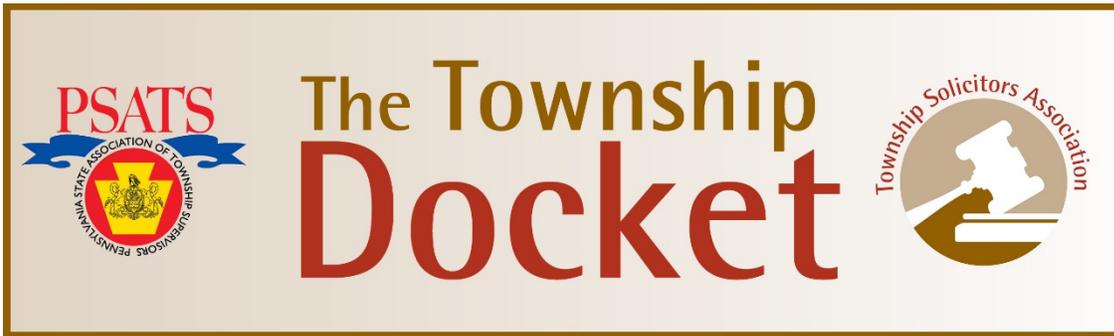


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December 21, 2020

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Welcome to The Township Docket.

This biweekly enewsletter for members of the Pa. State Association of Township Solicitors is intended to focus on news and matters of interest to solicitors, share case updates in a timely manner, and provide details about upcoming training opportunities.

Feel free to let us know what you think of this new concept. Email comments and suggestions to [scoburn@psats.org](mailto:scoburn@psats.org).



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**Headlines**

## **Newly Updated PSATS COVID Fact Sheets Help Townships Follow Commonwealth Orders**

PSATS has newly updated fact sheets that will help you and your township clients navigate all the latest commonwealth COVID-19 mitigation orders, including what to do if an employee becomes sick or is exposed to COVID-19 and how to evaluate options for safe public meetings. [Click here](#) to access the fact sheets.

## **Federal Court Rejects New Rule 8.4(g) of the Professional Rules of Conduct**

In *Greenberg v. Haggerty*, \_\_\_ F.Supp.3d \_\_\_, 2020 WL 7227251 (E.D.Pa. Dec. 8, 2020), a federal judge preliminarily enjoined recent amendments to Pennsylvania Rule of Professional Conduct [added Rule 8.4(g) and comments (3) and (4)] because they violate the First Amendment and consist of viewpoint-based and content-based discrimination.

Rule 8.4(g) provides that it is professional misconduct for attorneys to “knowingly manifest bias or prejudice or engage in harassment or discrimination...” Comments (3) and (4) clarified that Rule 8.4(g) included activities at CLE seminars, bench bar conferences, and bar association activities and that the substantive law of antidiscrimination and antiharassment statutes and case law guide application of the rule.

## **Arrests, Reimbursements Made in Municipal Fraud Scheme**

Attorney General Josh Shapiro recently announced the arrest of three former executives of Boucher & James, Inc., an engineering firm, for allegedly repeatedly billing municipal and other clients for the cost of fictitious time and for covering up their scheme. Between 2009 and 2018, more than 100 entities suffered losses, including several townships. The company repaid more than \$851,000 in overbilled funds dating back to 2015. [Click here](#) for more.

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## **Recent Decisions**

In *Republic First Bank v. Marple Twp. Zoning Hearing Bd.*, No. 205 C.D. 2020, 2020 WL 7334364 (Pa.Cmwlt. Dec. 14, 2020), the court confirmed longstanding precedent that the sole basis for denying a request for special exception cannot be purely aesthetic judgments. Here, a zoning hearing board denied the request to replace a funeral home, a preexisting nonconforming use, with a bank, another nonconforming use, because the bank would not be consistent with the surrounding character of the neighborhood.

In *The Preserve at Blue Ridge, LLC v. Dorrance Twp.*, No. 100 C.D. 2020, 2020 WL 7334543 (Pa.Cmwlt. Dec. 14, 2020), the court ruled that a township improperly denied an application for a planned residential development. The township determined that the plan impermissibly included streets and lots in “critical areas,” but the court found the ordinance provided only that the area of “critical areas” be excluded from the net area available for development, not that development in those areas was prohibited. The court also held that an interpretation permitting roads and streets within 100 feet of wetlands was reasonable and the existence of a preexisting golf course within the proximity of the new

development was permissible even though it was not part of the plan.

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## **Legislative/Regulatory News**

### **L&I Announces 2021 Bid Limits**

The state Department of Labor and Industry announced the annually adjusted bid limits for townships. Beginning January 1, 2021, the minimum purchase amount that requires advertisement for sealed bids will increase from \$21,000 to \$21,300 and the minimum purchase amount for telephone quotes will increase from \$11,300 to \$11,500. These rates were officially advertised in the December 12, 2020, edition of the *Pennsylvania Bulletin*.

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## **Upcoming Educational Offerings**

### **Grid Scale Solar Energy – Ordinance Considerations for PA Townships/Counties – 1/21/21 Webinar**

As solar energy leasing and solar array deployment increases across the state (some state officials predict 80K acres of panels before 2030), elected officials are looking at creating or updating ordinances to plan for an orderly energy transition involving renewables. Penn State Assistant Professor Mohamed Badissy, who has recently researched this issue in Pennsylvania and identified all the current ordinances in place, will offer a summary of his findings. This session will include what a model ordinance could look like and how the key aspects could be incorporated into other planned ordinance development efforts pending across Pennsylvania.

### **Home-Based Businesses: Is Your Township Ready for More? – 2/10/21 Webinar (1 CLE)**

Home business activities and functions are considered a form of home-based businesses or occupations (HBBs) as defined, permitted, and regulated by most municipal zoning ordinances. In this webinar, representatives of Solicitors Association sponsor McNees Wallace and Nurick, LLC, will explore opportunities and options for municipalities to proactively plan and zone for HBBs.

### **Setting Up Stormwater Management Fees – 2/24/21 Webinar (1 CLE)**

The uncertainties of 2020 have many municipalities thinking again about a fairly collected and reliable source of revenue to support even their basic stormwater activities. In this session, Steve Hann of Hamburg, Rubin, Mullin, Maxwell & Lupin, PC, and Nathan Walker of Gannett Fleming, Inc., will discuss how a stormwater user fee, when properly established, can be a transparent, flexible, and equitable way for municipalities to set and achieve a long-term vision for water quality and flood control goals that meet the needs of their residents and businesses.

### **High Cube and Automated Warehouses: Are You Prepared? – 3/17/21 Webinar (1 CLE)**

A new land use, the high cube or automated warehouse, is starting to pop up around Pennsylvania. These

warehouses have a variety of forms, from “a warehouse on top of a warehouse” to largely robotic retrofits in an existing building, but in essence, they will have significant transportation, emergency management services, workforce, tax, and environmental implications, among other things. Because they come in a variety of forms — including new developments, site redevelopments and existing building additions, and retrofits — high cube and automated warehousing affect subdivision and land development, zoning, and/or building codes needs. The Lehigh Valley Planning Commission has drafted a series of municipal considerations that its representatives will review with webinar attendees. This is a first-of-its-kind community guide in the nation to address this emerging form of development and its associated technology.

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