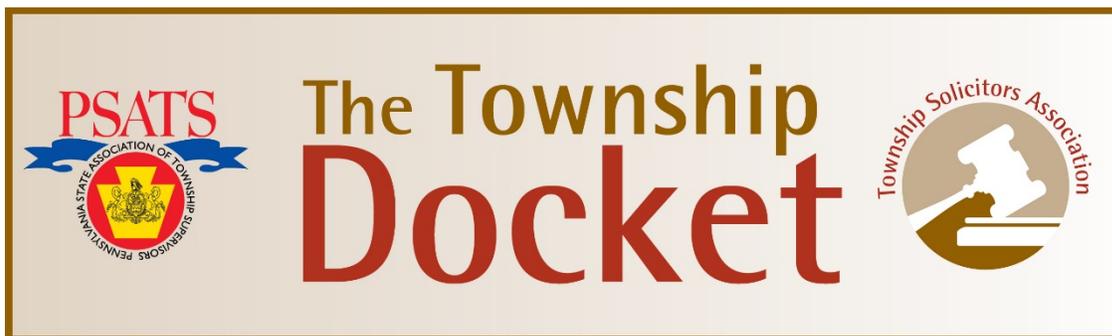


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December 7, 2020

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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

### **CDC Cuts Quarantine Time Frames; Is Pennsylvania Soon to Follow?**

The Centers for Disease Control and Prevention has updated its guidance to provide two acceptable alternative quarantine periods for those who have been exposed to COVID-19. Under the guidelines, a person who has no symptoms can end quarantine after 10 days without a COVID-19 test and after seven days with a negative test result. Either a negative PCR or an antigen test is sufficient to end quarantine early.

Last Friday, the Pennsylvania Department of Health aligned the state's quarantine guidelines with the new CDC guidelines. The shortened time frames, however, do not apply to health care settings or to those living in certain congregate settings, such as nursing homes or prisons.

### **Commonwealth Extends COVID-19 Disaster Declaration**

Gov. Wolf recently signed a third amendment to his Proclamation of Disaster Emergency to extend the COVID-19 emergency period (and such laws as Act 15 of 2020, which covers remote public meetings) until at least February 22, 2021.

### **Solicitors Association Has Numerous Membership Options Available**

For those whose Solicitors Association membership expires at the end of 2020, you now have either

individual (\$250) or firm (\$500) membership options. In addition, if you are an individual member, you can sign up an associate with less than five years of experience for only \$125. More information will be coming by mail this week.

In addition, the popular PSATS Webinar PowerPass, which makes the entire Wednesday Webinar series (plus select others) available for free for a one-time annual payment, will be offered to individual and firm members of the Solicitors Association in 2021. Nearly 25 of more than 60 Wednesday Webinars offered by PSATS in 2020 were eligible for CLE credits. The 2021 cost of the PowerPass will be \$89 and can be paid for when making your regular dues payment. (CLE credits are an additional fee.)

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## Recent Decisions

### **Names of Disciplined Public Employees Protected from RTKL Disclosure Until Final Action**

In *Highlands School District v. Rittmeyer*, \_\_\_ A.3d \_\_\_, 2020 WL 7061810 (Pa.Cmwlt. Dec. 3, 2020), the court held that agencies need not provide records identifying an employee subject to disciplinary action (the school district referred to the employee as “employee #5381” during the public meeting) until a “final action...that results in demotion or discharge.” The court also held that when an agency resolves to take action on discipline at a public meeting “no provision of the Sunshine Act mandates that such a resolution must entail public disclosure of the name of the employee subject to discipline.”

### **State System Schools Not Subject to Local Taxes**

In *Indiana Univ. of Pennsylvania v. Jefferson Co. Bd. of Assessment Appeals*, \_\_\_ A.3d \_\_\_, 2020 WL 7061805 (Pa.Cmwlt. Dec. 3, 2020), the Commonwealth Court ruled that portions of buildings owned by Indiana University of Pennsylvania (IUP) but leased out for commercial purposes were not subject to local taxation. In doing so, the court distinguished IUP and other state system universities from municipal authorities, which courts have previously found to be subject to local taxation when engaging in commercial leases of property.

### **Medical Marijuana Users Not Entitled to Disability Protection under PHRA**

In *Palmiter v. Commonwealth Health Systems*, No. 20 CV 2544 (Lackawanna C.C.P. Nov. 10, 2020), a Common Pleas judge threw out a wrongful termination lawsuit because the plaintiff’s medical marijuana use did not qualify as a non-job related “disability” under the Pennsylvania Human Relations Act (PHRA). The court found that the PHRA’s definition of “handicap or disability” excludes controlled substances, and the Controlled Substances Act defines marijuana as a Schedule I controlled substance. This follows on the heels of the Commonwealth Court’s recent ruling in *Harrisburg Area Community College v. Pennsylvania Human Relations Commission*, \_\_\_ A.3d \_\_\_, 2020 WL 6325862 (Pa.Cmwlt. Oct. 29, 2020), that a college that required all nursing students to take drug tests did not have to accommodate a student’s use of medical marijuana.

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## Legislative/Regulatory News

## **PSATS Urges OOR to Consider Fee Changes**

PSATS submitted comments to the Pennsylvania Office of Open Records (OOR) urging it to allow municipalities to charge additional fees when fulfilling requests for commercial requests, including staff time when providing online responses. OOR is reviewing the Right-to-Know Law fee schedule that all local governments must follow when fulfilling requests for public records. To view the current RTKL fee schedule, [click here](#)

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## **Upcoming Educational Offerings**

### **RTKL, Sunshine and Ethics, Oh My! – 12/8 Virtual Class (3 CLE, 1 Ethics)**

This virtual class will provide best practices on how to more efficiently handle tricky (and common) Right-to-Know Law (RTKL) requests, ensure smooth and legal public meetings, including remote meetings, avoid tripping up township officials with conflicts of interest and other Ethics Act problems, and much more.

### **Employment Law Update: Things You May Have Missed During Quarantine – 12/10 Webinar (1 CLE)**

This program will provide an overview of recent and upcoming developments in employment law. Whether your township has one employee or one hundred, the program will address lessons learned from 2020, proactive strategies to plan for changes in the law, and recommendations for new policies and practices in 2021

### **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? – 3/17/20 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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Pennsylvania State Association of Township Supervisors  
4855 Woodland Drive  
Enola, PA 17025