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12th JUDICIAL DISTRICT

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In re: Condemnation of Sheesley Estate
Bar Association Page

223

Inside Back Cover

INTELLECTUAL PROPERTY LAW

- * Patents
- * Trademarks
- * Copyrights
- * Unfair Competition
- * Trade Secrets
- * Internet Matters

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39 Years in Harrisburg

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Estate Notices

DECEDENTS ESTATES

NOTICE IS HEREBY GIVEN that letters testamentary or of administration have been granted in the following estates. All persons indebted to the estate are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors or their attorneys named below.

FIRST PUBLICATION

ESTATE OF DEAN L. FRY, late of Williams Township, Dauphin County, Pennsylvania (died July 10, 2010). Executor: Kurt A. Fry, 657 West 5th Street, Williamstown, PA 17098. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, 4245 State Route 209, Elizabethtown, PA 17023.

a6-a20

ESTATE OF GRACE N. SINCLAIR, late of Derry Township, Dauphin County, Pennsylvania (died July 17, 2010). Co-Executrices: Marcia S. Morgan, 58 Almond Drive, Hershey, PA 17033 and Gloria A. Shatto, VP, Co-Executor, Fulton Bank, N.A., One Penn Square, P.O. Box 7989, Lancaster, PA 17604. Attorney: Jean D. Seibert, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101.

a6-a20

ESTATE OF EDWIN A. HIGGINS, late of Susquehanna Township, Dauphin County, Pennsylvania (died March 21, 2010). Executrix: Joanne S. Higgins, 2027 Sauers Road, Harrisburg, PA 17110. Attorney: Elyse E. Rogers, Esq., Keefer Wood Allen & Rahal LLP, 635 North 12th Street, Suite 400, Lemoyne, PA 17043.

a6-a20

ESTATE OF RUDOLPH J. GAISKI, late of Lower Paxton Township, Dauphin County, Pennsylvania (died February 6, 2010). Executor: George J. Gaiski, 5907 J K Drive, Harrisburg, PA 17112. Attorney: Robert D. Kodak, Esq., Kodak & Imblum, P.C., 407 North Front Street, P.O. Box 11848, Harrisburg, PA 17108-1848.

a6-a20

ESTATE OF PAUL F. HOFFMAN, late of the Borough of Millersburg, Dauphin County, Pennsylvania (died June 27, 2010). Administrator: Terry L. Hoffman, 568 Riverview Drive, Millersburg, PA 17061. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, 27 North Front Street, Harrisburg, PA 17101.

a6-a20

ESTATE OF MAE E. SHILEY, late of Williams Township, Dauphin County, Pennsylvania (died July 8, 2010). Executor: Clyde A. Adams, 1331 West Market Street, Williamstown, PA 17098. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, 4245 State Route 209, Elizabethtown, PA 17023.

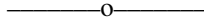
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In re: Condemnation of Sheesley Estate

ORDER

AND NOW, this 10th day of June, 2010, upon consideration of Defendant's Preliminary Objections to Plaintiffs' Amended Complaint and Plaintiffs' Response thereto, and following argument held February 24, 2010, the Preliminary Objections are hereby OVERRULED as follows:

- (1) Defendant's Preliminary Objection to Plaintiffs' Amended Complaint Pursuant to Pa.R.C.P. 1028(a)(4) on the grounds of legal insufficiency of the Amended Complaint is OVERRULED.
- (2) Defendant's Preliminary Objection to Plaintiffs' Amended Complaint Pursuant to Pa.R.C.P. 1028(a)(1) on the grounds of lack of subject matter jurisdiction is OVERRULED.



In re: Condemnation of Sheesley Estate

Municipal Corporations — Eminent Domain — Private Taking — Public Purpose — Easement.

The condemnee Estate argued that a proposed taking of a portion of their property for a sanitary sewer easement was prohibited because it was primarily for the benefit of a private developer and not for the benefit of the general public. The Court, however, found that the Estate failed to rebut the presumption that Township Authority officials acted lawfully and in good faith in issuing a Declaration of Taking.

Preliminary Objections. C.P., Dau. Co., No. 2009-CV-5030-CN. Objections overruled.

1. The Takings Clause of the Fifth Amendment provides the only means of validly overcoming the private right of property ownership, and that is to take for the "public use." *U.S. CONST. amend V*. Without a public purpose, there is no authority to take property from private owners. A taking will be seen as having a public purpose only where the public is to be the primary and paramount beneficiary of its exercise. *Middletown Twp. v. Lands of Stone*, 939 A.2d 331, 337-38 (Pa. 2007).

2. A taking does not lose its public character merely because there may exist in the operation some feature of private gain, for if the public good is enhanced it is immaterial that a private interest also may be benefitted. *In Re: Interest of Robert W. Forrester*, 836 A.2d 102 (Pa. 2003).

In re: Condemnation of Sheesley Estate

3. The burden is on the condemnee to prove a private rather than a public purpose, and it is a heavy one. *In re: Bruce Ave.*, 438 Pa. 498, 266 A.2d 96, 99 (Pa. 1970). The condemnee has a heavy burden to prove the condemnor abused its discretion because “there is a strong presumption that the condemnor acted properly.” *Appeal of Yarnall*, 946 A.2d 1143, 1148 n. 6 (Pa. Commw. 2008), *appeal denied*, 965 A.2d 245 (Pa. 2009).

Steven A. Stine, for Lower Paxton Township Authority

Michael D. Reed, for the Estate

TURGEON, J., July 13, 2010. – Before the court are the preliminary objections of the Estate of Park C. Sheesley to Lower Paxton Township Authority’s (LPTA) Declaration of Taking. The Sheesley Estate argues that the proposed condemnation of a portion of their property for a sanitary sewer easement by the LPTA is prohibited because the taking is for a private use. For the reasons set forth below, this court overrules the preliminary objections.

FACTUAL BACKGROUND

The facts set forth in the record, relevant to the determination of the issues before the court are as follows: The property over which the easement is sought is on a 25.7 acre parcel of land owned by the Sheesley Estate. It lies on the east side of Colonial Road in Lower Paxton Township, Dauphin County, Pennsylvania. (See Prah Dep. 5-6 (citing Zimmerman Dep. Exbt. 1 (Map))) The Sheesley Estate owns four other contiguous parcels consisting of about 140 acres which lie generally north and east of the parcel in question. *Id.* In early 2005, George Zimmerman sought to purchase 30 acres of land owned by Eric Kessler on the west side of Colonial Road and northwest of the Sheesley Estate property, in order to develop a 160-unit retirement residential subdivision known as Colonial Village. The Township’s Sewage Facilities Plan (Act 537 Plan), adopted pursuant to Pennsylvania law, which provides a detailed plan for the Township’s future sanitary sewer needs, mandates that Colonial Village and surrounding properties, including the Sheesley Estate, be served by LPTA’s sewer system. (See Weaver Dep. 28-29) It is the LPTA’s obligation to provide sewer service to a property owner who requests it in an area designed to be served by the public sewer system. (Weaver Dep. 29) Under the Act 537 Plan, sewage collection would be provided from Colonial Village to an existing sanitary sewage pump, the Colonial Road Pumping Station, located on the Sheesley Estate property via a previously obtained easement.¹

1. Sewage collected at the Colonial Road Pumping Station is directed through the sewage conveyance system via the Valley Road Interceptor to the Swatara Township Joint Use Interceptor and then for treatment at the Harrisburg Advanced Wastewater Treatment Facility. (Navarro Exbt. 9)

In re: Condemnation of Sheesley Estate

In 2005, Zimmerman and its engineer, Navarro & Wright, created a development plan of Colonial Village which called for the installation of an extended public sewer service line from the Colonial Road Pumping Station over a proposed easement on the Sheesley Estate property, parallel to Colonial Road. (Zimmerman Dep. Exbt. 2) According to Lower Paxton Sewer Department Director William Weaver, Zimmerman approached LPTA when he submitted the subdivision plans and informed LPTA he would need a sewer easement and would attempt to acquire it with or without the assistance of LPTA. Since Weaver knew Sandra Prah, one of the executors of the Sheesley Estate, Weaver volunteered to assist with the easement acquisition. (Prah Dep. 7, Exbt. 3; Weaver Dep. 14) At that time there was no discussion about the LPTA using eminent domain to acquire it since the parties were negotiating. (Weaver Dep. 15; Prah Dep. 9)

After initial engineering studies were performed, LPTA indicated to Zimmerman and its engineer that it would have to upgrade the Colonial Road Pumping Station since it did not have enough capacity to service Colonial Village. (Weaver Dep. 12-13; Zimmerman Dep. 9-10, 12; Navarro Dep. 7-8, 13-18, Exbts. 4-6) In October 2005, LPTA sent a letter to Zimmerman's engineer stating that "the Township has determined that to accommodate the Colonial Village Development, as well as existing and other future development, a new pumping station and force main will be required." (Navarro Dep. 17, Exbt. 6) Navarro claimed that his firm attempted to accommodate Zimmerman's development and future development including on the Sheesley Estate to minimize Zimmerman's cost by utilizing the existing force main and replacing the pumps at the Colonial Road Pumping Station; however, LPTA informed Zimmerman and its engineer that maintenance of the existing system would be too expensive, a conclusion Navarro supported. So his firm, in concert with LPTA's engineer (CET), looked for alternatives. (Navarro Dep. 17-18)

The LPTA also informed developer Zimmerman that it could not share the cost of an upgrade of the Colonial Road Pumping Station with him, which LPTA's engineer estimated would cost \$300,000 to \$325,000, but that it might be able to enter a developer's agreement by which Zimmerman could recoup some of those costs with a tapping (reimbursement) fee on non-Zimmerman lots developed or connected in the future to the Colonial Road Pumping Station. (Zimmerman Dep. 20, Exbt. 9; Navarro Dep. 29-30, Exbts. 5, 6) It was also assumed that the developer would take all steps necessary to acquire the sanitary sewer easement over the Sheesley Estate property to connect the sewer extension from the Colonial Road Pumping Station to Colonial Village. (Navarro Dep. 18; Exbt. 6)

In re: Condemnation of Sheesley Estate

Lower Paxton Township later submitted a proposed revision to the Township's DEP-approved Act 537 Plan seeking permission from DEP to revise the plan to accommodate the Colonial Village subdivision into its sewage plan. (Navarro Dep. 23, Exbt. 9) The filing of a planning module to update a 537 Plan is typically required where new sewer service will be utilized by a subdivision. (Weaver Dep. 7-8) The plan revision submitted indicates that the proposed development would require sewage facilities to service a projected five year total of 160 Estimated Dwelling Units (EDU's) to Colonial Village, 14 EDU's to existing homes and 3 EDU's to a nearby Lutheran Church. (Navarro Dep. 23, Exbt. 9 (p. 15)) It also stated: "As requested by [LPTA], the gravity sewer line and force main have been sized to handle the existing peak flow, the design flow from Colonial Village and the future flow from the Sheesley property for a total of 642 gpm [gallons per minute]. A design flow of 660 gpm was used. In addition, the Authority requested the existing pump station be replaced and designed to handle the projected average peak flow of 1086 gpm. A design flow of 1100 gpm was used." (Navarro Dep. 23-24, Exbt. 9 (p. 23))

The developer Zimmerman later began his quest to obtain a sewer easement from the Sheesley Estate. Sewer Department Director Weaver initially met with Prahl (the Sheesley Estate representative) concerning the proposed development. (Prahl Dep. 7) In a letter memorializing the meeting, Weaver noted that the proposed sewer was designed to service other properties in the vicinity of the proposed development including to the Shoppes at Colonial Road, the Catholic Diocese property, the Lutheran Church and existing residential properties on Elm Road and Central Avenue. (Navarro Dep. 12; Exbt. 3) The letter also stated that the Township would be in favor of the Sheesley Trust granting a sanitary sewer easement to Zimmerman based upon the conceptual plans discussed to date. *Id.*

The Sheesley Estate and developer Zimmerman thus negotiated an agreement whereby the Sheesley Trust would grant Zimmerman a 30' wide right-of-way easement parallel to Colonial Road in exchange for \$20,000. As additional consideration, Zimmerman agreed, at his sole cost and expense, to upgrade the Colonial Road Pumping Station to service not only the 160 EDU's proposed for Colonial Village, but also a projected future 840 EDU's on the Sheesley property, assuming the Sheesley Estate's request to rezone its property to permit for such development was one day granted. (See Weaver Dep. 30, Exbt. 14) It also provided the Sheesley Estate with the right to review all plans and specs for the pumping station upgrade to confirm that the capacity and

In re: Condemnation of Sheesley Estate

design would be adequate for the Sheesley Estate's contemplated future use. (Navarro Dep. Exbt. 7 (Agreement ¶5)) Zimmerman also agreed to purchase a small triangular parcel of land on the east side of Colonial Road and convey it at a later date to the Sheesley Estate at no cost. Finally, the agreement required that upon completion of the Sewage System Facilities, Zimmerman would dedicate the easement to LPTA, to run and maintain it. (Navarro Dep. Exbt. 7; Weaver Dep. Exbt. 10)

Zimmerman and the Sheesley Estate forwarded their agreement to LPTA for comment and its engineer Navarro & Wright informed Zimmerman's engineer (CET) in March of 2006 that several provisions in the agreement might not be satisfactory, including the provision that Zimmerman upgrade the Colonial Road Pumping Station to 840 EDU's and that the Sheesley Estate had the right to final approval of the plans and specs. (Navarro Exbt. 13) About a year later, LPTA formally rejected the Zimmerman-Sheesley Estate agreement because the pumping station was set to be upgraded to a current capacity to service 840 EDU's, almost double the capacity needed under current zoning. (Pahl Dep. 8; Weaver Dep. 19, 30, Exbt. 10) Weaver suggested that any expansion to increase the pump station capacity to accommodate future EDU's from the Sheesley property should be detailed in a separate agreement between Sheesley Estate and Zimmerman to eliminate any financial involvement by LPTA. *Id.* According to Weaver, the proposed expansion of the pumping station was too large and beyond what the LPTA was requiring, noting that the total peak flows contemplated a proposed zoning change to the Sheesley Estate which may or may not occur in the future. (Weaver Dep. 30)

In February 2007, DEP conditionally approved the revision to the Township's Act 537 Sewer Facilities Plan to permit for the Colonial Village subdivision to connect to the LPTA's public sewer, via the Colonial Road pump station, which it noted was proposed to be expanded to accommodate a projected average peak flow of 1,100 gallons per minute (gpm). (Weaver Dep. 10; Zimmerman Dep. 19; Navarro Dep. 24-26; Exbt. 10) Based upon this approval, LPTA applied for a Water Quality Management Permit. On May 15, 2007, DEP granted LPTA the final permit approving "[r]eplacement of existing pump station with a new pump station to serve Colonial Village and Sheesley property." (Weaver Dep. 10-11; Navarro Dep. 26-27, Exbt. 11)

At some point in 2008, due to financial difficulties, Zimmerman was unable to close on the purchase of the Colonial Village property and

In re: Condemnation of Sheesley Estate

complete the proposed development. Subsequently, Triple Crown Corporation (TCC), through its CEO Mark DiSanto, became interested in purchasing Colonial Village to develop the land generally in accordance with Zimmerman's previously filed plans. (See Prah Dep. Exbt. 5 (p. 2)) TCC subsequently entered negotiations with the Sheesley Estate for the sewer easement. (Prah Dep. 9-10)

With regard to the easement, TCC wanted to move quickly and according to Prah, she met with a TCC representative who walked the site with her and showed her where the easement would be located. She questioned TCC as to why the easement could not be located off her property on the west side of Colonial Road. (Prah Dep. 11-12) LPTA's Weaver, again assisting the parties on the easement issue, attended a number of meetings and corresponded at length with the Sheesley Estate's attorney and Prah over the summer of 2008. (Prah Dep. Exbt. 7 (Minutes), pp. 8-9) According to the minutes from a public meeting concerning the proposed easement in October 2008, Weaver and TCC each claimed to have explored the Sheesley Estate's request to move the proposed sewer easement off the Sheesley Estate but claimed that due to the limitations to the west side of Colonial Road, the sewer had to be installed on the east side of Colonial Road, crossing the Sheesley Estate property. (See Prah Dep. Exbt. 7 (Minutes), p. 8)

TCC had the easement appraised at a fair market value of \$10,000, which it offered to the Sheesley Estate September 17, 2008, advising Sheesley Estate that if they were unable to agree, TCC would request LPTA to commence condemnation proceedings. (Prah Dep. Exbts. 4, 6) In response, the Sheesley Estate attorney sent a letter to LPTA Chairman Hawk in which she informed LPTA that the Sheesley Estate would agree to the same terms of the Zimmerman easement agreement (which was assignable). Notably, the Sheesley Estate wanted TCC to increase the size of the pump station and wet well to allow for future growth on the Sheesley Estate. The Sheesley Estate stressed that it thought that the Authority should require any current developer to provide for future area growth in the sanitary sewer facilities to be installed, as Zimmerman's plans had done and indicated its belief that if it exercised the extraordinary power of eminent domain, it would be doing so for the benefit of a private developer, contrary to Pennsylvania law, 26 Pa.C.S.A. §201 (discussed *infra*). (Prah Dep. Exbt. 5) The Sheesley Estate's position, expressed at the public meeting, was that since LPTA would have required Zimmerman at his own cost to build a new pumping station, sized to accommodate the service area surrounding the pumping station, it should have required the same of TCC. (Prah Dep. Exbt. 7 (Minutes),

In re: Condemnation of Sheesley Estate

p. 10) Nevertheless, Prah! testified that there are no current prospects for development of 110 acres of Sheesley Estate since the economic environment is poor. (Prah! Dep. 21)²

Because the easement agreement was not reached, TCC requested in October 2008 that LPTA institute condemnation proceedings to take the easement since that was the only option it had to connect its proposed development to the public sewage system, as required under the Township’s Act 537 Plan. (Prah! Dep. Exbt. 6) LPTA and TCC also entered an agreement whereby TCC agreed to reimburse expenses incurred by LPTA for the condemnation proceeding. (Prah! Dep. 19-20, Exbt. 8) At the public meeting, TCC (DiSanto) indicated that it rejected any request by the Sheesley Estate that TCC upgrade the pump station and the wet well because TCC did not believe itself to be legally bound to provide free sewer capacity for another developer with no offer of reimbursement. TCC estimated that its cost for the “extras” requested by Sheesley Estate at 20 times the value of the easement. (Prah! Dep. Exbt. 7 (Minutes), p. 9, 13) TCC’s position was that the only legal question for it was value of the easement, which TCC planned to build exactly as designed by the previous engineer. (Prah! Dep. Exbt. 7 (Minutes), P. 12) With regard to the easement location, TCC’s DiSanto indicated that in March of 2008, he also looked into running the sewer line along the west side of Colonial Road but found it not feasible. (Prah! Dep. Exbt. 7 (Minutes), p. 12)

With regard to the Colonial Road Pumping Station, Weaver maintained that as currently proposed on the TCC plan, an upgrade of the Colonial Road Pumping Station will “absolutely” be involved. (Weaver Dep. 26) Furthermore, according to Weaver, in order for Colonial Village to be connected as required by the Township’s Act 537 Plan, it would have to run sewer lines in the proposed Sheesley Estate easement regardless of how the Colonial Road Pumping Station is ultimately upgraded. (Weaver Dep. 31) In addition, the new line would service any properties on the east and west side of Colonial Road that use on-lot systems. (Weaver Dep. 30-31) Weaver described the proposed size of the easement – 30’ wide with 10’ on either side – as standard. (Weaver Dep. 31) Weaver noted that the proposed sewer

2. The area Sheesley Estate contemplates to develop is currently zoned R-1 (two lots per acre) but according to Prah!, there is enough property for it to be zoned planned residential development. (Prah! Dep. 22) In correspondence, LPTA indicated that it estimated the density of R-1 Zoning to be 1.4 EDU’s per acre and of 8.0 EDU’s per acre if the area were zoned R-R, which is apparently the zoning change Sheesley Estate was requesting. (Navarro Exbt. 13)

In re: Condemnation of Sheesley Estate

line running through the proposed easement on the Sheesley Estate could also serve the Sheesley Estate if it would ever be developed. (Weaver Dep. 26)

Weaver testified that he had no knowledge that LPTA was changing its stance on the need for an upgrade of the pumping station noting that such a change would only occur if its engineer (CET) made that recommendation to LPTA. (Weaver Dep. 13-14) The specific upgrades had not yet been determined as of the date of Weaver's deposition (July 2009), and TCC had neither met with LPTA's engineer or solicitor nor proposed an official plan; the plans, according to Weaver, "are still being reviewed." (Weaver Dep. 12, 26) According to the record, after TCC became involved, it did not seek or submit an amendment to the Act 537 Plan showing any changes that would be made pursuant to the proposed TCC development. (Weaver Dep. 12; Navarro Dep. 35) As of the date of his deposition, Weaver believed that TCC had not formally submitted plans to CET for it to review. (Weaver Dep. 13-14)

Following the public hearing on October 28, 2008, concerning LPTA's resolution to obtain a sewer easement across the Sheesley Estate property, LPTA, upon the Sheesley Estate's request, agreed to delay a vote on the easement resolution and permit it and TCC more time to negotiate. (Prah Dep. Exbt. 7, p. 14) After the parties' negotiations failed, LPTA voted on March 17, 2009 to approve of the resolution for acquisition of the easement. (Prah Dep. Exbts. 8, 9) On April 17, 2009, LPTA filed a Declaration of Taking condemning just slightly less than one-half acre of the Sheesley Estate's land for purposes of acquiring a permanent sanitary sewer easement for the extension of the sewer main line. The LPTA filed an open-ended bond without surety as payment for just compensation in accordance with the Eminent Domain Code. On May 22, 2009, the Sheesley Estate filed preliminary objections to the Declaration of Taking, after which the parties embarked upon the creation of a record, including taking numerous depositions and submission of affidavits. The parties have submitted this record in lieu of an evidentiary hearing.

LEGAL DISCUSSION

In its preliminary objections, the Sheesley Estate contends (1) that the Authority's proposed taking of the sewer easement across its property is improper since it is primarily for the private benefit of TCC and not for the benefit of the general public, (2) the proposed taking is in pursuit of a plan for the sole benefit of a private developer and is in violation of the plans submitted by LPTA to DEP for the replacement and upgrade of the

In re: Condemnation of Sheesley Estate

Colonial Road Pumping Station, and (3) LPTA filed insufficient security in the Declaration of Taking.

I.

Preliminary objections filed pursuant to Eminent Domain Code are the sole means by which a landowner may contest a Declaration of Taking. The Eminent Domain Code, 26 Pa.C.S.A. §§101-1106, provides as follows:

- (1) Within 30 days after being served the notice of condemnation, the condemnee may file preliminary objections to the Declaration of Taking.
- ...
- (3) Preliminary objections shall be limited to and shall be the exclusive method of challenging:
 - (i) The power or right of the condemnor to appropriate the condemned property unless the same has been previously adjudicated.
 - (ii) The sufficiency of the security.
 - (iii) The Declaration of Taking.
 - (iv) Any other procedure followed by the condemnor.

26 P.S. §306(a). Preliminary objections filed pursuant to the Eminent Domain Code serve a different function than those filed in other civil actions; they are the exclusive method for resolving challenges to the power or right of the condemnor to appropriate the condemned property unless previously adjudicated, the sufficiency of the security, any other procedures followed by the condemnor, or the Declaration of Taking. They are intended to serve as a mechanism for the expeditious resolution of factual and legal challenges to a Declaration of Taking before the parties proceed to the damages. *Condemnation Proceeding (In re: 1839 N. Eighth St.)*, 891 A.2d 820 (Pa. Commw. 2006), *aff'd in part and rev'd on other grounds*, 938 A.2d 341, 345 (Pa. 2007) (citation omitted).

The law that permits the LPTA to exercise eminent domain power and issue a Declaration of Taking arises from the Municipality Authorities Act, 53 P.S. §§5601-5623, which provides in relevant part:

Section 5607. Purposes and powers.

- (a) Scope of Projects Permitted. — Every authority incorporated under this chapter shall be a body corporate

In re: Condemnation of Sheesley Estate

and politic and shall be for the purposes of financing working capital; acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects of the following kind and character and providing financing for insurance reserves:

...

(5) Sewers, sewer systems or parts thereof.

(d) Powers – Every authority may exercise all powers necessary or convenient for the carrying out of the purposes set forth in this section, including, but without limiting the generality of the foregoing, the following rights and powers:

...

(15) to have the power of eminent domain

Section 5615. Acquisition of lands, water and water rights

(a) Authorization

(1) Except as provided in paragraph (2) the authority shall have the power to acquire by purchase or eminent domain proceedings either the fee or the rights, title, interest or easement in such lands, water and water rights as the authority deems necessary for any of the purposes of this chapter.

53 P.S. §§5607(a)(5) and (d)(15), 5615(a)(1). In addition, a municipal authority is granted the power to charge a property owner/developer for the cost of connection to the authority's sewage system. See, 53 P.S. §5607(d)(21)-(24).

Our supreme court recently addressed the power of eminent domain vis-a-vis private and public takings, as follows:

... This Court has stressed that the exercise of the right of eminent domain "is necessarily in derogation of a private right, and the rule in that case is that the authority is to be strictly construed: What is not granted is not to be exercised." *Winger v. Aires*, 371 Pa. 242, 89 A.2d 521, 523 (Pa. 1952). The Takings Clause of the Fifth Amendment provides the only means of validly overcoming the private right of property ownership and that

In re: Condemnation of Sheesley Estate

is to take for the “public use.” U.S. CONST. amend. V. [3] In other words, without a public purpose, there is no authority to take property from private owners.

According to our Court, “a taking will be seen as having a public purpose only where the public is to be the primary and paramount beneficiary of its exercise.” *In re: Bruce Ave.*, 438 Pa. 498, 266 A.2d 96, 99 (Pa. 1970). In considering whether a primary public purpose was properly invoked, this Court has looked for the “real or fundamental purpose” behind a taking. *Belovsky v. Redevelopment Authority*, 357 Pa. 329, 54 A.2d 277, 283 (Pa. 1947). Stated otherwise, the **true** purpose must primarily benefit the public. ... [emphasis in original]

This means that the government is not free to give mere lip service to its authorized purpose or to act precipitously and offer retroactive justification. In *In re: Condemnation of School Dist.*, 430 Pa. 566, 244 A.2d 42, 46 (Pa. 1968), this Court held that “[u]nless the property is acquired for an authorized public use, and after a suitable investigation leading to an intelligent, informed judgment by the condemnor, the condemnation is invalid.” Likewise, in *Pidstawski v. South Whitehall Township*, 33 Pa. Commw. 162, 380 A.2d 1322, 1324 (Pa. Cmwlth. 1977), a Township’s taking was upheld because rather than being arbitrary, the record demonstrated that it was “carefully planned and painstakingly thought out with a view toward present and future requirements.” Moreover, the United States Supreme Court placed great weight upon the existence of a “carefully considered” development plan in order to rule that the taking in *Kelo v. City of New London*, 545 U.S. 469, 478, 125 S. Ct. 2655, 162 L. Ed. 2d 439 (2005) was not pretextual, but for a proper purpose. Additionally, a plan to take must be tailored to the actual purpose or it will be overturned as excessive. This occurred in *Winger v. Aires*, 371 Pa. 242, 89 A.2d 521 (Pa. 1952), when our

3. The power of eminent domain is recognized in the Pennsylvania Constitution, Article 1, Sec. 10, which states that “private property [shall not] be taken or applied to public use, without authority of law and without just compensation being first made or secured.” Pa. Const. Art. 1, §10.

In re: Condemnation of Sheesley Estate

Court held that a taking of 55 acres for the public purpose of building a school was an abuse of discretion because it was excessive for its purpose. *Id.* at 523 (internal citations omitted). Clearly, evidence of a well-developed plan of proper scope is significant proof that an authorized purpose truly motivates a taking.

Middletown Twp. v. Lands of Stone, 939 A.2d 331, 337-38 (Pa. 2007) (footnote provided).

“The burden is on the [condemnee] to prove a private rather than a public purpose, and it is a heavy one.” *In re: Bruce Ave.*, 266 A.2d 96, 99 (Pa. 1970) (citation omitted). *See also, Appeal of Yarnall*, 946 A.2d 1143, 1148 n. 6 (Pa. Commw. 2008), *appeal denied*, 965 A.2d 245 (Pa. 2009) (citations omitted) (the condemnee has a heavy burden to prove the condemnor has abused its discretion because “there is a strong presumption that the condemnor acted properly”).

II.

The Sheesley Estate’s first preliminary objection is that LPTA’s proposed taking is primarily for TCC’s private benefit and is not the result of a well-developed plan to effectuate a public purpose. Sheesley Estate also raises as an objection that the taking is in violation of the plans submitted by LPTA to DEP pursuant to the Sewage Facilities Act, which provided for the replacement and upgrade of the Colonial Road Pumping Station. This court will address these issues together.

The Sheesley Estate objects to the taking on the basis that it is an unauthorized and unconstitutional private taking, in violation of the Property Rights Protection Act, 26 Pa.C.S.A. §§201-207 (effective Sept. 1, 2006). Section 204(a) of the Act, which is included in the Eminent Domain Code, prohibits “the exercise by any condemnor of the power of eminent domain to take private property in order to use it for private enterprise.” 26 Pa.C.S.A. §204(a). This legislation was enacted in response to the United States Supreme Court’s decision in *Kelo v. City of New London*, *supra*.⁴ In that case, the United States Supreme Court ruled that the City of New London’s condemnation of private property for purposes of economic development, undertaken

4. Pennsylvania was one of many states to enact legislation in response to *Kelo* to protect property owners and restrict the meaning of public purpose. See, “The Legislative Aftershocks of *Kelo*: State Legislative Response to the New Use of Eminent Domain,” 12 Drake J. Agric. L. 325 (2007) and “Templeton Lecture: Eminent Domain Post-*Kelo*,” 9 U. Pa. J. Const. L. 501, 523 n. 120 (2006).

In re: Condemnation of Sheesley Estate

by private developers, satisfied the public purpose standard as required for a constitutional taking in accordance with the Fifth Amendment. The new legislation set forth in Section 204(a) does not appear to represent a significant departure from eminent domain law in Pennsylvania; the law in Pennsylvania has long been that the power of eminent domain can not be used to acquire property for a private rather than a public purpose. *Lands of Stone* at 337.

The LPTA asserts that the taking is for a public purpose and comports with the law. This court agrees. As noted, “a taking will be seen as having a public purpose only where the public is to be the primary and paramount beneficiary of its exercise.” *Lands of Stone* at 337. The Pennsylvania Sewage Facilities Act (Act 537), in part, requires every municipality adopt an official sewage plan subject to approval by the Department of Environmental Protection (DEP). *See*, 35 P.S. §§750.1-750.20a.⁵ It was enacted “to ensure public health, safety and welfare of the citizens by providing for a technically competent, integrated and coordinated system of sanitary sewage disposal.” 35 P.S. §750.3. Each municipality’s Act 537 Plan is designed as a “comprehensive program of pollution control and water quality management” which is adopted to provide “for sewage services adequate to prevent contamination of waters of the Commonwealth and/or environmental health hazards from sewage wastes ...” (Navarro Exbt. 9, p. 1 (DEP Plan Revision Form for New Land Development)) The LPTA is acting to use eminent domain for the purpose of taking an easement to extend sewer service as required under its state-mandated Act 537 Plan. LPTA seeks the Sheesley Estate easement for this clear public purpose; extension of community sewage system to a new planned development, a few already existing residences and buildings, and future development on both the east and west sides of Colonial Road, including the Sheesley Estate property.

The uncontroverted evidence is that LPTA is legally obligated to provide sewer service to a property owner who requests it in an area designed to be served by the public sewer system. (See Weaver Dep. 29) LPTA initially attempted to direct the parties involved to resolve the easement issue privately, initially between Zimmerman and the Sheesley Estate and later between TCC and the Sheesley Estate. It was only after negotiations for the private procurement of an easement between the Sheesley Estate and TCC broke down that an easement by eminent domain was pursued. It was the only method by which the extension of

5. The Pennsylvania Sewage Facilities Act, Act of January 24, 1966, (1965) P.L. 1535, No. 537, as amended, 35 P.S. §§750.1-750.20a.

In re: Condemnation of Sheesley Estate

LPTA's public sewage could be accomplished as between the planned residential development and the Colonial Road Pumping Station once Sheesley Estate rejected TCC's private offer. Furthermore, the right to the easement will exist with LPTA and will not be transferred to a third party; LPTA will own, operate and maintain the sewer easement and sewer main line, which will connect to an existing pumping station also owned, operated and maintained by LPTA. There is no suggestion that the easement will be used for some purpose other than that for which it is being sought.

This court additionally notes that TCC has agreed to pay for costs related to condemnation. (Prah Dep. 19-20, Exbt. 8). In *Appeal of Heim*, the Commonwealth Court held that such an agreement does not cast doubt upon the validity of the taking for a public purpose but found that, on the contrary, "such an agreement is quite logical in that it benefits the taxpayers of the municipality by shifting the costs onto the developer." 617 A.2d 74, 79 (Pa. Commw. 1992), *appeal denied*, 629 A.2d 1385 (Pa. 1993). *See also, Bauerle Appeal*, 674 A.2d 1204, 1209 n. 14 (Pa. Commw. 1996) (agreement between developer and township that developer pay for a large portion of the road design and construction and litigation costs relating to condemnation does not support a finding that the taking is for private benefit, citing *Appeal of Heim*).

Accordingly, this court finds that LPTA's primary motivation for taking an easement over less than one-half acre of the Sheesley Estate property is to fulfill its legal obligation under the state mandated Act 537 Plan, which requires that it provide a public sewage system to the community. This proposed taking is entirely consistent with the public interest – ensuring its health, safety and welfare through pollution control and water quality management – and the public will be the ultimate and primary beneficiary of this taking.

The developer TCC will undoubtedly benefit from the easement since it can not develop Colonial Village unless, among other requirements, the lots are connected to the public sewage system. A taking, however, does not "lose its public character merely because there may exist in the operation some feature of private gain, for if the public good is enhanced it is immaterial that a private interest also may be benefited." *In Re: Interest of Robert W. Forrester*, 836 A.2d 102, (Pa. 2003) (quoting *Belovsky v. Redevelopment Authority of Philadelphia*, 54 A.2d 277, 283 (Pa. 1947)); *see also, Appeal of Yarnall* at 1148; *Bauerle Appeal* at 1209 and *Appeal of Heim* at 78 (each holding that the predominant reason for the taking was for a public purpose even though private gain in favor of a developer was incident to the taking).

In re: Condemnation of Sheesley Estate

The Sheesley Estate also argues that LPTA's clear motive for the proposed taking is to benefit TCC. In support, the Sheesley Estate stresses that the proposed taking does not arise out of a well-developed plan to effectuate a public purpose and also that LPTA has treated TCC more favorably than it had the previous developer. For instance, LPTA presumably failed to demand the same concessions from the current developer TCC as it had from the previous developer Zimmerman. Those concessions had, according to the Sheesley Estate, resulted in a submission to DEP of a revised Act 537 Plan showing that the revision included construction of a new pumping station with capacity to receive sewage from a proposed development upon the Sheesley Estate property. Sheesley Estate notes that Zimmerman was required to obtain design approval of a planning module to supplement the Act 537 Plan for expansion of Colonial Road Pumping Station to 1100 gpm but that TCC refused to provide the same upgrade and LPTA has not insisted that it provide extra capacity for the Sheesley Estate. Instead, the Sheesley Estate asserts that LPTA has cooperated with TCC to condemn without requiring the upgrade. It thus claims that the taking is inconsistent with the Township's approved Act 537 Plan (as revised) and the Water Quality Management Permit issued to LPTA by DEP.

Our supreme court has recently noted that “[p]ublic officials are presumed to have acted lawfully and in good faith until facts showing the contrary are averred, or in a proper case are averred and proved.” *In re: Redevelopment Auth.*, 938 A.2d 341, 345 (Pa. 2007) (citation omitted). Nevertheless, “[a] court confronted with a plausible accusation of impermissible favoritism to private parties should treat the objection as a serious one and review the record to see if it merit, though with the presumption that the government’s actions were reasonable and intended to serve a public purpose.” *Id.* (quoting *Kelo* at 491 (Kennedy, J. concurring)).

With regard to the Sheesley Estate’s contention that LPTA is no longer requiring TCC to upgrade the Colonial Road Pumping Station,⁶ the evidence reveals otherwise. LPTA’s Weaver testified as follows on this point:

Q: To your understanding, as currently proposed on the DiSanto Triple Crown plan, does the

6. The Sheesley Estate raises this issue in its preliminary objections, averring that during Sheesley Estate’s negotiations and discussions with TCC’s DiSanto, DiSanto proposed only minor modifications be made to the existing Colonial Road Pumping Station in order to accommodate service to TCC’s proposed project only. (Preliminary Objections ¶13)

In re: Condemnation of Sheesley Estate

plan involve any upgrade to the pumping station?

A: Oh, absolutely, yes.

(Weaver Dep. p. 26) Weaver also testified that he had no knowledge that LPTA was changing its stance on the need for an upgrade of the pumping station noting that such a change would only occur if its engineer made that recommendation to LPTA. (Weaver Dep. 13-14) The record otherwise supports Weaver's claim that an upgrade will be required.⁷

The Sheesley Estate argues that to the extent there is a plan for an upgrade, it is not well-developed wherein the specific upgrades have not yet been determined and LPTA has failed to require that TCC adhere to the revised Act 537 Plan by which the previous developer agreed to construct a new pumping station with capacity to service a proposed future development of the Sheesley Estate property. Weaver did in fact testify (as of his July 2009 deposition) that TCC had not yet met with LPTA's engineer or solicitor and proposed its plan; the plans, according to Weaver, "are still being reviewed." (Weaver Dep. 12, 26)

Nevertheless, this court finds that to the extent the current plan for the pumping station can be considered as not "well developed" or somehow in violation of the revised Act 537 Plan, that such a finding is in no way dispositive of whether the taking of *the easement* is valid. The facts reveal that (1) any development of Colonial Village will

7. For example, the evidence presented showed correspondence between LPTA's engineer and TCC detailing options for the upgrade. LPTA's engineer CET sent a letter to TCC June 12, 2008 by which it informed TCC that it estimated the cost of the upgrade to be approximately \$247,000. (Zimmerman Dep. 20, Exbt. 9) Later, upon TCC's request and at TCC's cost, the LPTA engineer performed a more detailed study of the options available for the upgrade. (Weaver Dep. 25) The results were memorialized in a November 2008 memo summarizing three options. Option 1 described an upgrade to service only Colonial Village at an estimated cost of \$203,000; Option 2 assumed a total build out to service Colonial Village and future development based upon existing zoning, at an estimated cost of \$316,000; and Option 3 assumed a total build out to service a proposed zoning change to permit a higher density development on the Sheesley Estate, at an estimated cost of \$1,030,000. (Weaver Dep. 25-26, Exbt. 14)

Furthermore, a reimbursement agreement between LPTA and TCC was drafted contemplating an option for TCC to upgrade the station into a regional pumping facility, according to the LPTA's specifications, in exchange for reimbursement from a portion of the tapping fees for new customers who connect to that pump station. The station would ultimately be dedicated and owned by LPTA. (See Weaver Dep. 24; Zimmerman Dep. 18, Exbt. 8) According to Weaver, such agreements are occasionally reached with a developer upon its request. A final reimbursement agreement has not been reached though it has not been rejected. (Weaver Dep. 23-24)

In re: Condemnation of Sheesley Estate

require a pumping station upgrade and (2) regardless of the specific plan ultimately chosen to perform the upgrade, there must be a sewer line running through an easement located on the Sheesley Estate in order to connect it to the public sewage system as required by the Township's Act 537 Plan. The uncontroverted evidence on this point, offered by LPTA's Weaver, was as follows:

Q: And that sewer line which would run in the proposed easement, regardless of the construction, the ultimate construction of the pump station, whatever, however — whatever size that would be, would the sewer easement that comes to it, would that still be the same, regardless of how the pump station is constructed?

A: For Colonial Village do you mean?

Q: Yes.

A: Yes. I mean typically our engineer recommends a 30 – foot wide sewer easement with 10 feet on either side, temporary construction if they determine that to be necessary. So yeah, I mean the size of the easement is really standard.

Q: Would it come in at the same location, regardless of how the pump station is constructed or upgraded I should say?

A: Yes. Oh, yes.

(Weaver Dep. p. 26).

There was otherwise significant evidence produced showing a well-developed plan *concerning the easement*: The location of the easement over the Sheesley Estate property has been the subject of numerous discussions between the Sheesley Estate, both developers, LPTA and the engineers since 2005. As originally proposed, the easement was to be located on the west side of Colonial Road but that another property was developed (Shoppes at Colonial Road) and that development could not await the Zimmerman plan so it connected to another pump location. As a result, LPTA advised Zimmerman's engineer that since this property had been improved, Zimmerman should look for an alternative route

In re: Condemnation of Sheesley Estate

given the increased costs. (Weaver Dep. 21) LPTA asked Zimmerman's engineer to consider an alternative sewer extension route in October 2005, in an attempt to pick up a number of customers not serviced by community sewage. (Navarro Dep. 18-19, Exbt. 6) According to Navarro, this alternative was not feasible from an elevation perspective so the engineers opted to move the line to Colonial Road. (Navarro Dep. 19) According to the record, it was also considered by both Zimmerman and later by TCC for the sewer extension to be placed mostly off the Sheesley Estate on the west side of Colonial Road. (Navarro Dep. 19-20; Prah Dep. Exbt. 3) However, the costs were considerably higher for this option and also required that some portion of the easement mostly traverse east side of Colonial Road over the Sheesley Estate property in any event. (Prah Dep. Exbt. 3; Weaver Dep. Exbt. 12) Engineer Navarro explained in detail why this alternative was abandoned:

Q: ... was there ever any consideration given to an alternate route for the sewer line to take it on the opposite side of Colonial Road?

A: Oh-huh.

Q: And was there a reason that that was rejected?

A: Well, I guess we had prepared a construction cost opinion for this alternate here, and there were a couple of issues raised with that alignment, but the diagonal crossing of Colonial Road was not supported by PennDOT. They wanted a perpendicular crossing.

Q: And would a diagonal crossing have been required if you went on the other side of the road?

A: No. The alignment was shown as a path of least resistance. Let's get there as quickly as we can. But PennDOT wanted to see it perpendicular to the road, so this was more or less we had to bring this sewer across here and down or extend it partway over here which would have gotten us – there is a bank here and the excavation costs were higher on this side of the road. So I believe that we had

In re: Condemnation of Sheesley Estate

talked to the diocese – I don't know – about that possibility and their engineer. They were moving through with some plans for I guess it was a church. St. Margaret Mary's was going to go out there, and they really were – didn't want that to stop their project, and the diocese takes a long time to act on stuff. So it stayed this way I think for a while with maybe just one change in the crossing location. I guess maybe a year or so or a few months after we had explored coming in front of the church property, we learned that Eric Kessler had acquired the property from the church because they had encountered wet lands and some other things with the project that it was going to be – they were going to move the project elsewhere. So when Eric acquired the property, he asked — he was much more amenable to granting that easement for the sewer to be designed on that side of the road provided that there was sufficient depth that would allow him to develop that property in the future or provide sewer service to that property if he would develop in the future. So we carried then that design on this side of the road to this property line and this is where the boring is which eliminated, you know, it reduced the encroachment on the Sheesley Estate property.

(Navarro Dep. 32-34)⁸ As noted, Weaver also testified that a sewer easement 30' in width is standard. (Weaver Dep. 31) Thus, the decision to locate the easement on the Sheesley Estate property was carefully and rationally considered by LPTA. As such, the proposed taking of the easement reflected a well-developed plan of proper scope tailored to and effectuating its actual purpose.

8. Sheesley Estate executor PrahI claimed at her deposition that one of the developers of the Sheesley Estate recommended that the easement be developed "in a certain way"; however, there was no evidence proffered explaining what was the alternative way or its feasibility. (PrahI Dep. 22)

In re: Condemnation of Sheesley Estate

III.

The Sheesley Estate raises a number of procedural issues. The first, raised by preliminary objection, is that LPTA failed to file sufficient security as required by Section 303(a) of the Eminent Domain Code. That Section requires every condemnor to provide security to effect the condemnation by filing a bond, without surety. 26 Pa.C.S.A. §303(a). The pleadings reveal that LPTA has filed such a bond as required under this section. (Declaration of Taking, Exbt. C) Nevertheless, “[w]here an objection to the sufficiency of the bond is raised, the trial judge should not dismiss the objection without requiring an answer and holding a hearing.” *Riehl v. Millcreek Township Sewer Authority*, 362 A.2d 478, 481 (Pa. Commw. 1976). In this case, the parties have submitted a factual record to the court in lieu of a hearing. In that record, the Sheesley Estate has produced no evidence suggesting that the security provided is insufficient. Furthermore, as LPTA notes, the total amount of land proposed for taking is undeveloped and is less than one half-acre in area zoned single family residential. This taking will not require a large sum of money as just compensation. Accordingly, this objection is overruled.

The Sheesley Estate has also raised two additional issues in its brief. First, it suggests that because LPTA did not file a response to its preliminary objections pursuant to Rule of Civil Procedure 1028(c), that the factual allegations therein should be deemed admitted pursuant to Rule 1029(b). Pa.R.C.P. 1028(c) and 1029(b). The law is clear that the Rules of Civil Procedure do not apply to eminent domain proceedings and that LPTA was not required to file a response to the preliminary objections. See, 26 Pa.C.S.A. §102(a) (“this title provides a complete and exclusive procedure and law to govern all condemnations of property for public purposes and assessment of damages.”); *North Penn Water Auth. v. A Certain Parcel of Land*, 650 A.2d 1197, 1200 (Pa. Commw. 1994) (the Rules of Civil Procedure do not apply to Eminent Domain Code proceedings).

Second, the Sheesley Estate proposes that in the event this court does not sustain its preliminary objections on the factual record submitted, that this court hold an evidentiary hearing concerning any outstanding issues of fact. This court rejects this request inasmuch as the factual record submitted was sufficient to address the issues raised.

CONCLUSION

This court finds that the Sheesley Estate has failed to overcome its heavy burden of proving that the taking of the easement was for a

In re: Condemnation of Sheesley Estate

private rather than a public purpose. The use of an easement over the Sheesley property has never been considered for a purpose other than to connect the development and other contiguous properties to the community sewage system. TCC will not be the principal recipient of the easement; its interest is limited. Upon completion of the sewer extension over the easement, the easement area and the sewer lines within the easement will be run and maintained by LPTA into the foreseeable future, for the benefit of, specifically, the residents and business owners in Lower Paxton Township who are and will be connected to the sewage system, and more generally, of the citizens in the area whose environment is protected by a public sewage system. This is the primary and fundamental purpose of the use of eminent domain in this case. Furthermore, the evidence does not reveal either the lack of a well-developed plan or a showing of favoritism by LPTA towards TCC. The Sheesley Estate otherwise failed to rebut the presumption that LPTA officials acted lawfully and in good faith in issuing a Declaration of Taking.

Accordingly, this court enters the following:

ORDER

AND NOW, this 13th day of July 2010, the Preliminary Objections filed to the Declaration of Taking by the Condemnee, the Estate of Park C. Sheesley, are hereby OVERRULED.

FIRST PUBLICATION

Estate Notices

ESTATE OF EDITH M. HOOVER, late of Upper Paxton Township, Dauphin County, Pennsylvania. Administrators: Robert M. Hoover, 8785 Route 25, Spring Glen, PA 17978 and Jeffrey A. Hoover, P.O. Box 165, Beaver Springs, PA 17812. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600. a6-a20

ESTATE OF CAROLINE HOFFMAN, late of Williamstown Borough, Dauphin County, Pennsylvania (died July 26, 2010). Co-Executrices: Joan Marie Bohner, 133 Tunnel Street, Williamstown, PA 17098 and Janice Louise Rhoads, 1025 Mandata Road, Herndon, PA 17830. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, 4245 State Route 209, Elizabethtown, PA 17023. a6-a20

SECOND PUBLICATION

ESTATE OF HAROLD G. CARLSON, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Frederick Briggs, P.O. Box 168, Grantham, PA 17027. Attorney: Theresa L. Shade Wix, Esq., Wix, Wenger & Weidner, 4705 Duke Street, Harrisburg, PA 17109-3041. y30-a13

ESTATE OF MILDRED I. OTSTOT a/k/a MILDRED BREACH OTSTOT, late of the City of Harrisburg, Dauphin County, Pennsylvania. Executor: Donald C. Breach, 4266 Society Park Court, Apartment B, Harrisburg, PA 17109. Attorney: Gerald J. Shekletski, Esq., Stone LaFaver & Shekletski, P.O. Box E, New Cumberland, PA 17070. y30-a13

ESTATE OF BRYCE ALEXANDER KREISER PARK, late of Susquehanna Township, Dauphin County, Pennsylvania. Administratrix: Peggy Kreiser, 3957 Lexington Street, Harrisburg, PA 17109. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, 27 North Front Street, Harrisburg, PA 17101.

y30-a13

ESTATE OF SYLVIA SMITH LANG a/k/a SYLVIA S. LANG, late of Derry Township, Dauphin County, Pennsylvania (died June 10, 2010). Executor: Hershey Trust Company, One West Chocolate Avenue, Suite 200, Hershey, PA 17033-0445. Attorney: Stanley A. Smith, Esq., Rhoads & Sinon LLP, One S. Market Square, P.O. Box 1146, Harrisburg, PA 17108-1146. y30-a13

ESTATE OF EARL L. KREISER, JR., late of Londonderry Township, Dauphin County, Pennsylvania (died May 18, 2010). Co-Executors: Betty J. Alleman and Earl L. Kreiser, III. Attorney: Nora F. Blair, Esq., 5440 Jonestown Road, P.O. Box 6216, Harrisburg, PA 17112.

y30-a13

ESTATE OF DOUGLAS LEE SMITH, late of the Township of Williams, Dauphin County, Pennsylvania (died July 9, 2010). Executor: David Allen Smith, 1184 West Broad Street, Williamstown, PA 17098. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 State Route 209, Elizabethtown, PA 17023.

y30-a13

ESTATE OF EDWARD J. WRIGHT, late of Harrisburg, Dauphin County, Pennsylvania (died September 18, 2009). Personal Representative: Dorothy L. Wright, 1531 North 3rd Street, Apt. 410, Harrisburg, PA 17102. Attorney: Paul D. Dagg, Esq., 2132 Market Street, Camp Hill, PA 17055. y30-a13

SECOND PUBLICATION

Estate Notices

ESTATE OF ANNE M. NOJUNAS, late of Swatara Township, Dauphin County, Pennsylvania (died July 9, 2010). Executor: Thomas M. Nojunas, 111 Barnette Point Lane, Mooresville, NC 28117. y30-a13

ESTATE OF IDA A. BRUNNER, late of Harrisburg, Dauphin County, Pennsylvania (died June 28, 2010). Executor: Michael G. Brunner, 1780 Winterhaven Drive, Mechanicsburg, PA 17055. Attorney: William L. Adler, Esq., 4949 Devonshire Road, Harrisburg, PA 17109. y30-a13

ESTATE OF ELAINE B. MATCH, late of Dauphin County, Pennsylvania (died June 10, 2010). Executor: Craig M. Match, 1509 Pelham Road, Harrisburg, PA 17110. Attorney: Steven J. Schiffman, Esq., Serratelli, Schiffman & Brown, P.C., 2080 Linglestown Road, Suite 201, Harrisburg, PA 17110. y30-a13

ESTATE OF ELIZABETH M. SCARANGELLA, late of the Borough of Penbrook, Dauphin County, Pennsylvania (died July 5, 2010). Executrix: Suzanne M. Elicker, 13 Laurel Drive, Mechanicsburg, PA 17055. Attorney: Harry L. Bricker, Jr., Esq., 407 North Front Street, Harrisburg, PA 17101. y30-a13

ESTATE OF DOROTHY W. BROWN a/k/a DOROTHY WILLIAMSON BROWN, late of Harrisburg, Dauphin County, Pennsylvania. Executor: Vincent Chiarella, 268 East High Street, Middletown, PA 17057. Attorney: Heather D. Royer, Esq., Smigel, Anderson & Sacks, LLP, 4431 North Front Street, Third Floor, Harrisburg, PA 17110. y30-a13

THIRD PUBLICATION

ESTATE OF DENNIS L. PETROFF, late of the Township of Upper Paxton, Dauphin County, Pennsylvania (died June 15, 2010). Executrix: Judith A. Petroff, 335 Nelson Terrace, Millersburg, PA 17061. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, 27 North Front Street, Harrisburg, PA 17101. y23-a6

ESTATE OF ANN DEVARIC a/k/a ANN F. DEVARIC a/k/a ANN H. DEVARIC, late of Swatara Township, Dauphin County, Pennsylvania. Personal Representative: Louise Spealman, 2356 McCleary Drive, Chambersburg, PA 17201. Attorney: John R. Zonarich, Esq., Skarlatos & Zonarich LLP, 17 South Second Street, 6th Floor, Harrisburg, PA 17101. y23-a6

ESTATE OF LESLIE T. SPEAKS, late of the City of Harrisburg, Dauphin County, Pennsylvania (died March 19, 2010). Executrix: Eva J. Speaks, 709 S. 27th Street, Harrisburg, PA 17111-1116. Attorney: Ann E. Rhoads, Esq., Cleckner and Fearen, P.O. Box 11847, Harrisburg, PA 17108-1847. y23-a6

ESTATE OF REUBEN R. BARKER, SR., late of the City of Harrisburg, Dauphin County, Pennsylvania (died September 22, 2009). Executrix: Elaine Barker, 719 N. 17th Street, Harrisburg, PA 17103. Attorney: Harry L. Bricker, Jr., Esq., 407 North Front Street, Harrisburg, PA 17101. y23-a6

ESTATE OF VAUGHN J. PRICER, late of the City of Harrisburg, Dauphin County, Pennsylvania (died June 19, 2010). Administrator: Robert R. Church, Esq. Attorneys: Keefer Wood Allen & Rahal, LLP, P.O. Box 11963, Harrisburg, PA 17108-1963. y23-a6

THIRD PUBLICATION

Estate Notices

ESTATE OF SHIRLEY J. FISHER, late of Susquehanna Township, Dauphin County, Pennsylvania (died May 28, 2010). Personal Representative: PNC Bank National Association, Attn: Linda Lundberg, P.O. Box 308, Camp Hill, PA 17001-0308. Attorney: Aaron C. Jackson, Esq., Tucker Arensberg, P.C., 111 North Front Street, P.O. Box 889, Harrisburg, PA 17108-0889. y23-a6

ESTATE OF DOROTHY J. CROFT a/k/a DOROTHY JEANNE CROFT, late of Lower Paxton Township, Dauphin County, Pennsylvania (died June 30, 2010). Personal Representative: Gary W. Croft, 1483 Fairmont Drive, Harrisburg, PA 17109. y23-a6

ESTATE OF PATRICIA FERNE BRYANT, late of Harrisburg, Dauphin County, Pennsylvania. Administrator: William Bruce Brown, 40 Moongale Drive, Carlise, PA 17013. Attorney: Susanne S. Friday, Esq., Nauman, Smith, Shissler & Hall, LLP, P.O. Box 840, Harrisburg, PA 17108-0840. y23-a6

ESTATE OF CONSTANCE I. WEIDA, late of the Borough of Elizabethtown, Dauphin County, Pennsylvania (died June 17, 2010). Executrix: Melissa Weida Ventresca, 2644 North Second Street, Harrisburg, PA 17110. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 State Route 209, Elizabethtown, PA 17023. y23-a6

ESTATE OF HENRY H. WOLFE, JR., late of Hanover Township, Dauphin County, Pennsylvania (died January 1, 2010). Executrix: Shirley A. Watts (Smith). Attorney: Nora F. Blair, Esq., 5440 Jonestown Road, P.O. Box 6216, Harrisburg, PA 17112. y23-a6

ESTATE OF VERNA J. GERHART, late of Derry Township, Dauphin County, Pennsylvania. Executor: Jacob S. Gerhart, Jr.. Attorney: Adrienne C. Snelling, Esq., Sullivan, Sullivan & Snelling, PC., 242 S. Eighth Street, Lebanon, PA 17042-6010. y23-a6

ESTATE OF GEORGE R. MEDELLIN, late of Harrisburg, Dauphin County, Pennsylvania (died March 2, 2010). Personal Representative: Brian Medellin, 1158 Loop Drive, Harrisburg, PA 17112. y23-a6

ESTATE OF MARCELLA M. SCHIAVONI a/k/a MARCELLA M. MASCIOCCHI, late of Derry Township, Dauphin County, Pennsylvania (died March 13, 2010). Executrix: Carla M. Messikomer, 110 N. Severgn Drive, P.O. Box 251, Exton, PA 19341. Attorney: John S. Picconi, Esq., 310 West Chocolate Avenue, P.O. Box 252, Hershey, PA 17033. y23-a6

ESTATE OF RAY H. HORST, late of the Borough of Hummelstown, Dauphin County, Pennsylvania (died May 27, 2010). Administrator: Ray H. Horst, Jr., 911 Mae Street, Hummelstown, PA 17036. Attorney: Jean D. Seibert, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101. y23-a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **YOUR PLACE FOR MARRIAGE COUNSELING, INC.**, a corporation organized under the Pennsylvania Business Corporation Law of 1988. a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 16, 2010, by **D.P. Preiss Company, Inc.**, a foreign corporation formed under the laws of the state of North Carolina, where its principal office is located at 1700 Hillsborough Street, Raleigh, NC 27605, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania, shall be deemed for venue and official publication purposes to be located c/o CT Corporation System, 116 Pine Street, Harrisburg, Pennsylvania 17101. a6

NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **CALIX INC.** The address of its principal office under the laws of its jurisdiction is 615 South Dupont Highway, Dover, DE 19901. The Commercial Registered Office address is c/o National Corporate Research, Ltd. in the County of Dauphin. The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 21, 2010, by **Vision2020 Wealth Management Corp.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at c/o Advisor Group, One World Financial Center, 15th Floor, New York, NY 10281, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on 7/13/2010 for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Business Corporation Law of 1988, 15 Pa. C.S. Section 1306. The name of the corporation is **JV Health Care Partners, Inc.** The purpose for which the corporation is: Health care products distributor.

8040 Excelsior Drive, Suite 200
Madison, WI 53717
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(608) 827-5300
Fax (608) 827-5501
www.BizFilings.com

a6

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 22, 2010, for the purpose of obtaining a charter of a Nonprofit Corporation organized under the Nonprofit Corporation law of 1988 of the Commonwealth of Pennsylvania. The name of the corporation is: **Trojan Youth Wrestling Association.**

The purpose or purposes for which it was organized are: exclusively for educational and athletic purposes as an amateur sports organization exclusively for individuals eighteen (18) years of age or younger, including, in furtherance of such exempt purposes, promulgation of official rules and standards of play; chartering and sponsoring of teams; provision of coaching and instruction, equipment and facilities; organization and conducting of inter-team competitions; promotion and advancement of wrestling to improve the skills of such individuals and to teach principles of teamwork and sportsmanship; and, for the foregoing purposes, for making distributions to organizations that qualify as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), or the corresponding section of any future federal tax code.

GARY L. JAMES, Esq.
James Smith Dietherick & Connelly, LLP
P.O. Box 650
Hershey, PA 17033

a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **B.K. Energy Services Inc.** The address of its principal office under the laws of its jurisdiction is 201 Stage Road, Vestal, NY 13850. The Commercial Registered Office address is c/o National Registered Agents, Inc. in the County of Dauphin. The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). a6

NOTICE IS HEREBY GIVEN that **HLC Escrow and Settlement Services, Inc.** with a commercial registered agent in care of National Registered Agents, Inc. in Dauphin County does hereby give notice of its intention to withdraw from doing business in this Commonwealth as per 15 Pa. C.S. 4129(b). The address of its principal office under the laws of its jurisdiction is 163 Technology Drive, Suite 200, Irvine, CA 92618. This shall serve as official notice to creditors and taxing authorities. a6

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 23, 2010, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is **The Big Giveback.**

It will be organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to organize, promote and sponsor fundraising events to raise funds to further the charitable purposes of the Corporation.

McNEES WALLACE & NURICK LLC
570 Lausch Lane, Suite 200
Lancaster, PA 17601

a6

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on July 22, 2010 with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a proposed insurance corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

The name of the corporation is **ANDERSON INSURANCE SERVICES, INC.** The registered office of the corporation is 3876 Union Deposit Road, Harrisburg, Dauphin County, Pennsylvania 17109. The purpose of the corporation is: Sales of insurance products and financial services and all other legally permitted activities.

GARY L. ROTHSCHILD, Esq.
The Law Offices of Gary L. Rothschild
2215 Forest Hills Drive, Suite 35
Northwood Office Center
Harrisburg, PA 17112
Telephone (717) 540-3510

a6

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **MARGARET S. LEE, INC.,** a corporation organized under the Pennsylvania Business Corporation Law of 1988. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 28, 2010, by **CORPORATE RESOURCE DEVELOPMENT INC.,** a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 295 Madison Avenue, 14th Floor, New York, NY 10017, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 23, 2010, by **Nihilent Technologies, Inc.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 103 Carnegre Center, Suite 300, Princeton, NJ 08540, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 22, 2010, by **SepSensor Inc.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 257 Simarano Drive, Annex II, Marlboro, MA 01752, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on April 29, 2010, by **U S Coatings, Inc.**, a foreign corporation formed under the laws of the State of Alabama, where its principal office is located at 260 Baldwin Road, Satsuma, AL 36572, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on March 26, 2010, by **Promotech Research Associates, Inc.**, a foreign corporation formed under the laws of the State of Colorado, where its principal office is located at 1480 Arthur Avenue, Suite D, Louisville, CO 80027, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **TRANSCANADA ENERGY LTD.**, a corporation of the Country of Canada, with principal office located at 450-1st Street SW, Calgary, Alberta, Canada, T2P 5H1, and having a Commercial Registered office Provider and county of venue as follows: CT Corporation, Dauphin County, which on March 14, 1997, was granted a Certificate of Authority, to transact business in the Commonwealth, intends to file an Application for Termination of Authority with the Department of State. a6

NOTICE IS HEREBY GIVEN that **Credit Suisse First Boston Realty, Inc.**, a Delaware Corporation intends to file an Application for Termination of Authority and the registered office is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 21, 2010, by **Language Weaver, Inc.**, a foreign corporation formed under the laws of the State of California, where its principal office is located at 6060 Center Drive, Los Angeles, CA 90045, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o The Prentice-Hall Corporation System, Inc., Dauphin County, Pennsylvania. a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 22, 2010, by **Merrimack Mortgage Company, Inc.**, a foreign corporation formed under the laws of the Commonwealth of Massachusetts, where its principal office is located at 1045 Elm Street, Suite 601, Manchester, NH 03101, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 28, 2010, by **Donan Engineering Co., Inc.**, a foreign corporation formed under the laws of the State of Indiana, where its principal office is located at 11321 Plantside Drive, Louisville, KY 40299, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 28, 2010, by **Brainloop Inc.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at One Broadway, 14th Floor, Cambridge, MA 02142, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that **Anderson Copper and Brass Company**, a Delaware Corporation intends to file an Application for Termination of Authority and the registered office is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Limited Liability Company Law, **DTE Northwind Operations, L.L.C.**, a limited liability company of the State of Michigan, with principal office located at One Energy Plaza, 2057 WCB, Detroit, MI 48226, and having a Commercial Registered office Provider and county of venue as follows: CT Corporation, Dauphin County, which on October 10, 2006, was granted a Certificate of Organization, Limited Liability Company, to transact business in the Commonwealth, intends to file an Application for Termination of Authority with the Department of State. a6

NOTICE IS HEREBY GIVEN that **East Coast Administrative Services, Inc.**, a foreign business corporation incorporated under the laws of the State of Maryland, received a Certificate of Authority in Pennsylvania on 2/15/08 and surrenders its Certificate of Authority to do business in Pennsylvania.

ITS LAST REGISTERED OFFICE in this Commonwealth was located at: NSS & H, LLP, 200 North Third Street, 18th Floor, P.O. Box 840, Harrisburg, PA 70168-3010, and its last registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania.

NOTICE OF ITS INTENTION to withdraw from Pennsylvania was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the corporation in Pennsylvania is located.

THE POST OFFICE ADDRESS, including street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before any liability incurred before the filing of the application for termination of authority is NSS & H, LLP, 200 North Third Street, 18th Floor, P.O. Box 840, Harrisburg, PA 70168-3010. a6

FIRST PUBLICATION

Fictitious Notices

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **4 KIDZ PHOTOZ**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 535 Constitution Drive, Middletown, PA 17057, was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 22nd day of April 2010, pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only person or persons owning or interested in the said business are: **YOUTH SPORTS PHOTO, INC.**, 535 Constitution Drive, Middletown, PA 17057. a6

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **Tsunami Group**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 211 E. Emaus Street, Middletown, PA 17057, was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 18th day of May 2010, pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only person owning or interested in the said business is: **Cory Cross**, 211 E. Emaus Street, Middletown, PA 17057. a6

FIRST PUBLICATION

Miscellaneous Notices

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

No. 2005-CV-1388-MF

NOTICE OF SHERIFF'S SALE

**FIRST HORIZON HOME LOAN
CORPORATION, Plaintiff**

vs.

ANNIE L. JAMES

a/k/a ANNIE LYNN JAMES, Defendant

NOTICE

TO: ANNIE L. JAMES

a/k/a ANNIE LYNN JAMES

**NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY**

**BEING PREMISES: 1704 GLENSIDE
DRIVE, HARRISBURG, PA 17109.**

**BEING in Susquehanna Township, County of
DAUPHIN Commonwealth of Pennsylvania.**

PARCEL Number 1: 62-030-015.

**IMPROVEMENTS consist of residential
property.**

**SOLD as the property of ANNIE L. JAMES
a/k/a ANNIE LYNN JAMES.**

**YOU ARE HEREBY NOTIFIED that your
house (real estate) at 1704 GLENSIDE DRIVE,
HARRISBURG, PA 17109 is scheduled to be
sold at the Sheriff's Sale on OCTOBER 14, 2010
at 10:00 A.M., at the DAUPHIN County
Courthouse to enforce the Court Judgment of
\$105,382.80 obtained by, FIRST HORIZON
HOME LOAN CORPORATION (the mort-
gagee), against the above premises.**

**PHELAN HALLINAN &
SCHMIEG, LLP**

a6

FIRST PUBLICATION

Miscellaneous Notices

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2010-CV-03062 CN

**IN RE: CONDEMNATION BY THE
REDEVELOPMENT AUTHORITY
OF THE CITY OF HARRISBURG
OF CERTAIN PARCELS OF REAL
ESTATE IN THE CITY OF
HARRISBURG IN CONNECTION
WITH THE HARRISBURG
VACANT PROPERTY
REINVESTMENT BOARD OF
THE CITY OF HARRISBURG**

**TO: Keys Properties
Tony Sanders
Brenda Robinson**

**RE: 644 Woodbine Street
Harrisburg, Pennsylvania**

PLEASE TAKE NOTICE that a Petition to Distribute Estimated Just Compensation was filed by the Redevelopment Authority of the City of Harrisburg (the "Authority") on June 28, 2010. A subsequent Rule to Show Cause was executed in the Court of Common Pleas of Dauphin County, Pennsylvania setting forth the proposed distribution of the Estimated Just Compensation.

THE ADDRESS OF THE CONDEMNOR IS: Redevelopment Authority of the City of Harrisburg, Dr. Martin Luther King, Jr. City Government Center, 10 North Second Street, Harrisburg, PA 17101.

THE CONDEMNATION ACTION is authorized under the Urban Redevelopment Law of Pennsylvania, Act of May 24, 1945, P.L. Section 9(1) and Section 12 (35 P.S. 1709, 1712).

THE DECLARATION OF TAKING was authorized by a Resolution adopted by the Board of the Redevelopment Authority of the City of Harrisburg at a meeting duly convened on December 15, 2009. The minutes of said meeting

may be examined at the office of the Authority, City Government Center, 10 North Second Street, Harrisburg, Pennsylvania.

THE PROPERTY CONDEMNED is all that certain tract of land situate in the City of Harrisburg, County of Dauphin, Commonwealth of Pennsylvania, known and addressed as follows:

ADDRESS: 644 Woodbine Street, Harrisburg, Pennsylvania.

TAX Parcel No. 02-012-006.

THE CONDEMNATION vests title of fee simple absolute in the Authority.

THE PROPOSED distribution of the Estimated Just Compensation may be obtained by contacting Stuart J. Magdule, Esquire.

IF YOU WISH TO OBJECT to the petition to Distribute Estimated Just Compensation, you are required to file a response within twenty (20) days of this Notice of Distribution.

STUART J. MAGDULE, Esq.
Smigel, Anderson & Sacks, LLP
4431 North Front Street, 3rd Floor
Harrisburg, PA 17110
Phone: (717) 234-2401
smagdule@sasllp.com

a6

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2010 CV 6516-MF

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**PNC BANK, NATIONAL ASSOCIATION,
Plaintiff**

vs.

**ALL KNOWN AND UNKNOWN HEIRS
OF EUGENE R. BURNS, Defendant(s)**

**TO: All Known and Unknown Heirs
of Eugene R. Burns**

YOU ARE HEREBY NOTIFIED that on May 13, 2010, Plaintiff, PNC Bank, National Association, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against the above Defendant, the Court of

FIRST PUBLICATION

Miscellaneous Notices

Common Pleas of Dauphin County, PA docketed at No. 2010-CV-06516-MF, wherein Plaintiff seeks to foreclose on the mortgage secured on property located at 419 Swatara Street, Steelton, Pennsylvania 17113, Parcel No. 58-03-06, whereupon the property would be sold by the Sheriff of Dauphin, County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following, you must take action within (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THE OFFICE BELOW MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
P.O. Box 186
100 South Street
Harrisburg, PA 17103
1-800-692-7375

BRETT A. SOLOMON, Esq.
Tucker Arensberg, P.C.
1500 One PPG Place
Pittsburgh, PA 15222
(412) 594-3913

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

ORPHANS' COURT DIVISION

**NOTICE OF HEARING
TO TERMINATE PARENTAL RIGHTS**

AUGUST 13, 2010

9:30 A.M. Unknown Father, father
Docket No. 55-Adopt-2010
In Re: Male child QMM
born 8/22/06

YOU ARE HEREBY NOTIFIED that a petition has been filed asking the Court to put an end to all rights you have to your child. The Court has set a hearing to consider ending your rights to your child. That hearing will be held in Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pennsylvania, in Courtroom No. 1, Fifth Floor, on the date and time specified.

YOU ARE ADVISED to appear at the hearing on August 13, 2010 to enter your acknowledgement that you are the father of the subject minor child.

IF YOU FAIL TO FILE your acknowledgement or to claim your child within ten (10) days from the date of this publication, you will waive all rights you have to this child.

YOU ARE WARNED that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. You have a right to be represented at the hearing by a lawyer. You should take this notice to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below to find out where you can get legal help. You are also warned that if you fail to file either an acknowledgement or paternity pursuant to 23 Pa.C.S.A. Section 5103 and fail to either appear at the hearing to object to the termination of your rights or file a written objection to such termination with the Court prior to the hearing, your rights may also be terminated under Pa.C.S.A. Section 2503(d) or Section 2504(c) of the Adoption Act.

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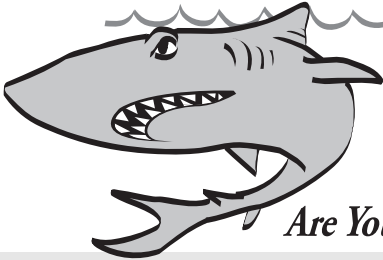
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CUMULATIVE TABLE OF CASES

| | |
|--|-----|
| Atlantic Credit & Finance Inc. v. Wylie | 163 |
| Cameron Real Estate, LP, et al., Pennsy Supply, Inc. v. | 99 |
| Carroll, Commonwealth v. | 102 |
| Centric Bank, Schmitt v. | 1 |
| Commonwealth v. Carroll | 102 |
| Commonwealth v. Fernsler | 64 |
| Commonwealth v. Hosby | 32 |
| Commonwealth v. Jones | 194 |
| Commonwealth v. Montelione | 10 |
| Commonwealth v. Wingus | 82 |
| Cox, Wilson, et al. v. | 57 |
| | |
| Daniels, et al., v. Norfolk Southern Corporation, et al., Wallett's Flooring Services, Inc. v. | 94 |
| DeHart, Fletcher v. | 134 |
| Dock v. Harrisburg Hospital, et al. | 106 |
| | |
| East Hanover Township Board of Supervisors v. RVG Land, LLC, Mundy, et al. v. | 116 |
| Estrada v. Olt, et al. | 42 |
| Estright v. Harrisburg Hospital, et al. | 153 |
| | |
| Fenstermacher, Mihelich v. | 158 |
| Fernsler, Commonwealth v. | 64 |
| Fletcher v. DeHart | 134 |
| | |
| Harrisburg Hospital, et al., Dock v. | 106 |
| Harrisburg Hospital, et al., Estright v. | 153 |
| Herd Chiropractic v. State Farm | 180 |

Cumulative Table of Cases

| | |
|---|-----|
| Hershey Medical Center, et al., Lopresti v. | 48 |
| Hosby, Commonwealth v. | 32 |
| | |
| In re: Appeal of City of Harrisburg | 200 |
| In re: Condemnation of Sheesley Estate | 223 |
| In re: Estate of Benjamin F. Herr | 171 |
| Investigative Consultant Services, Inc., et al., Tagouma v. | 121 |
| | |
| Jones, Commonwealth v. | 194 |
| | |
| Kelly v. Kelly | 110 |
| Kelly, Kelly v. | 110 |
| Kelly Systems, Inc. v. Koda | 21 |
| Keystone Service Systems, Inc., Pennswood Apartments L.P. v. | 27 |
| Koda, Kelly Systems, Inc. v. | 21 |
| | |
| Lopresti v. Hershey Medical Center, et al. | 48 |
| | |
| McAfee v. Quantum Imaging and Therapeutic Associates, Inc. | 70 |
| McGarrie v. Short | 90 |
| McNany, Walter v. | 147 |
| Mihelich v. Fenstermacher | 158 |
| Montelione, Commonwealth v. | 10 |
| Mundy, et al. v. East Hanover Township Board of Supervisors v. RVG Land, LLC | 116 |
| | |
| Norfolk Southern Corporation, et al. v. Wallett's Flooring Services, Inc. v. Daniels, et al. | 94 |
| | |
| Olt, et al., Estrada v. | 42 |

Cumulative Table of Cases

| | |
|--|-----|
| Papadopoulos v. Schmidt, Ronca & Kramer, P.C. | 205 |
| Pennswood Apartments L.P. v. Keystone Service Systems, Inc. | 27 |
| Pennsy Supply, Inc. v. Cameron Real Estate, LP, et al. | 99 |
| Peters v. Zoning Hearing Board of Londonderry Township | 166 |
| | |
| Quantum Imaging and Therapeutic Associates, Inc., McAfee v. | 70 |
| | |
| RVG Land, LLC, Mundy, et al. v. East Hanover Township Board of Supervisors v. | 116 |
| | |
| Schmitt v. Centric Bank | 1 |
| Schmidt, Ronca & Kramer, P.C., Papadopoulos v. | 205 |
| Short, McGarrie v. | 90 |
| State Farm, Herd Chiropractic v. | 180 |
| State Farm, Tomasetti v. | 186 |
| | |
| Tagouma v. Investigative Consultant Services, Inc., et al. | 121 |
| Tomasetti v. State Farm | 186 |
| | |
| Walleit's Flooring Services, Inc. v. Daniels, et al., v. Norfolk Southern Corporation, et al. | 94 |
| Walter v. McNany | 147 |
| Warner, Wege v. | 219 |
| Wege v. Warner | 219 |
| Wilson, et al. v. Cox | 57 |
| Wingus, Commonwealth v. | 82 |
| Wylie, Atlantic Credit & Finance Inc. v. | 163 |
| | |
| Zoning Hearing Board of Londonderry Township, Peters v. | 166 |

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BAR ASSOCIATION PAGE
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The Board of Directors of the Bar Association meets on the third Thursday of the month at the Bar Association headquarters. Anyone wishing to attend or have matters brought before the Board should contact the Bar Association office in advance.

REPORTING OF ERRORS IN ADVANCE SHEET

The Bench and Bar will contribute to the accuracy in matters of detail of the permanent edition of the Dauphin County Reporter by sending to the editor promptly, notice of all errors appearing in this advance sheet. Inasmuch as corrections are made on a continuous basis, there can be no assurance that corrections can be made later than thirty (30) days from the date of this issue but this should not discourage the submission of notice of errors after thirty (30) days since they will be handled in some way if at all possible. Please send such notice of errors to: Dauphin County Reporter, Dauphin County Bar Association, 213 North Front Street, Harrisburg, PA 17101-1493.

DAUPHIN COUNTY COURT SECTION

Motion Judge of the Month

AUGUST 2010

Judge Richard A. LEWIS

SEPTEMBER 2010

Judge Andrew H. DOWLING

Opinions Not Yet Reported

BAR ASSOCIATION PAGE – Continued
MISCELLANEOUS SECTION

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*For CLE credit, a Uniform Certificate of Attendance and PACLE
Credit Request Form will be provided. Participants may use these
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BAR ASSOCIATION PAGE – Continued

MISCELLANEOUS SECTION

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