

68-106. Viewing, surveying, laying out, altering or vacating road; assessment of damages; application for damages, when; filing, survey and plat. It shall be the duty of the commissioners or said viewers or a majority of them, and the county surveyor to meet at the time and place specified in the notice aforesaid, or on the following day thereafter, and they may, if they deem it necessary, take to their assistance two suitable persons as chain carriers and one as marker, and then proceed to view, survey, lay out, alter or vacate the road as prayed for in said petition, or as nearly so as a good road can be made at a reasonable expense, taking into consideration the utility, convenience and inconvenience, and expense which will result to individuals as well as to the public, if such road, or any part thereof, shall be established and opened or altered.

Said commissioners or viewers shall also assess and determine the amount of damages sustained by any person or persons through whose premises the said road is proposed to be established. Such commissioners or viewers shall not assess or award damages or compensation to any person or persons in consequence of the opening of said road, unless the owner or owners, or their agents, or guardians, having been duly notified as provided in this act of the applications and proceedings by which their property is sought to be appropriated or damaged, shall have filed a written application with said commissioners, giving a description of the premises on which damages or compensation are claimed, at the time of said view and hearing, as hereinbefore provided for: *Provided*, That in case any person has not received the notice of the view of said road, as hereinbefore provided for, he may at any time within twelve months after the location of said road file an application for damages with the county commissioners, who shall determine the amount of damages sustained by such claimant; and all applications for damages shall be forever barred unless they are presented as provided for in this act. If the commissioners or viewers, after viewing such proposed road, shall so direct, the county surveyor shall survey the said road under their direction, and cause the same to be conspicuously marked throughout, noting the courses and distances.

He shall also make out and deliver to the county clerk, without delay, a correct and certified return of the survey of the said road, and a plat of the same, and the said commissioners or viewers shall make out and sign a certificate stating their opinion in favor of or against the establishment, alteration or vacation of said road or any part thereof, and set forth the reason of the same, which certificate shall be filed with the county clerk on or before the first day of the session of the commissioners then next ensuing; and at such session next ensuing the said commissioners shall, if they conclude that said road should be established, altered, or vacated, and no legal objections appear against the same, and they are satisfied that such road will be of public utility, enter an order upon their records that said road, survey and plat be recorded in the office of the county surveyor and from thence forth said road shall be considered a public highway, and the county surveyor shall issue his order to the trustees of the respective townships in which said road is located, directing them to cause the same to be opened for the public travel at the time and in the manner indicated by him; but if the commissioners conclude that such road as applied for is unnecessary or impracticable, then no further proceedings shall be had thereon and the obligor or obligors on the bond securing costs shall be liable for the full amount of all costs accrued by reason of the view of said road.

History: L. 1911, ch. 248, § 6; May 22; R.S. 1923, 68-106.