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Newsletter of the Pennsylvania State Association of Township Solicitors

December 20, 2021

Headlines

PSATS to Offer CLE Bundles to Solicitors Association Members in 2022

To make it easier for solicitors and law firms that purchase the PSATS Webinar PowerPass to earn CLE credits while attending those webinars, PSATS will be offering CLE credits in bundles of 6 or 12 credits at a discount of more than 10% per standard CLE credit rates. For those whose membership renews on the calendar year, that option will be reflected on your invoice. For all others, please contact 717-763-0930 to get set up.

PSATS December 15 CLE Seminar Available On Demand for a Limited Time

If you would like to access the December 15 Virtual Solicitor Seminar on demand through the end of 2021, you can go to [learn.psats.org](https://www.learn.psats.org) to register and access the session. Topics included collective bargaining, municipal stormwater litigation, police background check requirements, a recent case update, and a review of common municipal ethics issues.

Virtual HR & Labor Management (with CLEs) Coming on January 12

On January 12, PSATS will be hosting a five-credit CLE seminar that is focused on municipal human resources and personnel management. Topics will include employee discipline, employee pay and leave issues, and recent decisions and legislation impacting employee matters. For more information, go to [learn.psats.org](https://www.learn.psats.org) or click the registration link in the Upcoming Educational Offerings section below.

Recent Decisions

Court Strikes Down Land Development Plan Because Ordinance Failed as Spot Zoning

In *Dorsey v. Borough Council of Conshohocken Borough*, No. 114 C.D. 2020, 2021 WL 5774689 (Pa.Cmwlth. Dec. 7, 2021), the Commonwealth Court built on its prior ruling that a borough zoning amendment that permitted a new convenience store and gas station constituted

illegal spot zoning and determined that the borough's issuance of a land development plan approval the same day that it adopted the zoning amendment was invalid.

In 2014, the property owner requested a variance to develop a convenience store and gas station on the property. The borough denied that request. Three years later, the property owner sought an amendment to the borough's zoning ordinance to allow additional permitted uses in the zoning district, including its proposed use. The borough enacted the zoning amendment and provided land development plan approval on the same day, even though the zoning amendment did not take effect for five days. A group of neighbors challenged the appropriateness of the zoning amendment. The zoning hearing board sided with the neighbors while, on appeal, the trial court sided with the borough.

In August, the Commonwealth Court agreed with the zoning hearing board and ruled that the zoning amendment constituted impermissible spot zoning. To support its conclusion, the court noted that the property was the only parcel in the entire zoning district that could satisfy the requirements to allow a convenience store with a gas station and ATM without first demolishing existing structures.

In the present appeal, the court determined that the borough could not grant land development approval in the absence of a valid zoning amendment. This decision is a good reminder for municipalities not to act in reliance on ordinances that do not go into effect until a future date.

Commonwealth Court Remands Question of Standing for Commenter Unable to Attend Virtual Meeting

In *Wright v. Town of McCandless Zoning Hearing Bd.*, ___ A.3d ___, 2021 WL 5856132 (Pa.Cmwth. Dec. 10, 2021), the Commonwealth Court vacated a trial court order that determined that a resident had no standing to appeal the approval of dimensional variances and ruled that the trial court must consider whether the resident's submission of a public comment read into the record at a virtual hearing was sufficient to grant standing.

A developer sought to build a three-story, 20-dwelling apartment complex and applied for a variance to reduce the number of necessary parking spots. The zoning hearing board conducted a virtual meeting consistent with Act 15 of 2020, which permitted virtual meetings due to COVID-19's spread.

Wright wished to participate but did not have access to the web conferencing platform. She then dictated a statement opposing the variances to a township employee; that statement was later read at the virtual hearing as a public comment. At the hearing, there was discussion among the zoning hearing board about where Wright lived but not about whether she had party status. The zoning hearing board later granted the applications and noted that Wright opposed them.

Wright appealed that decision, and the developer moved to quash for lack of standing on Wright's part. Wright argued that she obtained party status by submitting her statement during the hearing and based on the totality of the circumstances (including improper public notice, lack of access to documents, inability to use the virtual platform, etc.). The Commonwealth Court determined that a remand was in order because the trial court did not consider whether Wright had obtained party status through the submission of her statement.

Upcoming Educational Offerings

[Should We Have an Ordinance for That? – 1/12/22 Webinar \(1 CLE\)](#)

In this webinar, representatives from the Tri-County Regional Planning Commission will review key issues that are important to your township's comprehensive planning and implementation efforts (using Susquehanna Township as an example), including infrastructure, land development, open space, housing/building stock, cultural resources, and transportation. They will also discuss how you can most effectively use the tools in the Planning Toolkit developed by the commission.

[PSATS HR & Labor Management Institute – 1/12/22 Virtual Class \(5 CLE\)](#)

This virtual full-day offering is a must-attend for anyone who has responsibility for human resources (HR) and personnel management in their township.

[Our Board is Divided – What Now? – 1/19/22 Webinar \(1 CLE\)](#)

Occasionally, a township board will be politically or philosophically divided to the point that it makes it very difficult to operate. In this webinar, we will discuss a variety of common "divided board" issues, including filling vacancies on the board of supervisors, what to do when a supervisor abstains from voting to avoid controversial issues, the role of the chair in bringing order to the meeting, and the rights of supervisors to address topics that are not on the agenda.

[How to Handle Claims under the Heart and Lung Act – 2/2/22 Webinar \(1 CLE\)](#)

Many public employers do not understand their rights and liabilities under the Heart and Lung Act. As the result, improper benefits are provided, and municipalities expend significant costs that may have been avoided. This webinar, presented by Scott Blissman and Ryan Cassidy of Eckert Seamans, will help you to identify who is and is not eligible to receive the generous benefits provided under the act, what they receive, and when and how benefits can be terminated. Learn to avoid the common mistakes made by employers that result in significant liability.

[2022 Solicitors Spring Seminar – 4/25/22 In-Person \(5 CLE\)](#)

This seminar, held in conjunction with PSATS' 2022 Conference in Hershey, 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.



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.



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