

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 shall 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 exception 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.

1876, ch. 484.

**68.** The mayor and city council, when requested in writing by the owners of a majority of the front feet of the property on any street or alley or parts thereof in said city, may cause the same to be graded, paved, sewered or otherwise improved, and levy the expenses thereof on the property binding on such street or alley agreeably to the extent of such lots thereon, and collect the expense thereof of grading, paving, sewerage or otherwise improving the same, as directed in the next succeeding section; 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 cost of such improvements, unless such property of said railroad