# WEST VIRGINIA CODE: §17-4-53

**§17-4-53. Same -- Appeals from and judicial review of determinations and final orders of commissioner.**

(a) Any objection or preliminary determination issued by the state road commissioner under sections forty-seven, forty- eight, forty-nine or fifty of this article shall be subject to judicial review by the circuit court of the county in which the real property affected is located, or the circuit court of Kanawha county, upon the filing in such court or with the judge thereof in vacation, of a petition for appeal by the owner or owners aggrieved by such objection or preliminary determination, within thirty days from the date of the giving of notice of such objection or preliminary determination.

(b) The owner or owners making such appeal shall forthwith send a copy of such petition for appeal, by certified or registered mail, to the state road commissioner. Upon receipt of such copy of such petition for appeal the state road commissioner shall promptly certify and file in such court a complete transcript of the record upon which the preliminary determination or objection complained of was made. The costs of such transcript shall be paid by the commissioner.

(c) The court sitting in lieu of a jury, or judge thereof in vacation, shall, after due notice, conduct a hearing on the issues presented by such appeal and shall permit argument, oral or written or both, by the parties. The court shall permit such pleadings, in addition to the pleadings before the state road commissioner, as it deems to be required. Evidence relating to the making of the objection or preliminary determination complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by the parties to the proceeding.

(d) Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, any circuit court to which an appeal has been made as provided in this section, may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the objection or final determination of the state road commissioner or to grant such other relief as may be appropriate pending final determination.

(e) A circuit court to which an appeal has been made as provided in this section, may affirm, annul or revise the objection or preliminary determination of the state road commissioner, or it may remand the proceeding to the state road commissioner for such further action as it directs.

(f) The decision of the circuit court on an appeal from the state road commissioner shall be final, subject only to review by the Supreme Court of Appeals of West Virginia upon a petition for certiorari filed in such court within sixty days from the entry of an order and decision of the circuit court upon such appeal from the state road commissioner.

WV Legislature