

part of the bed of a road, street or avenue shall be adopted and used which may have been already graded and constructed or partially graded and constructed by the owners of the ground bounding and fronting thereon or by their grantors or other persons prior to such adoption, condemnation and use thereof by the examiner or examiners appointed under the provisions of this subtitle of this Article, said examiner or examiners shall, in awarding damages and in assessing benefits, take all such facts into consideration and make a just and proper allowance for such amounts as may have been already expended upon such road, street or avenue or part thereof.

P. L. L. (1888), Art. 3, sec. 233. 1882, ch. 172. 1888, ch. 450. B. Co. C. (1908), sec. 394. 1914, ch. 517. B. Co. C. (1916), sec. 537. 1928, sec. 633.

633. In all contracts of any description made under this subtitle of this Article, the examiner or examiners shall reserve 20 per cent. of the amount of such contracts, to be held by him or them as security for the faithful completion of the same until the same shall have been satisfactorily completed, and the said 20 per cent. shall be deducted and reserved from each and every payment under said contracts; and should the contractor, under any contract made under the terms of this subtitle of this Article, fail to complete said contract, all sums unpaid at the time of such default, including the 20 per cent. above referred to, shall be forfeited and the contractor or his bondsmen shall have no claim upon the same; and whenever application is made to the County Commissioners as hereinbefore provided in this subtitle of this Article it shall be the duty of the County Commissioners to appoint one examiner or three examiners, as the applicants may prefer; the one examiner to be chosen by agreement between the County Commissioners and the applicants, or in case of non-agreement to appoint three examiners—two to be chosen by the County Commissioners and one to be named by the applicants; but no person shall be appointed as an examiner nor as one of the examiners who shall be related to any of the parties making the application nor who may be the owner of or be in any way interested in the ground bounding and fronting on the line of any street, avenue, alley or proposed thoroughfare for which application is made to be condemned, opened, graded and constructed, or to be widened, opened, graded or constructed, or on the line of any street or avenue for which application is made for the extension of the same, or on the line of any street or avenue for which application is made for the laying off of the same; and if one examiner be appointed his pay shall be five dollars per day, and if three examiners be appointed their pay shall be four dollars each per day for every day actually and necessarily engaged in the matter of his or their appointment; and such examiner or examiners shall keep an accurate itemized account of all moneys received and disbursed by him or them and shall file an accurate statement of such account, with vouchers, with the County Commissioners at such time or times as the County Commissioners shall require, and such account shall be subject to the approval and ratification of the County Commissioners.