



## Ohio Revised Code

### Section 6131.31 Procedures for findings on appeal.

Effective: April 9, 1981

Legislation: House Bill 268 - 113th General Assembly

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(A) If the appeal is from an order of the board of county commissioners made at the first hearing dismissing the petition, and if the court of common pleas from the evidence adduced, including the county engineer's preliminary estimate of cost and preliminary report on feasibility of the project, but without a survey having been made by the county engineer and without any of the schedules, plans, or reports having been filed by the engineer, finds that the construction of the improvement is not necessary or will not be conducive to the public welfare or that the cost will probably exceed the benefits, the court need not order a survey of the improvement, shall find against the improvement, and shall dismiss the petition therefor. The costs before the board shall be paid by the petitioner. The cost in the court shall be paid by the appellant.

(B) If the appeal is from an order of the board made at the first hearing of the board dismissing the petition, and if the court orders the engineer to make a survey and to file his reports, plans, and schedules, and if from the reports, plans, and schedules and from all evidence adduced the court finds that the improvement is not necessary or will not be conducive to the public welfare or that the cost of the improvement will be more than the benefits conferred by the construction of the improvement, then the court shall find against the improvement and shall dismiss the petition therefor, and all costs before the board shall be paid by the petitioner. All costs in the court shall be paid by the appellant except the costs of the engineer in making his survey, reports, plans, and schedules. The costs incurred by the county engineer shall be paid from county funds.

(C) If the appeal is from an order of the board made at the first hearing of the board dismissing the petition, the court sitting as a court of equity before finding for the petition shall order the engineer to make his survey, reports, plans, and schedules as provided in sections 6131.01 to 6131.64 of the Revised Code and to file the same with the clerk of the court of common pleas. Before the court finds for the improvement, the clerk shall notify all owners as named in the schedules of assessments and damages by mail and by publication, as provided in sections 6131.01 to 6131.64 of the Revised Code. The notice shall be the same as the notice given when the schedules are filed with the clerk of the board of county commissioners, except that the notice shall state the date and time of the hearing



in the court of common pleas, and proof of the notice shall be made by the certificate of the clerk of the court. If from the evidence adduced and the schedules filed the court finds that the improvement is necessary and will be conducive to the public welfare and that the cost of the improvement is less than the benefits that will be derived by the construction of the improvement, the court may find for the improvement and proceed to hear the evidence relating to the assessments, compensations, and damages and shall modify, correct, and confirm the schedules relating thereto. The court shall fix the time for the trial of claims for compensation or damages, and the claims shall be tried by a jury unless trial by jury is waived. The compensation or damages awarded shall be paid as provided in sections 6131.01 to 6131.64 of the Revised Code. The court shall order the clerk to certify a transcript of the findings and judgments, together with all the original papers filed in the court, to the clerk of the board of county commissioners, who shall enter the court's orders in the board's journal and transmit the schedules to the county auditor. The engineer, the auditor, and the board shall proceed with the letting of the contract, the construction of the improvement, and the collecting of the assessments in the same manner as if the board had approved and confirmed the assessments and ordered the letting of the contract. All costs before the board, the costs of the engineer in making his survey, reports, plans, and schedules, and all costs on appeal shall be a part of the costs of constructing the improvement.

(D) If the appeal is taken to the court from an order of the board dismissing the proceedings at the final hearing, and if the court finds that the construction of the improvement is necessary and will be conducive to the public welfare and that the cost of the improvement is less than the benefits to be derived by the construction of the improvement, the court may find in favor of the improvement and shall hear the evidence relating to the assessments, compensations, and damages and shall approve, correct, and confirm the schedules relating thereto. Before the court finds for the improvement, the clerk shall notify all owners named in the schedules of assessments and damages by mail and by publication as provided in sections 6131.01 to 6131.64 of the Revised Code. The notice shall be the same as the notice given when the schedules are filed with the clerk of the board of county commissioners, except that the notice shall state the date and time of hearing in the court of common pleas, and proof of the notice shall be made by certificate of the clerk of the court. The schedules so approved, corrected, and confirmed together with the proceedings in the court shall be certified by the clerk of the court of common pleas to the clerk of the board of county commissioners, who shall enter the court's orders on the board's journal and transmit the schedules to the county auditor. The engineer, the auditor, and the board shall proceed to let the contract for the construction of the



improvement and to levy and collect the assessments as if no appeal had been taken, and all the costs before the board and all costs on appeal shall be a part of the costs of the improvement.

(E) If the appeal is taken to the court from an order of the board dismissing the proceedings at the final hearing, and if the court finds that the improvement is not necessary or is not conducive to the public welfare or that the cost of the improvement will be more than the benefits, the court shall dismiss the proceedings. All the costs before the board shall be paid pursuant to section 6131.21 of the Revised Code.

(F) If the appeal is from a final order of the board finding in favor of the improvement and approving and confirming the assessments, and if the court finds that the improvement is necessary and will be conducive to the public welfare and that the cost thereof will be less than the benefits, the court shall hear all the matters appealed, shall correct and confirm the assessments according to benefits, and shall certify the findings to the clerk of the board of county commissioners. The costs before the board shall be a part of the costs of the improvement, and the court shall adjudge the costs made on the appeal as it considers equitable.

(G) If the appeal is from a final order of the board finding in favor of the improvement and approving and confirming the assessments, and if the court finds that the improvement is not necessary or is not conducive to the public welfare or that the benefits conferred are less than the costs, the court shall find against the proceedings, and the petition shall be dismissed. All costs before the board shall be paid pursuant to section 6131.21 of the Revised Code. The court shall adjudge the costs made on the appeal as it considers equitable.

(H) If the appeal is on questions of manner of construction, route, or termini or for or against branches, laterals, or spurs, on questions of assessments, or on questions that do not require a finding for or against the petition, the court shall adjudge the costs as it considers equitable.