

1 **13-723. Jury view.**

2 You are permitted to use the knowledge gained by your view of the property to interpret  
3 the evidence in the case.

4 USE NOTES

5 When a jury view is made, a special instruction needs to be given to the jury before they  
6 go to the scene, and the foregoing instruction can be included in the final instructions before oral  
7 arguments.

8 **Committee commentary.** — *See Transwestern Pipe Line Co. v. Yandell*, 1961-NMSC-173, 69  
9 N.M. 448, [457,] 367 P.2d 938 [(1961)]; [~~Board~~] Bd. of [Comm'rs] Comm'rs v. Gardner, 1953-  
10 NMSC-047, 57 N.M. 478, 260 P.2d 682 [(1953) and ~~Board of County~~]; Bd. of Cnty. [Comm'rs]  
11 Comm'rs v. Little, 1964-NMSC-240, 74 N.M. 605, 396 P.2d 591, [594 (1964)], wherein the court  
12 in a nonjury case said:

13 The fact trier is permitted to use the knowledge gained by a view of the premises, not only to  
14 interpret the evidence offered, but also as independent evidence of the facts as these appear to  
15 [~~him~~] [the fact trier].

16 *See also City of Truth or Consequences v. Pietruszka*, 1969-NMSC-167, 81 N.M. 3, 462 P.2d 137  
17 [(1969)].

18 Jury views are seldom used by the district courts anymore. They are of questionable assistance to  
19 a jury which, now, usually has plats, diagrams, drawings, and pictures from every conceivable  
20 angle. Frequently, the scene has changed considerably at the time of trial from what the facts were  
21 at the time of the taking. The granting or denying of a jury view is within the sound discretion of  
22 the court.

1 In *El Paso Elec. Co. v. Real Estate Mart, Inc.*, 1982-NMCA-117, 98 N.M. 570, 651 P.2d 105  
2 [(1982)], a case in which the parties had agreed to a jury view of the property, it was held that the  
3 condemnee was not entitled to reversal where the condemnors had improperly marked one spot on  
4 the easement with a red flag. The record showed that the condemnee had picked the spot, the  
5 condemnors marked it, there was no claim that the flags were in the wrong place or that the distance  
6 was improperly measured and the trial court had instructed the jury that the spot marked was not  
7 necessarily a typical spot.

8 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]