADAMS, COUNTY OF CAMBRIA, AND STATE OF PENNSYLVANIA.

BE IT ENACTED AND ORDAINED by the Supervisors of Adams Township, that an existing public street, 40 feet in width running from the southerly side of Pennsylvania Legislative Route 11096 a distance of 140 feet to the northerly line of an unnamed alley be, and hereby is, abandoned and vacated from its present location.

BE IT FURTHER ENACTED AND ORDAINED that the aforesaid street be, and hereby is, relayed and relocated to run from the southerly line of Pennsylvania Legislative Route 11096 to the northerly line of an unnamed alley, the said road to be bounded and described as follows:

BEGINNING at a point on Pennsylvania Legislative Route 11096, said point being at the common northerly corner of Lots Nos. 35 and 36 in the Plan of Lots for Mine 42; thence by an arc, along the southerly side of Pennsylvania Legislative Route 11096, having a radius of 358.20 feet, a distance of 43.32 feet in an easterly direction to a point; thence S 50° 44' 30" W 138 feet, more or less, to the northerly line of an unnamed alley, N 39° 15' 30" W 40 feet to a point at the common southerly corner of the aforesaid Lots Nos. 35 and 36; thence N 50° 44' 30" E 127.77 feet to a point, the place of beginning.

BE IT FURTHER ENACTED AND ORDAINED that a copy of this ordinance, together with a copy of the survey made in connection herewith, shall be filed with the Clerk of Courts of Cambria County.

This ordinance shall become effective five (5) days after its adoption by the Township Board of Supervisors.

ENACTED THIS 27th DAY OF MARCH, 1980.

TOWNSHIP OF ADAMS

BY:

Charles E. Weyand Jr.  
William V. Vello  
Emile Danel

ATTEST:

Thylline E. Gaula  
SECRETARY

I hereby certify that the foregoing ordinance was advertised in the Johnstown Tribune Democrat on March 20, 1980, a newspaper of general circulation in the Municipality and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on March 27, 1980.

Signed: Thylline E. Gaula  
Secretary

FILED  
CLERK OF COURTS  
CAMBRIA CO. PA.

MAY 16 12 43 PM '80