



Ohio Revised Code

Section 5561.05 Hearing - finding - appeal.

Effective: October 1, 1953

Legislation: House Bill 1 - 100th General Assembly

Upon the filing the petition as provided by section 5561.04 of the Revised Code, accompanied by plans, the railroad company or county opposed to the prayer thereof, or directly interested therein, may, within sixty days file an answer to such petition and present other plans for the abolition of such crossing. After the expiration of such period the court of common pleas shall proceed to a hearing upon the petition and any answers that have been filed, which hearing must be advanced upon the docket upon motion of either party. After examination of all plans presented to it and after hearing the evidence, the court shall make a finding as to whether such plans or any of them are reasonable and practicable.

If the court finds any of the plans presented are reasonable and practicable, it shall order the changes made in accordance with the most reasonable and practicable plan presented to the court, or as amended by its order entered by consent of the parties. The county shall make such changes in the roads or highways as may be necessary, and the railroad company shall make the changes necessary in the tracks and roadbed, in order to comply with the rulings of the court.

If more than one company owns tracks on the crossing in question, the court shall apportion among them the fifteen per cent provided by section 5561.06 of the Revised Code to be paid by such companies, and when making such apportionment the courts shall take into consideration the difference in costs of construction and benefits derived by such companies. If the court finds that none of the plans are reasonable or practicable, the improvement shall not be made upon such plans.

Either party may appeal or prosecute error as in other cases, the hearing of which shall be advanced upon the docket upon motion of either party.

If the county or railroad company refuses or neglects to comply with the orders or findings made by the court under this section, the court may enforce its orders or findings by mandamus, mandatory injunction, or contempt of court, upon the application of either party to such proceedings.