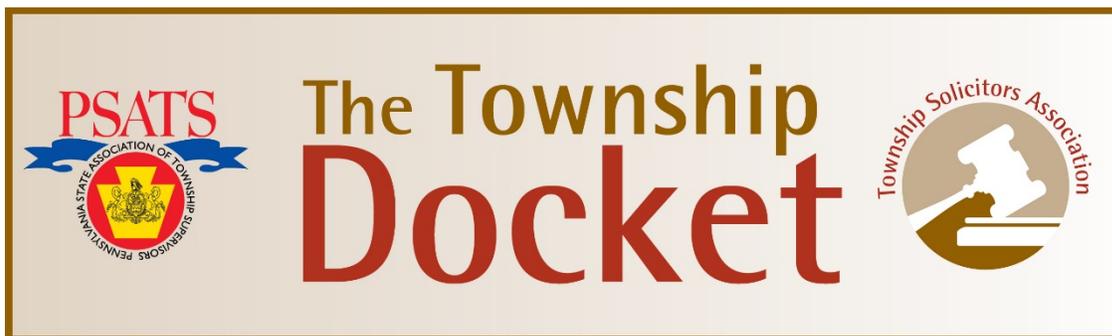


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February 16, 2021

This biweekly enewsletter for members of the Pennsylvania 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. Email comments and suggestions to scoburn@psats.org.

Headlines

"I am Not a Cat" – The Struggles of Lawyering in Crazy Times

By now, you have probably all seen or heard about the recent Zoom struggles of Rod Ponton, a Texas attorney who could not remove a cat filter during a Zoom hearing and uttered the now-famous line to the judge: "I am not a cat." While the episode provided much-needed comic relief for the country, it is also an excellent reminder of the need for municipalities and solicitors to remain vigilant about best practices when conducting remote meetings and hearings. If you have not seen a video of the trials and tribulations of Mr. Ponton, [click here](#).

PennDOT Personal Delivery Device Operations Policy Announced

In the last issue of The Township Docket, we discussed that PennDOT was working on procedures for the management of personal delivery device operations on local roads. Click [here](#) to access the PennDOT PDD Operations Policy.

Reminder: Legal Services in Phase 1-C of PA's Vaccine Rollout Plan

While Pennsylvania remains in Phase 1-A of its COVID-19 vaccine rollout plan and it is unclear as to when the next phase will begin, keep in mind that those providing legal services are eligible to obtain the vaccine during Phase 1-C, along with municipal employees and elected officials.

Recent Decisions

Right to Privacy Does Not Trump Public Interest over Forfeited Property Purchases

In *Lancaster Co. Dist. Atty's Office v. Walker*, ___ A.3d ___, 2021 WL 475116 (Pa.Cmwlt. Feb.

10, 2021), the Commonwealth Court ruled that records containing the names of those purchasing forfeited property must be disclosed in response to a Right-to-Know Law (RTKL) request and that the trial court misapplied the *PSEA* balancing test used when the right to privacy is at issue in connection with a RTKL request. “Ensuring that the disposition of forfeited property complies with the Controlled Substances Forfeiture Act promotes good government,” the court found, and “the name of the purchaser implicates a minimal privacy interest because that individual has chosen to appear and participate in a public auction.”

Single-Family Use Upheld for Group of Unrelated Disabled and Recovering Addicts; Lack of Deadline in Ordinance Does Not Prohibit Appeal

In *City of Clairton v. Zoning Hearing Bd. of City of Clairton*, ___ A.3d ___, 2021 WL 382963 (Pa.Cmwth. Feb. 4, 2021), the Commonwealth Court held that the proposed use of a property to provide residential living in a single-family setting for disabled recovering addicts was permissible because restrictions in the ordinance’s definition of “family” did not apply to those who are disabled under the Fair Housing Act. In addition, the court examined several decisions that have been cited in recent disputes involving short-term rentals and found that it was apparent that the “family” definition “contemplate[s] five unrelated individuals living together.”

The court further held that when an ordinance omits a time period in which a zoning officer must respond to an application for an occupancy permit, the applicant can appeal to the ZHB after the zoning officer fails to act on the application. In this case, the applicant “could have reasonably expected the Zoning Officer to respond to its application within 34 days.”

Upcoming Educational Offerings

[Municipal Tort Liability – Is Your Township Immune? – 2/17/21 Webinar \(1 CLE\)](#)

This webinar will explore the special immunities from tort (negligence) claims that townships and other local agencies enjoy in the Commonwealth of Pennsylvania and the exceptions to immunity and limitations on damages under the Pennsylvania Tort Claims Act.

[HR and Labor Relations in 2021 – Four New Things to Watch For – 2/23/21 Virtual Class \(2 CLE\)](#)

In this virtual class, attorneys from Eckert Seamans will detail what to expect in human resources and labor relations in 2021, including work-from-home issues, employee stress and coping, compensation and bargaining, and general management issues.

[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.

[The Criminal and Civil Consequences of Municipal Firearm Regulation – 3/17/21 \(1 CLE\)](#)

While many municipal officials and employees are not aware of the restrictions that exist when it comes to local governments enacting and enforcing firearm and ammunition-related regulations, the consequences for municipalities and their elected officials can be extreme, and they do not end merely with taxpayer disgruntlement over the wasted expenditure of taxpayer funds spent to enact, enforce, and defend such regulations. Join us for a one-hour discussion on Pennsylvania’s firearm, ammunition, and range preemption statutes so that you can protect your municipalities from more than just taxpayer disgruntlement.

[Zoning Implications for Agritourism in Pennsylvania – 3/18/21 Webinar \(1 CLE\)](#)

The intersection of farming and entertainment is a popular business in Pennsylvania. Many farmers across Pennsylvania have diversified their farms by inviting the public onto their property for everything from hayrides and corn mazes to barn weddings and events. While this past year has placed barriers on many of these activities, they will return. There are several important legal considerations for agritourism operations in Pennsylvania, such as zoning, regulations, insurance, and other matters. Zoning laws regulate land uses, including agritourism, and may affect how property owners use their land because of related parking, hours of operation, traffic, noise, and lighting issues. Gretchen Moore and Alexis Wheeler from Strassburger McKenna Gutnick & Gefsky will present and explore case law and analysis of this burgeoning farm use.

[Spring Solicitors Seminar – 4/19/21 \(5 CLE\)](#)

This seminar will cover a wide variety of emerging and important trends and issues vital to the practice of every municipal solicitor. Don’t miss this opportunity to hear from experts and network with your peers from around the state.



Pennsylvania State Association of Township Supervisors
4855 Woodland Drive
Enola, PA 17025