

*provided*, that if the opening of said street or streets shall benefit the lands abutting upon or adjacent to the same, and increase the value thereof, such benefit and increase in value shall be estimated and deducted from the damages. If, however, after being notified as aforesaid, said owners or occupants fail to appear and claim damages as aforesaid, the said Council shall only award them nominal damages.

Any owner or occupant of land aggrieved by the action of the Council respecting the amount of damages allowed them, shall have the right to appeal to the County Court of the County of Alameda, where said question of damages, and none other, shall be heard anew and determined. Said appeal shall be taken by filing a notice with the Clerk of said County Court, and by serving a copy upon the Mayor of said city, within five days after said assessment of damages by said Council; and within three days after the filing of such notice said aggrieved party shall cause to be transmitted to the said County Court a copy of the order or resolution of the Council, assessing said damages, certified to by the Clerk of the Council, for which copy and certificate said Clerk shall be entitled to receive a fee of two dollars upon the filing of said certified copy of said order or resolution, in said County Court, together with an undertaking on the part of said appellants, in the sum of one hundred dollars, executed by two good and sufficient sureties, to be approved by the Mayor of said city, which said undertaking shall be conditioned to the effect that the said appellants will pay all the costs of the appeal and all costs that may be recovered against him or them in said County Court; *provided*, he or they recover therein no greater sum as damages than were assessed or allowed by said Council, together with ten per cent. additional thereto. The County Judge shall order a special term of the County Court to be holden on a day to be designated, not more than ten days after filing said certified copy of said resolution or order, at which said special term, the said issue as to damages should be tried *de novo*, with or without a jury, as the parties may desire; and upon the rendition of judgment therein, a certified copy