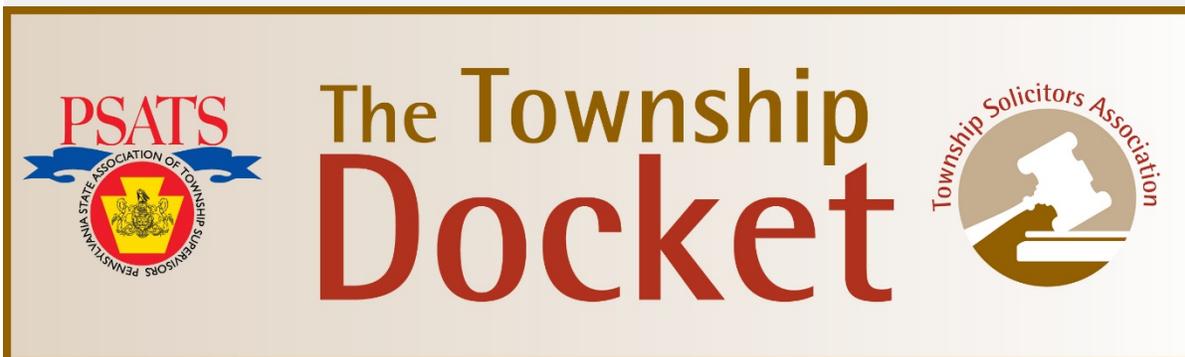


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Newsletter of the Pennsylvania State Association of Township Solicitors

October 11, 2021

Headlines

Township Deadlines for ARP Reporting Pushed Back; No ID.me for NEUs

The U.S. Department of the Treasury recently announced that the deadline for non-entitlement unit municipalities (those with less than 50,000 population) to file annual reports detailing their American Rescue Plan Act spending has been moved from October 2021 to April 30, 2022. That report will now cover the period between the award date of the American Rescue Plan funding and March 31, 2022. For those municipalities with populations of 50,000 or more, the report will now be due on January 31, 2022, and will cover the period between the award date and December 31, 2021.

In addition, PSATS has confirmed through NATaT that the Department of the Treasury will **not** require non-entitlement unit municipalities to use the ID.me requirements when filing their reports.

Last Chance to Join PSATS for Its 100th Anniversary Dinner

PSATS will be celebrating its 100th anniversary on Thursday, October 14, at the Hershey Lodge with hundreds of township officials and employees from around the state. For more information about how you can be a part of the Centennial Celebration, go to psats100.mypli.org.

Virtual Solicitors Seminars Available On-Demand

If you did not get a chance to participate at either of the first two of three PSATS Virtual Fall Solicitors Seminars, you can access them by going to learn.psats.org and clicking on the On-Demand section.

Recent Decisions

PA Supreme Court Rules that Sovereign Immunity Decisions are Immediately Appealable

In a significant victory for governmental agencies, the Pennsylvania Supreme Court ruled

in *Brooks v. Ewing Cole, Inc.*, ___ A.3d ___, 2021 WL 4301270 (Pa. Sept. 22, 2021), that the question of whether sovereign immunity applies to litigation claims asserted against agencies is appealable as of right. This ruling means that agencies can get that question addressed more promptly and before a final decision on the merits, thereby saving taxpayer dollars and limiting the diversion of employees' time from conducting government business.

Brooks was injured when she walked into an unmarked glass wall while exiting the Family Court building in Philadelphia. She sued the design and construction firm, the City of Philadelphia, and the Family Court. The Family Court asserted that Brooks' negligence claim was barred by the Sovereign Immunity Act. Brooks argued that the Family Court was subject to the waivers to immunity listed in Section 8522(b) of the Sovereign Immunity Act.

There were numerous motions filed, including one by the Family Court seeking summary judgment in its favor on the sovereign immunity issue. The parties disputed whether the court's decision on that issue was a collateral order from which the Family Court could appeal before a final decision on the merits. The Commonwealth Court determined that it did not have jurisdiction over the trial court's decision not to grant sovereign immunity issue to the Family Court because it was not appealable at that stage of the litigation.

The Supreme Court disagreed. It determined that the question of whether the Family Court was entitled to sovereign immunity was a purely legal one that does not require examining the merits of Brooks' negligence claim. It also found that the right to a sovereign immunity defense "is too important to evade review before final judgment" and that the "defense is irreparably lost if appellate review of an adverse decision on sovereign immunity is postponed until after final judgment." To that end, it stated that "forcing governmental entities to litigate claims from which they may be immune has a chilling effect on government policymaking."

Responding to Brooks' argument that its decision would open "the floodgate of sovereign immunity appeals," the Supreme Court stated that the express purpose of sovereign immunity is to protect against "subjecting the government to unnecessary litigation." Forcing government agencies to have the issue of immunity reviewed only after the final judgment will lead to their monetary resources and employees' time being "subject to unnecessary depletion," the court said. After reaching its decision, the Supreme Court sent the matter back to the Commonwealth Court to resolve whether sovereign immunity applies to protect the Family Court against Brooks' negligence claim.

PSATS, acting through the PSATS Township Legal Defense Partnership, filed an amicus brief in support of the Family Court before the Supreme Court. For more information on how the Township Legal Defense Partnership can assist you and your township clients, check out the November *Township News* magazine.

Legislative Update

Governor Signs Update to General Road Law Dealing with Private Roads

Last Thursday, Gov. Tom Wolf signed into law Act 75 of 2021 (H.B. 523), which amends the General Road Law to provide that 1) private roads be kept in repair by and at the expense of the property owner at whose request the private road was granted and laid out and the property owner's heirs or assigns, and 2) property owners sharing a common benefit from the private road must contribute a proportional amount to maintain the private road. These changes do not apply to private roads subject to written maintenance agreements, established by the commonwealth or by a municipality as provided in 26 Pa.C.S. 204(B)(9), or within common-interest ownership

communities. Act 75 takes effect on December 6, 2021.

Upcoming Educational Offerings

[Hot Topics in Planning: Storefront Vacancies, Recovery & Multifamily Impacts – 10/13 Webinar](#)

In this webinar, representatives of the Montgomery County Planning Commission will cover several new and emerging areas in the planning world and their efforts to address them. They will review the impacts the COVID-19 pandemic has had on commercial environments and how those impacts might continue. They will also share suggestions on what municipalities and developers are doing or could do in the future to address the pandemic's impacts on their commercial areas. In addition, they will address the uptick in the number of multi-family residential developments that have been proposed or are in development and review new research on the impacts of multifamily housing and how the COVID-19 pandemic impacts this residential segment.

[2021 Pennsylvania Association of Zoning Officials Seminar \(Central\) – 10/19 \(5 CLE\)](#)

Topics will include zoning for controversial uses; best practices for “quality of life” enforcement; intergovernmental cooperation for city, town, suburban, and rural zoning; solar farms; legal and legislative update; and signs, spot zoning, and short term-rentals.

[How to Use Your Solicitor Efficiently and Effectively – 10/20 Webinar](#)

This session will highlight real-life experiences and ideas that the presenters have implemented with their municipal clients and leave you with practical advice that you can implement to maximize your municipality's legal budget.

[2021 PAAZO Virtual Fall Seminar -10/21/21 \(5 CLE\)](#)

Topics will include municipal regulation of 5G wireless facilities; how different communities approach hot topics in zoning; intergovernmental cooperation in city, town, suburban and regional zoning; and a legal and legislative update (full agenda not finalized).

[Is Your Township Prepared from Hackers? A Live Hacking Demonstration – 10/25 Webinar](#)

During this webinar, representatives of IntermixIT will present a live hacking demonstration in which they show how hackers can breach accounts to gain credentials and other important information. They will also provide insights on how townships can best avoid getting hacked and exposing their valuable information and that of their residents.

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

Learn from experts on a wide variety of topics critical to the practice of a municipal solicitor. Agenda still being finalized – stay tuned.

[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 – 11/17 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.



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. Email comments and suggestions to Scott Coburn at scoburn@psats.org.



Pennsylvania State Association of Township Supervisors

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