

ages allowed him, or benefits assessed against him, may appeal therefrom at any time within thirty days after said commissioners shall have made their return, to the Circuit Court for Allegany County, which said appeal shall be taken by filing written notice thereof with the Clerk of said City Council, who shall thereupon without unnecessary delay, transmit to said Circuit Court a record of the proceedings of said Mayor and City Council and of said Street Commissioners in said matter, and said appeal to be docketed upon the trial docket of the next succeeding term of said Circuit Court; the party taking said appeal to be docketed as plaintiff and said Mayor and City Council as defendant, and said party appellant shall thereupon be entitled to a jury trial, to assess the amount of damages payable to or amount of benefits chargeable against him, as the case may be, and the amount assessed as such damages or benefits by said jury shall stand in the place and stead of the assessment thereof by said commissioners, and upon said appeal it shall be competent for the Court to quash the proceedings upon the motion of the appellant for errors or omissions rendering the same fatally defective; and upon the trial of said cause in said Circuit Court, either party may take bills of exceptions to any rulings of said Court upon matters of law arising in the progress of such trial, and either party may appeal to the Court of Appeals of this State from any such rulings, or from the action of said Court in quashing or refusing to quash such proceedings.

1922, ch. 96, sec. 76.

76. The Mayor and City Council may, whenever in their judgment the public interests or convenience require it, have any street or alley, or parts thereof, in said city graded, paved, sewerred or otherwise improved, and levy the whole expense thereof, or any portion thereof, not less than two-thirds, on the property binding on such street or alley agreeably to the extent of such lots thereon and collect the expense thereof as directed in Section 79, and in case less than the whole cost is assessed upon the abutting property the city shall pay the remainder thereof; provided that in estimating the number of front feet upon such street or alley to be improved, in all cases when a portion of such front feet shall be occupied by a railroad track or its slopes, the number of front feet so occupied shall not be included in said estimate, nor shall said railroad be assessed with any part of the costs of such improvement, unless such property of said railroad shall be used for other purposes than a track simply, in which case said property shall be estimated and judged in the same manner as the property of other parties bordering on said streets or alleys. And the Mayor and City Council shall provide, by ordinance, for the giving of notice by publication or by service or written notice personally upon the parties to be affected by said proceeding, and allowing them to be heard before any such proceedings are had, but nothing in this section shall be construed to prevent the Mayor and City Council from constructing any sewer or sewers or system of sewers and paying for same out of the funds of the city, not to prevent the said Mayor and City Council from con-