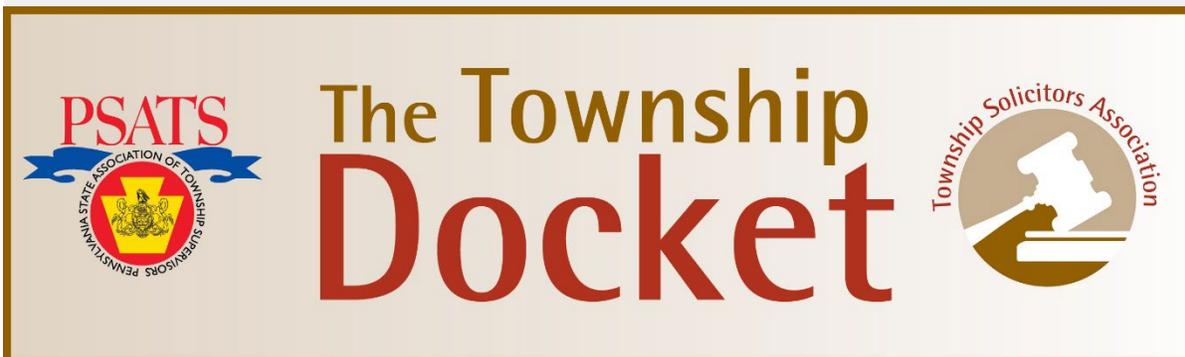


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Newsletter of the Pennsylvania State Association of Township Solicitors

January 3, 2022

Headlines

Good Luck . . . It's Township Organization Meeting Day!

Townships around the state will meet today to organize for 2022, including filling vacancies on various boards and commissions and appointing chairs, vice-chairs, and other township positions. Best of luck to all Solicitors Association members for smooth meetings and solicitor (re)appointments. If you have any questions in advance of your meetings, please contact PSATS at 717-763-0930.

Registration for PSATS' 2022 Conference and Solicitors Seminar Opens on January 11

Beginning at 9 a.m. on Tuesday, January 11, township officials, employees, and others may begin registering and reserving rooms for the 2022 PSATS Annual Conference & Exhibit Show, which will be held from April 24-27, 2022, at the Hershey Lodge. Conference information was mailed to Township Solicitor members in December. To register, go to conference.psats.org.

PSATS Virtual Training for Elected Auditors on January 20

If your township has elected auditors, please encourage them to attend PSATS' "ABCs for Elected Auditor" virtual class on January 20, starting at 1 p.m. The two-hour session will review auditors' legal requirements, filing requirements, and best practices for conducting the audit. For more information or to register, [click here](#).

PSATS will also be hosting in-person and virtual classes for township secretaries, administrators, and zoning hearing board members, among others, this winter. Go to learn.psats.org/calendar to learn more.

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

PSATS will be hosting a five-credit CLE session focused on municipal human resources and personnel management on January 12 from 9 a.m. to 3:30 p.m. Topics include employee discipline, employee pay and leave issues, and recent decisions and legislation affecting employee matters. For more information, go to learn.psats.org or click the registration link in the Upcoming Educational Offerings section below.

2022 Bid, Quote Limits Set

On December 18, the state Department of Labor & Industry published notice of the 2022 bid limits. As of January 1, 2022, the minimum purchase amount that will require the advertisement for bids is \$21,900, while the minimum purchase amount for telephone or written quotes is \$11,800. Although the increase in the Consumer Price Index was 5.4% for the 12-month period ending September 30, 2001, there is an annual cap of 3% on increases to those limits.

What Do 'The Office' and PA's Agritourism Protection Act Have in Common?

Christopher Knarr of Solicitors Association sponsor McNeese Wallace and Nurick recently wrote a blog post, "Schrute Farm and PA's Agritourism Protection Act," about Act 27 of 2021, which provides for limited liability for agritourism activity providers. To read the full blog post, [click here](#).

Recent Decisions

Purchaser of Property at Sheriff's Sale May be Deemed Successor for Developer's Property-Related Obligations

In *Altoona First Savings Bank v. Township of Logan*, ___, A.3d ___, 2021 WL _____ (Pa.Cmwlth. Dec. 22, 2021), the Commonwealth Court ruled that a bank that purchased real property securing its mortgage at a sheriff's sale may have stepped into the shoes of a developer and become responsible for the infrastructure required on the project, which was the subject of an agreement between the developer and the township. The court held that the trial court erred in granting summary judgment to the bank.

In this case, the developer originally posted security for infrastructure projects required by the township's SALDO, but that security expired after the trial court issued an order of liquidation against the insurer. The township argued that the bank is now liable for completion of the infrastructure as an applicant under the Municipalities Planning Code (Section 107 defines an "applicant" to include a landowner or developer, including their "heirs, successors and assigns").

The court determined that the question as to whether the bank is a successor landowner to the developer under the MPC and the SALDO depends on whether the bank assumed the developer's interest in the land that was subject to the plan approved by the township. The court held that "one only needs to assume the proprietary interest of the landowner applicant it has succeeded" and it "requires a determination of what land interest the Bank received at the sheriff's sale." It held that the record "does not establish beyond dispute that the Bank did not assume Developers' interest, the rights and obligations of Developers, to become the successors to Developers and, thereby, the 'applicant' within the meaning of the MPC and the SALDO."

While granting the township the win on that issue, the court also determined that its agreement with the developer is not automatically a covenant that runs with the land. It found that the trial court needed to determine what is meant by the term "successor" in the agreement between the township and developer.

Court Affirms Finding of Ethics Act Violation by Former Township Supervisor

In *Sivick v. State Ethics Commission*, No. 307 C.D. 2021, 2021 WL _____ (Pa.Cmwlth. Dec. 22, 2021), the court affirmed findings that a former township supervisor violated the Ethics Act by taking various steps aimed at having his son employed by the township. The court held that regardless of whether his interactions with other supervisors about the potential repeal of the township's nepotism policy and hiring his son "were considered requests, recommendations or veiled heavy-handed mandates, they were nevertheless made in his

capacity as Board Chairman, Supervisor and Roadmaster, and were made for the purpose of obtaining a Township job for his Son.”

Township Supervisors Lose Bid to Remain in Office after Township Referendum

In *Martin v. Donegal Twp.*, No. 1062 C.D. 2021, 2021 WL 5979314 (Pa.Cmwlt. Dec. 17, 2021), the Commonwealth Court ruled that the failure of three township supervisors to join other candidates for township supervisor as parties to their challenge to the constitutionality of Section 402(d) of the Second Class Township Code was a fatal defect depriving it of jurisdiction.

The three sitting township supervisors filed the challenge after township electors voted to reduce the composition of the board of supervisors from five to three members. They argued that they should be able to carry out their terms of office.

Township Ordinance Withstands Mobile Home Challenge

In *UMH Properties, Inc. v. Greenwich Twp. Bd. of Supervisors*, No. 1200 C.D. 2020, 2021 WL 6013655 (Pa.Cmwlt. Dec. 16, 2021), the court rejected an argument that a township zoning ordinance imposed a de facto exclusion of mobile home communities and violated the fair share doctrine.

The ordinance limits mobile home parks to its high-density residential (HDR) district but permits mobile homes in multiple districts, including up to four on an acre in the village district. The court noted that the zoning hearing board made numerous findings about the rural and agricultural nature of the township, which supported the township’s decision to allow the use in only one zoning district, which, it also noted, is comprised of 105 acres.

On the fair share issue, the court affirmed the zoning hearing board’s finding that the township provided its fair share of mobile home communities. Not only were there many acres in the HDR that were still available for mobile home usage, but the township is not growing more slowly than other areas in the Lehigh Valley.

Legislative Update

Gov. Tom Wolf recently signed two new acts of interest to townships:

Act 96 of 2021 (HB 2071) creates the Pennsylvania Broadband Development Authority, which will disburse state and federal funds for the expansion of broadband to unserved and underserved areas, coordinate broadband development, and produce a statewide broadband development plan. The authority is needed to access \$100 million in federal aid. The act took effect December 22, 2021.

Act 97 of 2021 (SB 208) amends the Municipalities Planning Code to clarify that municipalities may not require developers to post a bond of more than 110% of the costs of improvements. The act will take effect February 20, 2022.

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](mailto:scoburn@psats.org).



Pennsylvania State Association of Township Supervisors

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