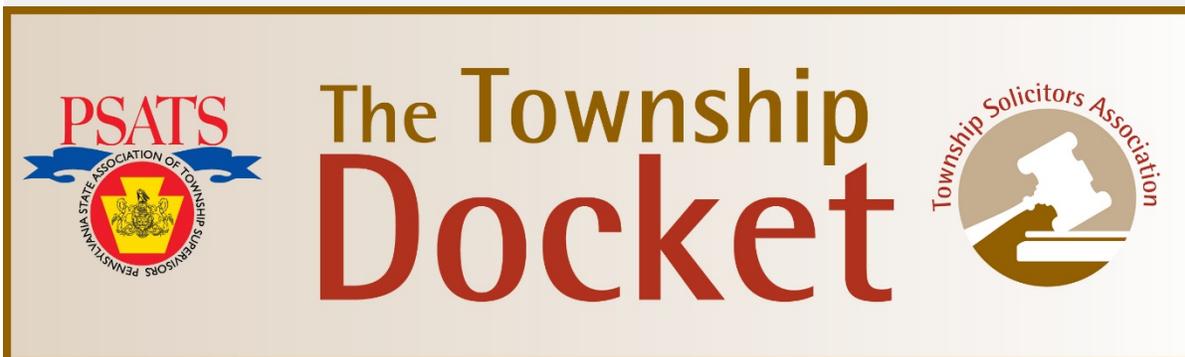


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## Newsletter of the Pennsylvania State Association of Township Solicitors

October 25, 2021

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### Headlines

#### **PA Supreme Court Upholds Pre-Enforcement Review of Municipal Gun Ordinances**

In a 4-3 vote last week that included four separate opinions, the Supreme Court affirmed a decision of the Commonwealth Court and ruled that several citizens of the City of Harrisburg and a citizens group had standing to challenge several ordinances regulating firearms possession and use despite the lack of any enforcement of those ordinances against them.

The ordinances prohibited the possession and discharge of firearms in city parks; public possession of firearms by minors; the sale, transfer, or purchase of firearms or ammunition during states of emergency called by the mayor; and restricted discharge of firearms to city-approved firing ranges.

The Supreme Court, with Justice Mundy writing for the majority, ruled that the options presented to the plaintiffs, including to comply with the ordinances and forfeit what they believe to be constitutionally and statutorily protected rights, violate the ordinances and risk criminal prosecution, or cease to live in or travel to the city, "shows that their interest in the outcome of the constitutionality and preemption of the challenged ordinances is substantial, immediate, and direct." The Supreme Court also rejected the city's arguments that the ordinances had not been enforced against the plaintiffs, in part because of the mayor's statements indicating that "they are enforcing the ordinances, intend to continue to do so, and will not repeal the ordinances."

Justices Saylor, Dougherty, and Wecht joined in the majority opinion. Justice Wecht also filed a concurring opinion, while Chief Justice Baer filed a dissenting opinion, which was joined by Justices Todd and Donohue. Justice Donohue also filed a dissenting opinion, which was joined by Chief Justice Baer and Justice Todd.

#### **Township Clients Considering Salary Bumps? Use the PSATS Salary and Benefits Survey Tool**

As townships prepare their 2022 budgets, they may be looking to make changes to their employees' compensation. If they submitted their townships' wage and benefits information to PSATS, they can access the online Salary Survey Plus platform, which allows for customized searches and information. To access the platform, go to [psats.org](https://psats.org) and look under "My PSATS."

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## Recent Decisions

### Winery/Wedding Venue Approved Over Resident Objections

In *Geiselman v. Hellam Twp. Bd. of Supervisors*, No. 805 C.D. 2020 (Pa.Cmwlth. Oct. 20, 2021), the Commonwealth Court affirmed a decision of the board of supervisors for a conditional use to operate a winery in a rural agricultural district. In doing so, the court rejected arguments made by the objectors about detracting from the use and enjoyment of neighboring properties (“the proper comparison is not between the proposed and current uses but between the impact of the proposed use and that normally expected from the use allowed by the ordinance,” the court said) and effecting changes to the character of the neighborhood.

### Supreme Court Strikes Down Home Rule Ordinance Prohibiting Source-of-Income Discrimination in Housing

In *Apartment Ass’n of Metropolitan Pittsburgh, Inc. v. City of Pittsburgh*, \_\_\_ A.3d \_\_\_, 2021 WL \_\_\_\_\_ (Pa. Oct. 21, 2021), the Supreme Court noted that it was “[d]rawing fine lines in loose sand” in ruling that the business exclusion in the Home Rule Charter and Optional Plans Law prohibits home rule communities from barring source-of-income discrimination in housing. The court found that the City of Pittsburgh “cannot escape the gravitational pull of the question whether the PHRA [Pennsylvania Human Relations Act]’s legislative delegation of some authority to home-rule municipalities to combat discrimination can sustain” the ordinance.

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## Legislative Update

The Senate recently heard testimony and concerns about SB 698, which would create countywide public safety authorities for the administration of fire and emergency services. In addition, the Senate reported the following bills out of committee last week:

- SB 275, which would prohibit municipalities from restricting access to any energy source.
- SB 755, which would amend the Municipalities Planning Code to give municipalities and counties the option to transmit electronically documents that they are required to submit to other entities for review and comment, including proposed zoning ordinance amendments and comprehensive plans.
- SB 448, which would allow persons and organizations adversely affected by municipal ordinances regulating firearms and ammunition to seek damages from the municipality.

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## Upcoming Educational Offerings

### [2021 Solicitors Virtual Fall Seminar \(East\) – 11/4 \(5 CLE\)](#)

Learn from experts on a wide variety of topics critical to the practice of a municipal solicitor.

### [2021 Pennsylvania Association of Zoning Officials Seminar \(East\) – 11/9 \(5 CLE\)](#)

Topics will include navigating municipal ethical and legal gray areas; effective enforcement of

municipal code and zoning violations; must-have checklists for zoning hearing board meetings; intergovernmental cooperation in city, town, suburban, and regional zoning; and zoning for controversial uses.

**[Preparing for an Audit of ARPA Expenditures: What to Do Now – 11/22 Webinar \(1 CLE\)](#)**

This webinar is designed to address the potential audit of township expenditures of ARPA funds by the federal government. Ryan Gonder and Tim Horstmann of McNeese Wallace & Nurick will review the process, the most recent guidance and/or regulations that townships and the federal government will be following, what township need to do to prepare for a potential audit, and other timely advice as practicable.



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This biweekly newsletter 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. You can access past newsletters under the “Newsroom” tab when you are signed in at [psats.org](http://psats.org). Email comments and suggestions to Scott Coburn at [scoburn@psats.org](mailto:scoburn@psats.org).



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