

Adams County Legal Journal

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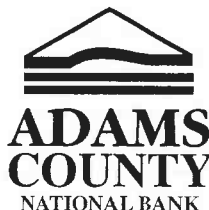
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RICKERT ET AL VS. LATIMORE TWP.

This opinion continued from last issue (7/30/2004)

Adams County National Bank's
commitment to its communities is
more than a fleeting promise.
It is a tradition founded upon our
more than 130 years of service to
the individuals, businesses and
organizations in these communities.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-141 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of August, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Known as 495 Weikert Road, Gettysburg, PA 17325

ALL that tract of land situate in Highland Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Township Road No. T-320, which point of beginning is North 13-3/4 degrees East, 1,078 feet from the stone corner in the center of a bend of said road on line of land now or formerly of Harry Sillik; thence by lands now or formerly of Charles M. Coffelt, North 77 degrees West, 130 feet to a steel pin; thence by same, North 13 degrees 45 minutes East, 110 feet to a steel pin; thence by same, South 77 degrees East, 133 feet to a point in the center of said Township Road No. T-320; thence in and along the center of said Township Road No. T-320, South 15 degrees 19 minutes West, 110.04 feet to a point in the center of said Township Road No. T-320, the place of BEGINNING. CONTAINING 14,465 square feet.

The above description is taken from a draft of survey dated November 22, 1968, and revised December 9, 1968, by Donald E. Worley, Registered Surveyor; the location of the point of beginning is derived from the description of the "LESS HOWEVER" tract in the deed dated December 30, 1968, from Charles M. Coffelt, widower, to Theron S. Dayhoff and Glenda H. Dayhoff, husband and wife, recorded in Deed Book 271 at Page 1138.

BEING the same tract of land which Matthew G. McLaughlin and Sheryl L. McLaughlin, husband and wife, by their Deed dated January 30, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 1513, at page 151, sold

and conveyed unto Terry J. Humphrey and Christine L. Humphrey, husband and wife, Mortgagors herein.

SEIZED and taken into execution as the property of **Terry J. Humphrey & Christine L. Humphrey** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 20, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

7/30, 8/6 & 13

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-534 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Jefferson Street and Lot No. 62; thence along Lot No. 62, North sixty-four (64) degrees fifty-nine (59) minutes thirty-two (32) seconds West, one hundred sixteen and fifty-three hundredths (116.53) feet to a point at Lot No. 54; thence along Lot No. 54, South twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds West, eighty (80.00) feet to a point at Lot No. 60; thence along Lot No. 60, South

sixty-four (64) degrees fifty-nine (59) minutes thirty-two (32) seconds East, one hundred sixteen and fifty-three hundredths (116.53) feet to a point at Jefferson Street; thence along Jefferson Street, North twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds East, eighty (80.00) feet to the point and place of BEGINNING. CONTAINING 9,322 square feet and identified as Lot No. 61 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 45, page 95.

SEIZED and taken into execution as the property of **Timothy C. Wood** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

RICKERT ET AL VS. LATIMORE TWP.

Continued from last issue (7/30/2004)

Equally fatal to the validity of the legislation when considered as a new ordinance is the Board's factual finding that the legislation was "prepared by the governing body of Latimore Township and not by the planning agency." Bd. Finding of Fact, ¶ 33.²⁶ The record supports the Board's finding in this regard in that references in the legislative history show the Ordinance being referred to the Planning Commission for comment rather than the Planning Commission forwarding the draft ordinance to the Supervisors.²⁷ The significance of the Supervisors' preparing this legislation rather than the planning agency is apparent in light of the clear statutory requirements set forth in the MPC. The MPC plainly indicates that "[t]he text and map of the proposed zoning ordinance . . . shall be prepared by the planning agency" rather than the "governing body". PA. STAT. ANN. tit. 53, § 10607(a) (West 1997). Moreover, compliance with this statute is mandatory since compliance is "a condition precedent to the validity of a zoning ordinance adopted pursuant to . . . [the MPC]". PA. STAT. ANN. tit. 53, § 10607(d) (West 1997). An ordinance which fails to comply with the mandated requirements of the MPC is invalid. *See Muhlenberg College v. Zoning Hearing Bd. of the City of Allentown*, 760 A.2d 443, 445 (Pa. Commw. Ct. 2000). Since the Supervisors enacted an Ordinance without complying with the MPC's mandated requirements, it is void.²⁸

Although I have found that the Supervisors' legislative action constituted an enactment of a new ordinance, that determination is not critical to the resolution in this matter since, even if the legislation is treated as an amendment, procedural defects in its enactment make it void.

²⁶ Although the Board characterizes this legislation as an amendment to the Ordinance, the Board's erroneous designation does not negate its factual conclusion that the subject legislation, by whatever name it may be called, originated in Latimore Township's governing body.

²⁷ As previously mentioned in footnote 18, the Township Solicitor referred to the legislation as a new ordinance which the Planning Commission prepared. While this representation is contrary to the Board's finding, the Board is not required to accept it nor has committed an abuse of discretion if its factual reference in paragraph 33 is supported by substantial evidence in the record.

²⁸ The Appellants additionally argue that the Ordinance is void since:

- 1) the Planning Commission failed to hold a public meeting pursuant to public notice as required by Section 607(b) of the MPC; and
- 2) the Planning Commission did not present the draft zoning ordinance to the Supervisors as required by Section 607 of the MPC.

Appellants' Notice of Appeal, p. 4.

(footnote 28 continued to next page)

If the legislation adopted by the Supervisors is treated as an amendment, adoption of the Ordinance must satisfy the requirements of Section 609 of the MPC. Those requirements provide in relevant part that “[b]efore voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice”. PA. STAT. ANN. tit. 53, § 10609(b) (West 2003). The MPC further provides that if the proposed amendment involves a change to the zoning map, “notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens.” *Id.* Posting of the affected tracts shall occur at least one week prior to the date of hearing. *Id.*

Appellants argue that the Supervisors failed to comply with these requirements in that all tracts affected by the change to the zoning map were not properly posted.²⁹ In this regard, they indirectly challenge Board Finding of Fact Eleven wherein the Board indicated that “the real properties of the Appellants were posted on February 24, 2002.” For the reasons set forth below, I find that the Appellants’ challenge has merit and that the Board’s finding is not supported by substantial evidence.

Uncontroverted testimony at the zoning hearing indicated that one tract of Appellant Weiser’s property was not posted. Tr. pp. 19-20. Additionally, Terry Rickert testified that although he was unsure as

(footnote 28 continued from previous page)

In regard to the first of these issues, the record is barren of any indication that public notice of the Planning Commission meetings was provided. In light of the Board’s erroneous finding that the subject legislation was an “amendment” rather than the “enactment” of a new ordinance, the Supervisors apparently did not address the issue. Accordingly, remand of the issue for an evidentiary finding in that regard would be appropriate if that was the sole issue presented. However, that was not the sole issue the Appellants raised and, in light of the disposition set forth hereinabove, remand is unnecessary.

The second issue raised by the Appellants in regard to procedural deficiencies in the enactment of the Ordinance need not be addressed any further in light of the Board’s finding that the Supervisors, rather than the Planning Commission, prepared the Ordinance. It rationally follows that since, as a matter of fact, the Supervisors prepared the Ordinance, then there would be no need, or opportunity, for the Planning Commission to present the Ordinance to the Supervisors as required by Section 607(c) of the MPC.

²⁹The Appellants also question the timing of the Township’s public notices. After a thorough review of the record, I find this issue meritless and affirm the Board’s decision in this regard.

to whether his property was posted, he unequivocally expressed that there was only one tract posted in an area where two separate tracts of land were located. *Id.* at pp. 27-29. Apparently, the map which the parties were referencing at the zoning hearing, Exhibit Two, was a map which did not include the current subdivision of tracts of land as they existed at the time of the hearing. A complete reading of the hearing transcript, however, clearly indicates that land which had been designated as a single tract on the map the Board referenced at the hearing had subsequently been divided into two parcels of land. Appellant Weiser owns one parcel. Appellants Junkins and Rickert own the second parcel. Although the parties are uncertain as to which of these two tracts was posted, the record is clear that only one of the two was posted. *See generally* Testimony of M. Everett Weiser and Terry Rickert. A fair reading of the testimony of the Township Zoning Officer, John Shambaugh,³⁰ not only fails to refute this testimony but, in fact, confirms the testimony. Tr. p. 119, Tr. Ex. 2.³¹

Finally, in considering this issue, the Appellants point out a number of other areas throughout the Township where the zoning map changed classifications of the zoning district, however, did not post the affected tracts. A casual comparison of the zoning map adopted with the 1987 Ordinance with the adopted zoning map, Tr. Exhibit Two, confirms the Appellants' representations. For instance, a large area in the southeast corner of Latimore Township had the zoning classification changed from residential-agricultural under the previous Ordinance to residential-Lake Meade. Despite this change in zoning districts, however, testimony at the Board hearing confirmed that this area was not posted at all. *See* Tr., Ex. 2.³² Similarly, areas in the northeast corner of the Township, the southcentral portion of the Township and the eastern portion of the Township near Latimore

³⁰Although the record does not identify Mr. Shambaugh, the Court is aware of Mr. Shambaugh's status as the Zoning Officer of Latimore Township due to other proceedings before this Court.

³¹The Board claims that "Mr. Shambaugh posted notice of the March 4, 2002 public hearing along the affected tracts." Bd. Conclusion of Law, ¶4. In support thereof, the Board references page 93 of the zoning hearing transcript. My reading of the transcript at that page fails to reveal any testimony supporting such a broad statement.

³²The March 4, 2002 legislation maintained the designation of zoning districts classified as residential-agricultural. The residential-Lake Meade district is an entirely new zoning district rather than simply having its designation changed.

Village appear to have undergone changes of the zoning district pursuant to the March 4, 2002 legislation with little, if any, posting of the affected tracts. The record not only reveals that the Township failed to post all of the affected tracts throughout the Township but, more specifically, failed to post each of the tracts the Appellants owned. Any such implication by Board Finding of Fact Eleven is not supported by substantial evidence.

The Township, perhaps in recognition of the testimony before the Board, essentially concedes in its brief that each and every tract of property affected by the change in the zoning map was not posted. It argues, however, that the MPC does not contain such a requirement. Rather, the Township claims that notice is sufficient if it is posted at points deemed sufficient by the municipality to notify potentially interested citizens. In formulating its argument, the Township correctly cites Section 609 of the MPC which contains such language. PA. STAT. ANN. tit. 53, § 10609 (West 2003). Unfortunately for the Township, the Commonwealth Court, in interpreting the language of this section, placed a much greater duty upon the Township. See *Johnson v. Zoning Hearing Bd. of Stroud Township*, 601 A.2d 927 (Pa. Commw. Ct. 1992).

In *Johnson*, the Commonwealth Court considered the legality of posting notices to a change in a zoning map under former Section 609 of the MPC.³³ The appellants in that case owned residential property affected by a change in a Stroud Township zoning map. Although at least 200 notices were posted throughout Stroud Township, and in fact, the appellants' property was posted, the municipality failed to post on the perimeter of the entire tract the appellants owned. The Commonwealth Court, recognizing the

³³ Prior to 1994, Section 609(b) of the MPC provided in relevant part: "... notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along **the perimeter of** the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing." PA. STAT. ANN. tit. 53, § 10609(b) (West 2003). A 1994 amendment to the section deleted the language "the perimeter of". Interestingly, Section 609(b) of the MPC, which was effective at the time of the Township's legislative action in this matter, has subsequently been amended. On January 11, 2002 the section was amended to require a municipality to provide notice prior to the adoption of a zoning map change to all real properties listed on the tax rolls which are affected by the change. Notice is to be given by first class mail to each such property owner. This subsequent legislative action confirms the high priority which Pennsylvania courts place upon notice requirements.

importance of providing notice, held that the procedures for notice in the enactment of ordinances “must be strictly followed in order for an ordinance to be valid”. *Id.* at 929. Just as importantly, the *Johnson* Court found it immaterial that the property owners had received actual notice. “If a published notice fails to satisfy the statutory requirements, the fact that members of the public, or even the appellants themselves, appeared at the hearing does not breathe life into an otherwise void ordinance.” *Id.* (quoting *Gwynedd Properties, Inc.*, 591 A.2d at 287).

Admittedly, the *Johnson* Court was interpreting language in Section 609(b) of the MPC which has subsequently been deleted by legislative act. However, implicit in *Johnson* are a number of principles which provide guidance. Primary among them is the recognition that Section 609(b) of the MPC requires each separate tract to be posted. Secondly, actual notice to a property owner by the township is of little significance if the procedures set forth in the MPC are not strictly followed. Applying this instruction leads me to conclude that the Township’s legislative act of March 4, 2002 is void.

As mentioned above, the record is unequivocal that all affected tracts in Latimore Township were not posted. Although the Appellants claimed to have actual notice of the hearing, the testimony of Terry Rickert is revealing. At hearing, the following exchange occurred:

Solicitor Turo: Question: Mr. Rickert, you did not come to the public hearing on March 4, 2002 at the fire house? . . .

* * *

Mr. Rickert: I was there. I was notified about it two days beforehand.

Question: You did show up?

Answer: Yes, with little or no preparation.

Question: You did testify?

Answer: With little or no preparation, yes, I did.

Mr. Turo: That’s fine.

The Witness: I would have very much liked to have had more preparation time.

Tr. pp. 29-30.

Notice provisions concerning the enactment of municipal ordinances are of such critical importance that compliance must be absolute. "The public's interest in the legislative process demands no less", *Gwynedd Properties*, 591 A.2d at 288, and the Township has presented no valid reason to abandon this general rule. The Board, in construing this rule to the contrary, has committed an error of law.³⁴

I find the Appellants' second argument equally persuasive. The Appellants argue that although the Township advertised the March 4, 2002 hearing, the public notice was insufficient in that it did not specify the particular nature of the matter to be considered at the hearing. In support thereof, the Appellants direct the Court's attention to Section 107(a) of the MPC which contains such a requirement in the definition of public notice. Additionally, Section 610 of the MPC requires that when the full ordinance is not published, any summary of the Ordinance must set forth "all the provisions in reasonable detail". PA. STAT. ANN. tit. 53, § 10610(a) (West 1997). I find the Township's efforts in this regard to be insufficient.

An analysis of this issue necessarily leads into discussion of whether or not the March 4, 2002 legislative act was a new ordinance or an amendment. Since that issue has been exhaustively discussed hereinabove, I will not repeat it with the exception that the February 22, 2002 legal advertisement and the February 25, 2002 legal advertisements speak in language consistent with the adoption of a new ordinance. Regardless, a thorough review of those publications fails to provide any insight as to the major thrust of the March 4, 2002 legislation. Specifically, the legal advertisements neglect to mention that the location of zoning districts in the Township were proposed to be changed. Thus, the prime objective to be accomplished by the legislation is simply ignored when notifying the public as to the subject matter of the pending legislation.

Appellate guidance is sparse in dealing with the issue of how accurate and specific public notice must be. However, the

³⁴ Although the Township has argued that the 30 notices placed throughout the Township were conspicuously posted at points deemed sufficient by the municipality in an effort to provide sufficient notice, I find this argument curious. Interestingly, the Weiser properties which were posted appear to have been farmland, Tr. pp. 19-21, while the Weiser tract which was not posted housed a retail establishment, the location of which is described by Mr. Weiser as follows: "I think most people know where our retail market is." Tr. p. 107.

Commonwealth Court recently struck down the enactment of an ordinance where the public notice indicated the hearing would be held to “consider” the proposed legislation rather than “enact” the legislation as was ultimately accomplished at the respective hearing. *Valianatos*, 766 A.2d at 903. In doing so, the Commonwealth Court reaffirmed the consistent approach of our appellate courts in interpreting ambiguous notices in favor of property owners.

Instantly, the Board found as a matter of fact that the legislation at issue “created the Agricultural Conservation II (“AC-II”) District, a new zoning district, and reconfigured the Township’s zoning map by reducing the size of the Commercial-Industrial (“CI”) District along the so-called Route 15 corridor”. Bd. Finding of Fact, ¶ 7. Additionally, the Board quoted the testimony of the Supervisors’ Chairman that as a result of the legislation “changes would be made to the Township’s zoning map as well as the Township’s current . . . Ordinance”. *Id.* at ¶ 24. Although the Board had no difficulty in summarizing the highlights of the proposed legislation, for some inexplicable reason, the public notice advertising the Township hearing fails to even imply a change in the zoning districts or map. While I am sensitive to the argument that my interpretation is “splitting hairs”, where the Township drafts the public notices and significant property rights are affected, substantial compliance with the notice requirements is insufficient. Any ambiguity in the notice must be construed against the Township. *See generally Valianatos*, 766 A.2d at 906-07. Since the notice requirements followed by the Township are fatally defective, the Township legislative action is void *ab initio*.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of August, 2003, the Latimore Township Zoning Hearing Board’s decision is vacated. The Latimore Township Zoning Ordinance enacted on March 4, 2002, is void *ab initio*.

ORDINANCE NO. 2000-01

AN ORDINANCE OF THE TOWNSHIP OF LATIMORE, ADAMS COUNTY, PENNSYLVANIA, AMENDING THE ZONING ORDINANCE (Ordinance of February 5, 1987, No. 1987-15) BY CHANGING THE MINIMUM LOT AREAS REQUIRED FOR DWELLING UNITS LOCATED IN THE AGRICULTURAL-CONSERVATION DISTRICT, THE RESIDENTIAL-AGRICULTURAL DISTRICT, AND THE RESIDENTIAL-SUBURBAN DISTRICT, WHICH MINIMUM LOT AREAS ARE DEPENDENT ON THE TYPE OF SEWAGE DISPOSAL SYSTEM USED AND REPEALING ORDINANCE 1998-5

The Township of Latimore, Adams County, Pennsylvania, hereby enacts and ordains as follows:

Section 1. Section 403 (Basic Spatial Regulations) of the Latimore Township Zoning Ordinance, subsections A.1.a. and b. (Lot Requirements, Area), are amended to read in their entirety as follows:

- a. The lot area shall not be less than one acre for a lot for which an individual sewage system utilizing a gravity distribution system has been approved by the Township's Sewage Enforcement Officer and which meets all the requirements of the Pennsylvania Department of Environmental Protection.
- b. The lot area shall not be less than 2.99 acres gross area for a lot for which any type of sewage system other than an individual sewage system utilizing a gravity distribution system has been approved by the Township's Sewage Enforcement Officer and which meets all the requirements of the Pennsylvania Department of Environmental Protection.

Section 2. Section 413 (Basic Spatial Regulations) of the Latimore Township Zoning Ordinance, subsections A.1.a. and b. (Lot Requirements, Area), are amended to read in their entirety as follows:

- a. The lot area and lot area per dwelling unit shall not be less than one acre for a lot for which an individual sewage system utilizing a gravity distribution system has been approved by the Township's Sewage Enforcement Officer and which meets all the requirements of the Pennsylvania Department of Environmental Protection.
- b. The lot area and lot area per dwelling unit shall not be less than 2.99 acres gross area for a lot for which any type of sewage system other than an individual sewage system utilizing a gravity distribution system has been approved by the Township's Sewage Enforcement Officer and which meets all the requirements of the Pennsylvania Department of Environmental Protection.

Section 3. Section 423 (Basic Spatial Regulations) of the Latimore Township Zoning Ordinance, subsections A.1.c. (1) and (2). (Lot Requirements, Area), are amended to read in their entirety as follows:

- (1) The lot area and lot area per dwelling unit shall not be less than one acre for a lot for which an individual sewage system utilizing a gravity distribution system has been approved by the Township's Sewage Enforcement Officer and which meets all the requirements of the Pennsylvania Department of Environmental Protection.
- (2) The lot area and lot area per dwelling unit shall not be less than 2.99 acres gross area for a lot for which any type of sewage system other than individual sewage system utilizing a gravity distribution system has been approved by the Township's Sewage Enforcement Officer and which meets all the requirements of the Pennsylvania Department of Environmental Protection.

All Ordinances or parts of ordinances inconsistent with this amending ordinance are repealed including specifically Ordinance Number 1998-5.

All other parts of the ordinance not inconsistent with this amending ordinance are ratified and confirmed.

Enacted and ordained this 8th day of May, 2000.

TOWNSHIP OF LATIMORE

By: /s/Randall W. Fishel
Chairman

By: /s/Daniel T. Worley
Vice-Chairman

By: /s/Charles J. Dove
Supervisor

/s/Joanna D. Zepp
Secretary

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-327 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Poplar Street and Lot No. 125; thence along Lot No. 125, South thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds East, one hundred eighty (180.00) feet to a point at Lot No. 121; thence along Lot No. 121, North fifty-eight (58) degrees two (02) minutes twenty-one (21) seconds East, ninety and sixty-nine hundredths (90.69) feet to a point at Lot No. 122; thence along Lot No. 122 and Lot No. 123, North thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds West, one hundred ninety-one and nineteen hundredths (191.19) feet to a point at Poplar Street; thence along Poplar Street, South fifty (50) degrees fifty-seven (57) minutes four (04) seconds West, ninety (90.00) feet to the point and place of BEGINNING. CONTAINING 16,703 square feet and identified as Lot No. 124 on a plan of lots entitled Phase III, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 51, page 82.

IT BEING the same tract of land which Harold Hartlaub and Delores V. Hartlaub, husband and wife, and Louis T. Guthrie, unmarried, by Deed dated July 9, 1990, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 561, page 375, granted and conveyed unto Anthony J. Misiti and Lois A. Misiti, husband and wife, as Tenants by the Entireties. The said Anthony J. Misiti, have predeceased the said Lois A. Misiti, whereby title to the within described property descended to and vested in the said Lois A. Misiti, MORTGAGOR HEREIN.

TITLE TO SAID PREMISES IS VESTED IN Anthony J. Misiti and Lois A. Misiti, husband and wife by Deed from Harold Hartlaub and Delores V. Hartlaub, husband and wife and Louis T. Guthrie, unmarried, dated 7/9/1990 and recorded 7/11/1990, in Record Book 561, Page 375.

Premises being: 719 Poplar Street, Hanover, PA 17331

Tax Parcel No. 6-166

SEIZED and taken into execution as the property of **Lois A. Misiti** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-67 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Hamiltonban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin driven at the point of intersection of the center line of Legislative Route 01016, running between Mt. Hope through Virginia Mills and to the Fairfield-Orrtanna State Highway, and the center line of the Western Maryland Railroad right of way near Virginia Mills; thence running in the center of said Legislative Route 01016, North 70-3/4 degrees West 574 feet to an iron pin in the center of said State Highway; thence by land now or formerly on Mike McLaughlin, land now or formerly of Lloyd Benner and land now or formerly of Ronald Kump, North 52 degrees East 980 feet, running through an elm tree 44 feet from the end of this course, to a point in the center of said Railroad right of way; thence running in the center of said Railroad right of way, South 12-1/4 degrees West 412.5 feet to a point in the center of said Railroad right of way, in a curve thereof; thence continuing in the center of said Railroad right of way, South 19-1/2 degrees West 415.8 feet to the above described place of BEGINNING. CONTAINING 5 acres and 122.04 square perches.

BEING KNOWN AS: 401 Mount Hope Road, Fairfield, (Hamiltonban Township), PA 17320

Property ID No. C14-22

TITLE TO SAID PREMISES IS VESTED IN Randy A. Rippeon and Tracie L. Rippeon, husband and wife as tenants of an estate by the entireties by deed from Robert G. Coy and Janet M. Coy, husband and wife dated 06/30/99 recorded 07/08/99 in Deed Book 1869, Page 329.

SEIZED and taken into execution as the property of **Randy A. Rippeon & Tracie L. Rippeon** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

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8/6, 13 & 20

ARTICLES OF AMENDMENT
ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania.

1. The new name of the corporation is SOY ENERGY, INC.
2. The corporation has been incorporated under the provisions of the Business Corporation Law of 1988.

Stonesifer and Kelley, P.C.
Solicitor

8/6

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-542 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Western edge of the Pennsylvania State Highway which leads from Littlestown to the Gettysburg-Hanover State Highway, which point is South six (06) degrees thirty (30) minutes East, five (05) feet from the corner of Lot No. 2 from the plan of lots of Clayton E. and Annie E. Runk; thence along said Highway South six (06) degrees thirty (30) minutes East, one hundred fifteen (115) feet to a stake at corner of Lot No. 5; thence along Lot No. 5, South eighty-three (83) degrees thirty (30) minutes West, one hundred fifty (150) feet to lands now or formerly of Clayton E. Runk and Annie E. Runk; thence along same North six (06) degrees thirty (30) minutes West, one hundred fifteen (115) feet to a point which is South six (06) degrees thirty (30) minutes East, five (05) feet from the Southwest corner of Lot No. 2, aforesaid; thence North eighty-three (83) degrees thirty (30) minutes East, one hundred fifty (150) feet to a point along the Pennsylvania State Highway which leads from Littlestown to Gettysburg-Hanover State Highway, the place of BEGINNING. Being known and numbered as 660 Littlestown Road.

Being known as: 660 Littlestown Road, Littlestown, PA 17340

Property ID No. J15-37

TITLE TO SAID PREMISES IS VESTED IN Marilyn R. Barrick by deed from Steven D. Barrick and Marilyn R. Barrick, persons who are or have been married dated 2/23/95 recorded 2/28/95 in Deed Book 1000 Page 39.

SEIZED and taken into execution as the property of **Marilyn R. Barrick** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-2 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate along the public road leading from the Hanover-Carlisle State Highway to the Hanover-Abbottstown State Highway, in Berwick Township, Adams County, Pennsylvania, which is bounded and described as follows:

BEGINNING at an iron pin on the North side of the public road aforesaid at land now or formerly of Merle C. Bralier; thence by said lands North 28 degrees 15 minutes West 120 feet to an iron pin at other land now or formerly of C.H. Bittinger; thence by the same North 62 degrees East 35.5 feet to an iron pin at lands now or formerly of the Evangelical Church; thence by the same South 31 degrees 30 minutes East 120 feet to an iron pin at the public road aforesaid; thence by the same South 62 degrees West 42 feet to an iron pin, the place of BEGINNING.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Richard E. Luckabaugh, Deed from Richard E. Luckabaugh, Donald L. Luckabaugh and Robert D. Luckabaugh, Executors of the Estate of Gilbert D. Luckabaugh, Deceased, dated March 19, 1993, recorded April 6, 1993, in Deed Book 707, Page 341.

(Parcel ID No. (04)-L12-53)

BEING KNOWN AS: 342 Green Springs Road, Hanover, PA 17331

SEIZED and taken into execution as the property of **Richard E. Luckabaugh** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004,

and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

NOTICE

On January 5, 2004, Judge Jack A. Panella became a commissioned Judge of the Superior Court of Pennsylvania. Judge Panella's new address and phone number are as follows:

Honorable Jack A. Panella
Main Street Commons
557 Main Street, Second Floor
Bethlehem, PA 18018
Telephone #: 610-694-1121

John W. Phillips, Esq.
Attorney at Law

8/6

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF HARRY C. MACJILTON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

SECOND PUBLICATION

ESTATE OF FREIDA A. GOUKER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Allen F. Gouker, 5 Dogwood Court, New Oxford, PA 17350

Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF STEWART L. MUMMERT, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Joyce Ann Hamm, 65 Boy Scout Road, New Oxford, PA 17350

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF HENRY W. RAFFENBERGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Philip D. Raffensberger, 2256 Pleasant View Drive, York, PA 17402; Stewart W. Bowers, 140 N. 4th Street, Mt. Wolf, PA 17347

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore St., Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF WALTER ROBERT KELLY, JR., a/k/a WALTER R. KELLY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Daniel A. Kelly and Mary M. Butt, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

Attorney: Douglas H. Gent, Esq., Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

ESTATE OF MILDRED C. LEVAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: David M. LeVan, 1094 Baltimore Pike, Gettysburg, PA 17325; Hannah L. Owens, 1065 Baltimore Pike, Gettysburg, PA 17325

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ELIZABETH B. MAURER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Hershey Trust Company, 100 Mansion Road East, P.O. Box 445, Hershey, PA 17033-0445 or to: Richard W. Stevenson, Esq., McNees Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

Attorney: Richard W. Stevenson, Esq., McNees Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF HAROLD E. RAFFENSPERGER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Karen B. Arthur, 105 Hoke Drive, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF VIRGINIA A. SWEIGART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Mark E. Sweigart, 5 Violet Drive, Hanover, PA 17331

Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF S. ELIZABETH WEIKERT, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Co-Executors: James J. Weikert, P.O. Box 57, 441 Tract Road, Fairfield, PA 17320; Elizabeth A. Cornwell, 115 Franklin Street, Fairfield, PA 17320

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-344 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, together with the improvements thereon erected, situate in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the property line of Carly Drive, a fifty (50) foot street, at corner of Lot No. 558, on the hereinafter referred plan of lots; thence by said lot North thirty-eight (38) degrees forty-nine (49) minutes fifty-eight (58) seconds East, one hundred sixty-four and ninety-eight hundredths (164.98) feet to a steel pin at Lot No. 536; thence by said lot South seventy-four (74) degrees seven (07) minutes two (02) seconds East, eighty-one and forty-five hundredths (81.45) feet to a steel pin at other lands of Oxford Estates, thence by said lands South thirty-eight (38) degrees forty-nine (49) minutes fifty-eight (58) seconds West one hundred ninety-six and seventy-four hundredths (196.74) feet to a steel pin on the property line of Carly Drive, thence by said street North fifty-one (51) degrees ten (10) minutes two (02) seconds West, seventy-five (75.00) feet to the point and place of BEGINNING. CONTAINING 13,564 square feet and being known as Lot No. 559 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, Page 66.

BEING known as: 19 Carly Drive, New Oxford, PA 17350 Incorrectly stated on Mtg as Carley.

Property ID No.: 10-50

TITLE TO SAID PREMISES IS VESTED IN Cheryl L. Peters, a single adult individual by deed from Michael E. Peters, a single adult individual and Cheryl L. Peters, a single adult individual, former husband and wife dated 05/06/99 recorded 05/13/99 in Deed Book 1830 Page 52.

SEIZED and taken into execution as the property of **Cheryl L. Peters** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004.

and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1107 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of August, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described piece, parcel or lot of ground situate, lying and being in the Borough of East Berlin, in the County of Adams, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING from a corner at a fifteen feet wide alley and Lot No. 3 now or formerly of Myrl R. Crawford, thence along said alley South one-half (1/2) degree West, sixty (60) feet to a corner at Lot No. 5, now or formerly of Leo T. Martz; thence along said last mentioned lot South, eighty-one and one-half (81 1/2) degrees West, two hundred fifty-eight and five-tenth (258.5) feet to a corner at or near the Conewago Creek; thence along said Creek North, seventeen (17) degrees, twenty-five (25) minutes West, fifty-two (52) feet to a corner at Lot No. 3 aforesaid, and thence along said Lot No. 3 North, seventy-nine and one-half (79 1/2) degrees East, two hundred seventy-five and five-tenth (275.5) feet to a corner, the place of BEGINNING. Being known on a plot of a series of lots laid out by Leo T. Martz, as Lot No. 4.

Having thereon erected a dwelling house known as: 207 Kuhn Drive, East Berlin, Pennsylvania 17316.

BEING THE SAME PREMISES WHICH Robert C. Reigle, by Deed dated 10/29/97 and recorded 10/31/97 in Adams County Deed Book 1465, Page 350, granted and conveyed unto William G. Kennedy and JoAnn L. Kennedy.

SEIZED IN EXECUTION AS THE PROPERTY OF WILLIAM G. KENNEDY AND JOANN L. KENNEDY UNDER ADAMS COUNTY JUDGMENT NO. 03-S-1107.

Map & Parcel 10-6-2

SEIZED and taken into execution as the property of **William G. Kennedy, JoAnn L. Kennedy & The United States of America** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 20, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

7/23, 30 & 8/6

Adams County Legal Journal

Vol. 46

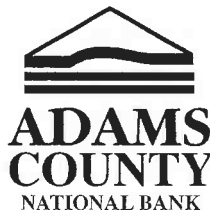
August 13, 2004

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STANDARD BRED HORSE SALES VS. WAXMAN

In times like these,
you and your clients need
the experience and expertise
provided by a trust professional.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-141 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of August, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Known as 495 Weikert Road, Gettysburg, PA 17325

ALL that tract of land situate in Highland Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Township Road No. T-320, which point of beginning is North 13-3/4 degrees East, 1,078 feet from the stone corner in the center of a bend of said road on line of land now or formerly of Harry Sillik; thence by lands now or formerly of Charles M. Coffelt, North 77 degrees West, 130 feet to a steel pin; thence by same, North 13 degrees 45 minutes East, 110 feet to a steel pin; thence by same, South 77 degrees East, 133 feet to a point in the center of said Township Road No. T-320; thence in and along the center of said Township Road No. T-320, South 15 degrees 19 minutes West, 110.04 feet to a point in the center of said Township Road No. T-320, the place of BEGINNING. CONTAINING 14,465 square feet.

The above description is taken from a draft of survey dated November 22, 1968, and revised December 9, 1968, by Donald E. Worley, Registered Surveyor; the location of the point of beginning is derived from the description of the "LESS HOWEVER" tract in the deed dated December 30, 1968, from Charles M. Coffelt, widower, to Theron S. Dayhoff and Glenda H. Dayhoff, husband and wife, recorded in Deed Book 271 at Page 1138.

BEING the same tract of land which Matthew G. McLaughlin and Sheryl L. McLaughlin, husband and wife, by their Deed dated January 30, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 1513, at page 151, sold

and conveyed unto Terry J. Humphrey and Christine L. Humphrey, husband and wife, Mortgagors herein.

SEIZED and taken into execution as the property of **Terry J. Humphrey & Christine L. Humphrey** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on September 20, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

7/30, 8/6 & 13

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-534 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Jefferson Street and Lot No. 62; thence along Lot No. 62, North sixty-four (64) degrees fifty-nine (59) minutes thirty-two (32) seconds West, one hundred sixteen and fifty-three hundredths (116.53) feet to a point at Lot No. 54; thence along Lot No. 54, South twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds West, eighty (80.00) feet to a point at Lot No. 60; thence along Lot No. 60, South

sixty-four (64) degrees fifty-nine (59) minutes thirty-two (32) seconds East, one hundred sixteen and fifty-three hundredths (116.53) feet to a point at Jefferson Street; thence along Jefferson Street, North twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds East, eighty (80.00) feet to the point and place of BEGINNING. CONTAINING 9,322 square feet and identified as Lot No. 61 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 45, page 95.

SEIZED and taken into execution as the property of **Timothy C. Wood** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

STANDARD BRED HORSE SALES VS. WAXMAN

1. The failure to read a confession of judgment clause will not justify avoidance of it.
2. The argument that the Confession of Judgment clause violates Pennsylvania law in that it is not conspicuously apparent on the fact of the instrument in order to allow the signer to voluntarily accept and consciously assume the grant of a Warranty of Attorney is not persuasive.
3. The Warranty of Attorney is both self-sustaining and sufficiently conspicuous where the Warranty of Attorney with the confession clauses is set forth as clearly as any other clause in a document and in the same readable type.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 03-S-89, STANDARD BRED HORSE SALES COMPANY VS. ROBERT K. WAXMAN.

Robert J. Bein, Esq., for Plaintiff

Gordon A. Einhorn, Esq., for Defendant

George, J., August 4, 2003

OPINION PURSUANT TO PA.R.A.P. 1925

The Plaintiff, Standardbred Horse Sales Company (hereinafter referred to as "Standardbred"), initiated this action by filing a Complaint for Confession of Judgment against the Defendant, Robert K. Waxman (hereinafter referred to as "Waxman"). Judgment was entered in favor of Standardbred and against Waxman in the amount of \$809,984.15.

On February 11, 2003, Waxman filed a Petition to Strike or Open Judgment by Confession. On March 19, 2003, this Court heard testimony on Waxman's petition.

The testimony revealed that Waxman attended a multi-day sale of Standardbred horses that Standardbred hosted. Prior to the sale, Waxman had been provided a copy of a catalog, referred to as the "black book", which included information concerning each horse placed for sale as well as information concerning the terms and conditions of the sale. Additionally, at various times during the course of the sale, auctioneers made an announcement warning potential purchasers to read the terms and conditions of the sale and advising them that regardless of whether they read the terms, they would still be bound by them. Testimony indicated that Waxman has been in the horse business since 1982, attended this sale since at least the early to mid-1980's and has been a "force" in the horse industry. Waxman

currently owns sixty to eighty horses and has purchased many horses at Standardbred over the years. Although he is currently devoting his time to horse breeding and racing, he previously managed a multi-million dollar grossing family business.

Murray Brown, Standardbred's vice-president and general manager, indicated that Standardbred's general practice in consummating a bid on a horse is to have the purchaser sign a document titled, "Standardbred Horse Sales Company-Confirmation of Sale". He further estimated that the language in this document has been the same for ten years or more. It is this document upon which Standardbred has relied for authority for the entry of Confession of Judgment against Waxman. This document also is the cornerstone of the dispute between the parties.

During the course of the auction Standardbred hosted, Waxman purchased nine yearlings. He was physically present at the sale on November 3, and November 4, 2002, during which he personally bid on three of the yearlings. Additionally, his agent, Robert McIntosh, bid on a yearling on his behalf. Finally, in compliance with prior practice, Waxman bid on five yearlings over the telephone. The confirmation of sale for each of the horses Waxman personally bid upon, and the horse Robert McIntosh bid upon, were signed by either McIntosh or Waxman's other agent, John Johnson. Waxman personally executed the confirmations of sale for the five horses purchased by telephone within days of the actual sale. The confirmation of sale document contains the following language:

. . . I have read, understand, and agree to be bound by the terms and conditions of sale as printed in the sale catalog. I understand those terms and conditions include my consent to service of process, jurisdiction and venue chosen by the Company, all to be effected by regular mail, that I grant a security interest in this horse to Standardbred Horse Sales Company ("Standardbred") to the extent of any credit extended in connection with the sale, including costs and expenses to enforce the terms and conditions, that "Standardbred" shall have any and all remedies of a secured party pursuant to the Uniform Commercial Code; that "Standardbred" is appointed as my attorney-in-fact to execute any documents necessary to enforce the terms

and conditions, allow transfer of the horse, and endorse insurance proceeds; that “Standardbred” has the option to arbitrate any dispute arising pursuant to the sale; that I authorize “Standardbred” or its representative to appear for me and confess judgment against me for all amounts due pursuant to the terms and conditions; that my purchase is made AS IS without any representations or warranties; and that I may be liable for sales tax for this purchase.

Standardbred’s Complaint, Exhibit A (emphasis in original).

In his Petition to Strike or Open Judgment by Confession, Waxman argues that the judgment should be stricken/opened on the basis that: 1) his agents did not have authority to execute a Confession of Judgment instrument on his behalf; 2) Standardbred’s filings with the Prothonotary did not include the actual “contracts” executed between the parties; 3) the Confession of Judgment’s terms require a default which has not occurred; 4) the Confession of Judgment is defective due to Standardbred’s failure to itemize the amount due in Standardbred’s filings with the Prothonotary’s Office; and 5) the Warrant of Attorney, on its face, is defective under Pennsylvania law. Prior to hearing, Waxman withdrew his argument based upon his alleged lack of default. I will address each of the remaining issues below.

Initially, I note, as a matter of fact, that Waxman personally consummated the sale on five of the yearlings. Although he argues that he did not read the Confession of Judgment before signing it, this argument is clearly misplaced. “The failure to read a confession of judgment clause will not justify avoidance of it.” *Dollar Bank, Fed. Savings Bank v. Northwood Cheese Co., Inc.*, 637 A.2d 309, 313 (Pa.Super. 1994). Thus, his argument concerning the authority of his agents is limited to the purchase of four yearlings.

In regard to the purchase of the four yearlings, Waxman claims that his agents lacked his specific authority to execute confession of judgment instruments on his behalf, although he acknowledges that his agents had authority to complete the purchase of the horses. This argument also fails. It is uncontested that Waxman granted authority to his agents to execute the confirmation of sale document. He purchased a number of horses from Standardbred in the past and was

aware of the necessary documents that consummate the sale. In fact, he signed at least five substantially similar documents in regard to the current transactions. His argument essentially boils down to a claim that he authorized his agents to sign documents which he did not read. I find this claim no different than his claim that he signed documents which he did not read. As noted above, Pennsylvania courts have consistently rejected the latter argument. See *Dollar Bank*, cited above. For similar reasons, I reject Waxman's current argument. As a matter of fact, I find that Waxman authorized his agents to execute the confirmation of sale document notwithstanding his claim that he was unaware it contained a Confession of Judgment clause.

Waxman further argues that the Confession of Judgment clause violates Pennsylvania law in that it is not conspicuously apparent on the face of the instrument in order to allow the signer to voluntarily accept and consciously assume the grant of a Warrant of Attorney. I was not persuaded by this argument.

Waxman next attacks the validity of the Warrant of Attorney arguing that the warranty is not self-sustaining or sufficiently conspicuous. A reading of the document in this matter, however, reveals otherwise. Waxman or his agents signed at the bottom of the document containing the Warranty of Attorney with the confession clauses set forth as clearly as any other clause in a document and in the same readable type. See generally *Plum Tree, Inc. v. Seligson*, 307 A.2d 298, 299 (Pa.Super. 1973). Moreover, through the auctioneers' announcements and "black book" language, Waxman was more than sufficiently alerted to the terms and conditions of the sales agreement. Waxman has been in the horse business since the early to mid-1980's and purchased numerous horses from Standardbred over the years using the same documentation. Presumptively, Waxman gained a cautious business acumen associated with the buying, selling and trading of Standardbred horses. See generally *Provco Leasing Corp. v. Safin*, 402 A.2d 510, 513 (Pa.Super. 1979). Under the particular facts of this case, I concluded that Waxman's consent was clearly shown and the Warrant of Attorney clause was valid. Finding no other errors or defects on the face of the record, Waxman's Petition was dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-327 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Poplar Street and Lot No. 125; thence along Lot No. 125, South thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds East, one hundred eighty (180.00) feet to a point at Lot No. 121; thence along Lot No. 121, North fifty-eight (58) degrees two (02) minutes twenty-one (21) seconds East, ninety and sixty-nine hundredths (90.69) feet to a point at Lot No. 122; thence along Lot No. 122 and Lot No. 123, North thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds West, one hundred ninety-one and nineteen hundredths (191.19) feet to a point at Poplar Street; thence along Poplar Street, South fifty (50) degrees fifty-seven (57) minutes four (04) seconds West, ninety (90.00) feet to the point and place of BEGINNING. CONTAINING 16,703 square feet and identified as Lot No. 124 on a plan of lots entitled Phase III, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 51, page 82.

IT BEING the same tract of land which Harold Hartlaub and Delores V. Hartlaub, husband and wife, and Louis T. Guthrie, unmarried, by Deed dated July 9, 1990, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 561, page 375, granted and conveyed unto Anthony J. Misiti and Lois A. Misiti, husband and wife, as Tenants by the Entireties. The said Anthony J. Misiti, have predeceased the said Lois A. Misiti, whereby title to the within described property descended to and vested in the said Lois A. Misiti, MORTGAGOR HEREIN.

TITLE TO SAID PREMISES IS VESTED IN Anthony J. Misiti and Lois A. Misiti, husband and wife by Deed from Harold Hartlaub and Delores V. Hartlaub, husband and wife and Louis T. Guthrie, unmarried, dated 7/9/1990 and recorded 7/11/1990, in Record Book 561, Page 375.

Premises being: 719 Poplar Street, Hanover, PA 17331

Tax Parcel No. 6-166

SEIZED and taken into execution as the property of **Lois A. Misiti** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-67 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Hamiltonban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin driven at the point of intersection of the center line of Legislative Route 01016, running between Mt. Hope through Virginia Mills and to the Fairfield-Orrtanna State Highway, and the center line of the Western Maryland Railroad right of way near Virginia Mills; thence running in the center of said Legislative Route 01016, North 70-3/4 degrees West 574 feet to an iron pin in the center of said State Highway; thence by land now or formerly on Mike McGlaughlin, land now or formerly of Lloyd Benner and land now or formerly of Ronald Kump, North 52 degrees East 980 feet, running through an elm tree 44 feet from the end of this course, to a point in the center of said Railroad right of way; thence running in the center of said Railroad right of way, South 12-1/4 degrees West 412.5 feet to a point in the center of said Railroad right of way, in a curve thereof; thence continuing in the center of said Railroad right of way, South 19-1/2 degrees West 415.8 feet to the above described place of BEGINNING. CONTAINING 5 acres and 122.04 square perches.

BEING KNOWN AS: 401 Mount Hope Road, Fairfield, (Hamiltonban Township), PA 17320

Property ID No. C14-22

TITLE TO SAID PREMISES IS VESTED IN Randy A. Rippeon and Tracie L. Rippeon, husband and wife as tenants of an estate by the entireties by deed from Robert G. Coy and Janet M. Coy, husband and wife dated 06/30/99 recorded 07/08/99 in Deed Book 1869, Page 329.

SEIZED and taken into execution as the property of **Randy A. Rippeon & Tracie L. Rippeon** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on or about June 8, 2004, for the incorporation of NATIONAL LATINO PEACE OFFICERS ASSOCIATION - PENNSYLVANIA STATE CHAPTER, INC., under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of promotion of Latino involvement in the community, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 59 East High Street, Gettysburg, PA 17325.

Bernard A. Yannetti, Jr., Esq.
Hartman & Yannetti
Solicitors

8/13

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-542 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Western edge of the Pennsylvania State Highway which leads from Littlestown to the Gettysburg-Hanover State Highway, which point is South six (06) degrees thirty (30) minutes East, five (05) feet from the corner of Lot No. 2 from the plan of lots of Clayton E. and Annie E. Runk; thence along said Highway South six (06) degrees thirty (30) minutes East, one hundred fifteen (115) feet to a stake at corner of Lot No. 5; thence along Lot No. 5, South eighty-three (83) degrees thirty (30) minutes West, one hundred fifty (150) feet to lands now or formerly of Clayton E. Runk and Annie E. Runk; thence along same North six (06) degrees thirty (30) minutes West, one hundred fifteen (115) feet to a point which is South six (06) degrees thirty (30) minutes East, five (05) feet from the Southwest corner of Lot No. 2, aforesaid; thence North eighty-three (83) degrees thirty (30) minutes East, one hundred fifty (150) feet to a point along the Pennsylvania State Highway which leads from Littlestown to Gettysburg-Hanover State Highway, the place of BEGINNING. Being known and numbered as 660 Littlestown Road.

Being known as: 660 Littlestown Road, Littlestown, PA 17340

Property ID No. J15-37

TITLE TO SAID PREMISES IS VESTED IN Marilyn R. Barrick by deed from Steven D. Barrick and Marilyn R. Barrick, persons who are or have been married dated 2/23/95 recorded 2/28/95 in Deed Book 1000 Page 39.

SEIZED and taken into execution as the property of **Marilyn R. Barrick** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-2 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate along the public road leading from the Hanover-Carlisle State Highway to the Hanover-Abbottstown State Highway, in Berwick Township, Adams County, Pennsylvania, which is bounded and described as follows:

BEGINNING at an iron pin on the North side of the public road aforesaid at land now or formerly of Merle C. Brailier; thence by said lands North 28 degrees 15 minutes West 120 feet to an iron pin at other land now or formerly of C.H. Bittinger; thence by the same North 62 degrees East 35.5 feet to an iron pin at lands now or formerly of the Evangelical Church; thence by the same South 31 degrees 30 minutes East 120 feet to an iron pin at the public road aforesaid; thence by the same South 62 degrees West 42 feet to an iron pin, the place of BEGINNING.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Richard E. Luckabaugh, Deed from Richard E. Luckabaugh, Donald L. Luckabaugh and Robert D. Luckabaugh, Executors of the Estate of Gilbert D. Luckabaugh, Deceased, dated March 19, 1993, recorded April 6, 1993, in Deed Book 707, Page 341.

(Parcel ID No. (04)-L12-53)

BEING KNOWN AS: 342 Green Springs Road, Hanover, PA 17331

SEIZED and taken into execution as the property of **Richard E. Luckabaugh** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004,

and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, August 24, 2004, at 9:00 a.m.

FINK—Orphans' Court Action Number OC-114-03. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Emma Scott Fink a/k/a Emma R. Fink, deceased, late of the Borough of Biglerville, Adams County, Pennsylvania.

SNYDER—Orphans' Court Action Number OC-63-04. The First and Final Account of R. Glenn Snyder and Kay R. Stuffle, Co-Executors of the Estate of Roy C. Snyder, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

APPLER—Orphans' Court Action Number OC-76-03. The First and Final Account of Judith Showvaker Creutzer and Marian Kay Fekula, Co-Executors of the Estate of Bernice Mae Appler, deceased, late of Union Township, Adams County, Pennsylvania.

KEEFER—Orphans' Court Action Number OC-67-04. The First and Final Account of Kenneth F. Keefer, Executor of the Last Will and Testament of Robert E. Keefer, deceased, late of Conewago Township, Adams County, Pennsylvania.

KNOWLES—Orphans' Court Action Number 15 October 1964. The First and Partial Account of PNC Bank, N.A., Successor to the Littlestown National Bank, Plenary Guardian of the Estate of Nathaniel Knowles III, an incapacitated person.

Lisa K. Grubbs
Clerk of Courts

8/13 & 20

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF ANNIE BELLE DAVIS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrators: Dorinda Shepley, 1101 Evergreen Avenue, Frederick, MD 21701; Ellen Kessler, 220 N. Fifth St., Apt. 13, McSherrystown, PA 17344

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF A. KENNETH DICK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Jacqueline D. White, 89 Steinwehr Avenue, Gettysburg, PA 17325

Attorney: Thomas R. Campbell, Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY STONE OBERNIER, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executrix: Frances Renee Kiefer, 1 Diane Trail, Carroll Valley, PA 17320

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF ELSIE F. STEPHENS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Tammi L. Swartzbaugh, 18 Redding Lane, Gettysburg, PA 17325

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

SECOND PUBLICATION

ESTATE OF HARRY C. MACJILTON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

THIRD PUBLICATION

ESTATE OF FREIDA A. GOUKER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Allen F. Gouker, 5 Dogwood Court, New Oxford, PA 17350

Attorney: James T. Yingst, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF STEWART L. MUMMERT, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Joyce Ann Hamm, 65 Boy Scout Road, New Oxford, PA 17350

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF HENRY W. RAFFENSBERGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Philip D. Raffensberger, 2256 Pleasant View Drive, York, PA 17402; Stewart W. Bowers, 140 N. 4th Street, Mt. Wolf, PA 17347

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore St., Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-344 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, together with the improvements thereon erected, situate in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the property line of Carly Drive, a fifty (50) foot street, at corner of Lot No. 558, on the hereinafter referred plan of lots; thence by said lot North thirty-eight (38) degrees forty-nine (49) minutes fifty-eight (58) seconds East, one hundred sixty-four and ninety-eight hundredths (164.98) feet to a steel pin at Lot No. 536; thence by said lot South seventy-four (74) degrees seven (07) minutes two (02) seconds East, eighty-one and forty-five hundredths (81.45) feet to a steel pin at other lands of Oxford Estates; thence by said lands South thirty-eight (38) degrees forty-nine (49) minutes fifty-eight (58) seconds West one hundred ninety-six and seventy-four hundredths (196.74) feet to a steel pin on the property line of Carly Drive; thence by said street North fifty-one (51) degrees ten (10) minutes two (02) seconds West, seventy-five (75.00) feet to the point and place of BEGINNING. CONTAINING 13,564 square feet and being known as Lot No. 559 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, Page 66.

BEING known as: 19 Carly Drive, New Oxford, PA 17350 Incorrectly stated on Mtg as Carley.

Property ID No.: 10-50

TITLE TO SAID PREMISES IS VESTED IN Cheryl L. Peters, a single adult individual by deed from Michael E. Peters, a single adult individual and Cheryl L. Peters, a single adult individual, former husband and wife dated 05/06/99 recorded 05/13/99 in Deed Book 1830 Page 52.

SEIZED and taken into execution as the property of Cheryl L. Peters and to be sold by me.

Raymond W. Newman-Sheriff Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-489 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 5 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the Southerly edge of Summer Drive at Lot No. 4; thence by said Lot South 33 degrees 36 minutes 10 seconds West, 179.63 feet to an iron pin at lands now or formerly of Guy Francis Gebhart; thence by said lands North 56 degrees 20 minutes 46 seconds West, 115 feet to an iron pin at Lot No. 6; thence by said Lot North 33 degrees 36 minutes 10 seconds East, 179.53 feet to an iron pin on the Southerly edge of Summer Drive; thence along the Southerly edge of said Summer Drive South 56 degrees 23 minutes 50 seconds East, 115 feet to the place of BEGINNING.

CONTAINING 20,652 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plan Book No. 20, Page 29.

SEIZED and taken into execution as the property of Kathy L. Eckard and to be sold by me.

Raymond W. Newman-Sheriff Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/13, 20 & 27

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—DIVORCE NO. 04-S-24

PENNY L. HARTWELL, Plaintiff vs. ROBERT M. HARTWELL, Defendant

NOTICE OF INTENTION TO REQUEST ENTRY OF SECTION 3301(d) DIVORCE CODE

TO: Robert M. Hartwell, Defendant

You have been sued in an action for divorce. You have failed to answer the Complaint or file a counter-affidavit to the Section 3301(d) Affidavit which has been filed by the Plaintiff. A copy of this Affidavit can be obtained from the Prothonotary or the undersigned Counsel for the Plaintiff. Therefore, on or after thirty days from the date of publication of this notice, the other party can request the Court to enter a final decree in divorce.

If you do not file with the Prothonotary of the Court an answer with your signature notarized or verified or a counter-affidavit by the above date, the Court can enter a final decree in divorce. A counter-affidavit which you may file with the Prothonotary of the Court is available by contacting the undersigned Counsel for the Plaintiff.

Unless you have already filed with the Court a written claim for economic relief, you must do so by the above date or the Court may grant the divorce and you will lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator Adams County Courthouse Gettysburg, PA 17325 Phone 1-800-337-9846 or (717) 337-9846

Wolfe & Rice, LLC John A. Wolfe, Esq. Attorneys for Plaintiff 47 West High Street Gettysburg, PA 17325

8/13

Adams County Legal Journal

Vol. 46

August 20, 2004

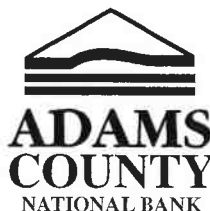
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IN THIS ISSUE

ERB VS. GREENMOUNT FIRE CO.

Commitment:

The philosophy upon which
Adams County National Bank is
founded and upon which we are planning
for your future financial needs today.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-534 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Jefferson Street and Lot No. 62; thence along Lot No. 62, North sixty-four (64) degrees fifty-nine (59) minutes thirty-two (32) seconds West, one hundred sixteen and fifty-three hundredths (116.53) feet to a point at Lot No. 54; thence along Lot No. 54, South twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds West, eighty (80.00) feet to a point at Lot No. 60; thence along Lot No. 60, South sixty-four (64) degrees fifty-nine (59) minutes thirty-two (32) seconds East, one hundred sixteen and fifty-three hundredths (116.53) feet to a point at Jefferson Street; thence along Jefferson Street, North twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds East, eighty (80.00) feet to the point and place of BEGINNING. CONTAINING 9,322 square feet and identified as Lot No. 61 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 45, page 95.

SEIZED and taken into execution as the property of **Timothy C. Wood** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-489 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 5 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the Southerly edge of Summer Drive at Lot No. 4; thence by said Lot South 33 degrees 36 minutes 10 seconds West, 179.63 feet to an iron pin at lands now or formerly of Guy Francis Gebhart; thence by said lands North 56 degrees 20 minutes 46 seconds West, 115 feet to an iron pin at Lot No. 6; thence by said Lot North 33 degrees 36 minutes 10 seconds East, 179.53 feet to an iron pin on the Southerly edge of Summer Drive; thence along the Southerly edge of said Summer Drive South 56 degrees 23 minutes 50 seconds East, 115 feet to the place of BEGINNING.

CONTAINING 20,652 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plan Book No. 20, Page 29.

SEIZED and taken into execution as the property of **Kathy L. Eckard** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/13, 20 & 27

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for ALLSOP, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on July 14, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

8/20

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania.

The name of the corporation is DEER RIDGE ENTERPRISES, INC.

The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

Deer Ridge Enterprises, Inc.
3255 East Berlin Road
East Berlin, PA 17316

8/20

ERB VS. GREENMOUNT FIRE CO.

1. Summary judgment may be granted in cases where the record clearly shows that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.

2. The Court must review the record in a light most favorable to the non-moving party accepting as true all well-pleaded facts and giving the non-moving party the benefit of all reasonable inferences that can be drawn from those facts.

3. Volunteer fire companies are included within the definition of a "Local agency" (under the Political Subdivision Tort Claims Act) if the fire company was created pursuant to relevant law and is legally recognized as the official fire company for a political subdivision.

4. There are a number of exceptions to the blanket immunity a local agency enjoys. Among them is an exception related to the care, custody and control of real property.

5. When applying this exception, it is important to keep in mind our appellate courts' instruction that the legislature intended the Act to insulate government agencies from liability, thus, the exceptions to immunity are to be narrowly construed against injured plaintiffs.

6. This Court finds as follows: 1) the real property exception is applicable where the dangerous condition arises from the real property itself or any permanent attachments to it, 2) the real property exception is applicable where injuries result from the local agency's negligent care of the real property, 3) the real property exception applies where the local agency is negligent in keeping the real property safe, 4) the real property exception does not apply where the damages result solely from a third party's negligent acts while on the real property of the local agency, 5) the real property exception does not apply to the negligent supervision of others on the real property, and 6) the real property exception does not apply to injuries resulting from the dangerous condition of personalty located on, but not attached to, the real property of the local agency.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 02-S-193, ELIZABETH E. ERB AND ROLAND L. ERB
VS. GREENMOUNT COMMUNITY FIRE COMPANY, INC.

Ralph D. Oyler, Esq., for Plaintiff

Brooks R. Foland, Esq. And Thomas S. Brumbaugh, Esq., for
Defendant

George, J., August 13, 2003

OPINION

In this negligence action, the Defendant, Greenmount Community Fire Company, Inc. (hereinafter referred to as "Greenmount"), asks the Court to grant summary judgment in its favor based upon the immunity protections set forth in the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 (hereinafter referred to as "Act"). For the reasons set forth below, the motion for summary judgment is granted in part and denied in part.

The Plaintiffs, Elizabeth E. Erb and Roland L. Erb (hereinafter collectively referred to as “Erb”)¹, allege that on August 5, 2001 they attended a dinner which Greenmount organized and promoted at the fire hall located at 3095 Emmitsburg Road, Gettysburg, Pennsylvania. While at the function, Elizabeth E. Erb tripped and fell while moving between various tables. As a result of her fall, she claims she suffered a variety of injuries including fractures to her femur and humerus. Erb filed suit against Greenmount alleging the following negligent conduct:

- a. In placing the tables too close together;
- b. In placing too many chairs at each table;
- c. In locating the plaintiff too far from the serving area thus requiring plaintiff to ambulate between chairs and tables;
- d. In failing to order the serving of the meals in such a way as to allow plaintiff to proceed to the serving area without obstruction;
- e. In allowing the fire hall to be overcrowded with patrons;
- f. In failing to properly organize and serve the meals;
- g. In causing and/or permitting the dangerous, hazardous, and unsafe condition to exist between the tables and chair legs;
- h. In otherwise failing to exercise that regard and care for the rights and safety of plaintiff required of defendant under the law.

Erb’s Complaint, ¶ 8.

After the close of pleadings, Greenmount moved for summary judgment.

Summary judgment may be granted in cases where the record clearly shows that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Rush v. Philadelphia Newspapers, Inc.*, 732 A.2d 648, 650 (Pa.Super. 1999). Only when the facts are so clear that reasonable minds cannot differ

¹The Complaint indicates that Elizabeth E. Erb and Roland L. Erb are husband and wife. The Complaint includes a count by Roland L. Erb seeking reimbursement for medical expenses and loss of companionship he suffered due to his wife’s injuries. Since Roland L. Erb’s claim is dependent upon the success of his wife’s claim, resolution of Elizabeth E. Erb’s negligence claim will be determinative of all causes of action in the Complaint. See generally *Darr Constr. Co. v. W.C.A.B. (Walker)*, 715 A.2d 1075, 1080 (Pa. 1998).

may a trial court properly enter summary judgment. *Basile v. H & R Block, Inc.*, 761 A.2d 1115, 1118 (Pa. 2000). The Court must review the record in a light most favorable to the non-moving party accepting as true all well-pleaded facts and giving the non-moving party the benefit of all reasonable inferences that can be drawn from those facts. *Winwood v. Bergman*, 788 A.2d 983, 984 (Pa.Super. 2001). Greenmount's Motion for Summary Judgment does not challenge the ability of Erb to establish the elements of negligence but rather raises governmental immunity as an affirmative defense.

Pursuant to the Act, local agencies are shielded from liability for damages on account of any injury to a person or property caused by any act of the local agency or its employees. 42 Pa.C.S.A. § 8541. A "Local agency" is defined under the Act as a "government unit other than the Commonwealth government". 42 Pa.C.S.A. § 8501. Our appellate courts determined that volunteer fire companies are included within the definition of a "Local agency" if the fire company was created pursuant to relevant law and is legally recognized as the official fire company for a political subdivision. *Kniaz v. Benton Borough*, 642 A.2d 551, 554 (Pa.Cmwlth. 1994). Once this threshold is established, volunteer fire companies are entitled to governmental immunity "even when they are not engaged in fire-fighting activities". *Guinn v. Alburdis Fire Co.*, 614 A.2d 218, 220 (Pa. 1992).

Instantly, Erb concedes that Greenmount is a local agency for the purpose of the Act. Indeed, substantial evidence in the record supports the conclusion that Greenmount is a legally recognized fire company which provides fire protection services for Freedom Township, Adams County, Pennsylvania. See generally Greenmount's Motion for Summary Judgment, Exhibits A–D.

Concluding that Greenmount is a local agency is not, however, conclusive of the issue before the Court. Erb argues that an exception to the Act allows the cause of action to proceed. Specifically, Erb relies upon the "real property" exception to the Act as a basis to justify piercing the shield of governmental immunity.

Erb is correct that there are a number of exceptions to the blanket immunity a local agency enjoys. Among them is an exception related to the care, custody and control of real property. The relevant portion of the Act provides:

(b) **Acts which may impose liability.**—The following acts by a local agency or any of its employees may result in the imposition of liability on a local agency:

(3) *Real property.*—The care, custody or control of real property in the possession of the local agency

42 Pa.C.S.A. § 8542(b)(3).²

When applying this exception to the case at bar, it is important to keep in mind our appellate courts' instruction that the legislature intended the Act to insulate government agencies from liability, thus, the exceptions to immunity are to be narrowly construed against injured plaintiffs. *Wilson v. Norristown Area Sch. Dist.*, 783 A.2d 871, 875 (Pa.Cmwlt. 2001).

Despite the general admonition to narrowly construe exceptions to the Act, interpretation of the applicability of the real property exception has expanded since the Act's genesis in 1980. Early appellate cases consistently held that the real property exception was only applicable to those cases where "the artificial condition or defect of the land *itself* causes the injury . . ." *Mascaro v. Youth Study Center*, 523 A.2d 1118, 1124 (Pa. 1987); *Snyder v. Harmon*, 562 A.2d 307, 311 (Pa. 1989) (noting that applicability of the exception requires that the dangerous condition must derive, originate from or have as its source the real property); *Frank v. SEPTA*, 506 A.2d 1015, 1017 (Pa.Cmwlt. 1986) (noting that a negligent act complaint must be directly related to the condition of the property). These cases instructed that analysis of issues related to the real property exception focused on the relationship between the real property and the dangerous condition which resulted in the injury.

As more cases involving the real property exception attracted appellate attention, a standard for analyzing whether the defect arose

² Although the Act specifies eight exceptions to the immunity a local agency enjoys, a thorough review of the Act indicates that the "real property" exception is the only exception having arguable merit. Other exceptions include vehicle liability; care, custody or control of personal property; trees, traffic controls and street lighting; utility service facilities; streets; sidewalks; and care, custody or control of animals. See generally 42 Pa.C.S.A. § 8542(b). Although at first glance, one might conclude that the exception related to the care, custody or control of personal property is applicable, further reading of the language of that section limits liability to the care, custody or control of the personal property of others and limits recoverable damages to property loss. As such, it is clearly inapplicable to a personal injury claim.

from the land itself developed. In *Canon-McMillan Sch. Dist. v. Bioni*, 561 A.2d 853 (Pa.Cmwlth. 1989), the Commonwealth Court adopted the Supreme Court's language in enunciating this standard:

Chattels used in connection with real estate are of three classes: First, those which are manifestly furniture, as distinguished from improvements, and not peculiarly fitted to the property with which they are used; these always remain personalty Second, those which are so annexed to the property, that they cannot be removed without material injury to the real estate or to themselves; these are realty Third, those which, although physically connected with the real estate, are so affixed as to be removable without destroying or materially injuring the chattels . . . , or the property to which they are annexed; these become part of the realty or remain personalty, depending on the intention of the parties at the time of annexation

Id. at 854 (quoting *Clayton v. Lienhard*, 167 A. 321, 322 (Pa. 1933)). Based upon this analysis, appellate courts uniformly held that the real property exception was inapplicable to instances where the alleged negligence stemmed from personal property located on the realty. *Kniaz*, cited above (concluding fire company immune from suit when picnic table that was not fastened to real property overturned); *DeRitis v. City of Philadelphia*, 582 A.2d 738 (Pa.Cmwlth. 1990) (concluding city immune from suit where temporary bleachers collapsed); *Hawkins v. City of Harrisburg*, 548 A.2d 399 (Pa.Cmwlth. 1988) (concluding city immune from suit based upon improperly erected temporary scaffolding). Moreover, the real property exception, since it relates to the conditions of the realty, was universally held to be unavailable where the alleged negligence consisted of the failure to adequately supervise persons on the property. *Frank v. SEPTA*, cited above; *Davies v. Barnes*, 503 A.2d 93 (Pa.Cmwlth. 1986); *Messina v. Blairsville-Saltsburg Sch. Dist.*, 503 A.2d 89 (Pa.Cmwlth. 1986).

As recently as 1995, the Pennsylvania Supreme Court adhered to the rule that the real property exception was applicable only where a defect of the land itself caused the injury. *Finn v. City of Philadelphia*, 644 A.2d 1342 (Pa. 1995). *Finn* considered whether

immunity applied in situations where injuries to the plaintiff were caused when the plaintiff slipped as a result of a foreign substance deposited on an otherwise properly constructed and designed government sidewalk.³ In holding the Act barred the plaintiff's cause of action because the plaintiff's claim lacked proof that there was a defect "of the sidewalk itself", *Id.* at 1346, the court reasoned that the dangerous condition was "on" the sidewalk, not "of" the sidewalk and, thus, insufficient to trigger an exception to the Act.

This fairly stable appellate authority became unsettled in *Grieff v. Reisinger*, 693 A.2d 195 (Pa. 1997). In *Grieff*, the Supreme Court considered the applicability of governmental immunity to a claim of negligence for damages suffered as a result of a volunteer fire company's member pouring paint thinner onto the floor of the fire station. The volunteer was attempting to remove paint from the floor near the kitchen area of the fire station. While doing so, the paint thinner flowed underneath a nearby refrigerator igniting a fire. The flame traveled along the course of the paint thinner to an area where the victim was standing. Flames then engulfed the victim and she sustained severe injuries. The Court held that summary judgment on the theory of governmental immunity was inappropriate under those circumstances. Basing its decision on the Act's plain language, the Court reasoned that the volunteer was "caring" for the real property when the negligent act occurred. In reaching this conclusion, the Court stated *Mascaro* and its progeny, which held that a defective real property must cause and not merely facilitate injury, were intended to apply only in situations where third parties caused the harm. *Id.* at 197. Clearly, *Grieff* "is significant in that it represents a radical departure from the governmental immunity analysis previously set forth in a long line of appellate decisions . . ." *Hanna v. West Shore Sch. Dist.*, 717 A.2d 626, 629 (Pa.Cmwth. 1998).

³ Although *Finn* involved analysis under the sidewalk exception to the Act, 42 Pa.C.S.A. § 8542(b)(7), *Finn* analyzed the exception by considering case law developed under the real property exception, 42 Pa.C.S.A. § 8542(b)(3). *Finn*, cited above. This analysis was consistent with appellate authority which essentially recognized the indistinguishable subject matter of these sections. See *Kiley by Kiley v. City of Philadelphia*, 645 A.2d 184 (Pa. 1994). Since *Finn*, however, the Supreme Court has retreated from an identical interpretation of these two sections. See *Jones v. SEPTA*, 772 A.2d 435, 442 (Pa. 2001); *Kilgore v. City of Philadelphia*, 717 A.2d 514, 518 n.6 (Pa. 1998).

Subsequent appellate cases interpreting *Grieff* concluded that applicability of the real property exception no longer requires that “the instrumentality causing harm be ‘of’ the real estate in the sense of being affixed to it”. *Martin By and Through Martin v. City of Philadelphia*, 696 A.2d 909, 912 (Pa.Cmwlt. 1997); *Hanna*, 717 A.2d at 629 (noting that for governmental immunity purposes it is no longer of any consequence that the injury does not result from a defect in, or condition of, the real property itself).

Following *Grieff*, the Pennsylvania Supreme Court revisited this area of law in *Kilgore v. City of Philadelphia*, 717 A.2d 514 (Pa. 1998). The *Kilgore* Court confirmed that the Act did not preclude a suit for dangerous conditions created on the local agency’s property through the negligence of the local agency’s agents. *Id.* at 517. In *Kilgore*, the plaintiffs filed suit against the City of Philadelphia for the city’s failure to remove ice and snow following a snowstorm. They claimed that the real estate exception applied since the real estate was in the care, custody and control of the city. In reversing the trial court’s grant of summary judgment based upon governmental immunity, the court relied upon *Crowell v. City of Philadelphia*, 613 A.2d 1178 (Pa. 1992), for the proposition that the real property exception attached liability to the local agency for the manner in which the agency maintained its property.⁴ Based upon these decisions, it seems clear that the Supreme Court has abandoned the

⁴In *Crowell*, the plaintiffs filed a suit against the city as a result of damages a vehicle accident caused. The plaintiffs alleged that the accident occurred when city employees wrongly placed a traffic control device which directed traffic to turn left. Unfortunately, the road actually turned to the right. The accident occurred when a third party driver mistakenly followed the traffic control device directly into the lane of travel of the plaintiffs’ vehicle. The plaintiffs pursued an exception to the Act under § 8542(b)(4) (relating to trees, traffic controls and street lighting). The city’s claim that the suit was precluded by immunity focused on the argument that a third party driver jointly caused the plaintiff’s injury. The city did not contest applicability of the traffic control exception on any other basis. Importantly, in addressing the issue, the *Crowell* Court noted that it granted allocatur for the limited purpose of addressing the applicability of § 8542(b)(4) in light of the *Mascaro* decision. *Crowell*, 613 A.2d at 1180. Nevertheless, *Kilgore* cited *Crowell* for the proposition that the grant of immunity does not protect a local agency from liability for the negligent acts of its employees occurring on city property. *Kilgore*, 717 A.2d at 517. Although this extension of *Crowell* may go beyond the ruling in that case, I am bound by the appellate authority set forth in *Kilgore*.

principle that applicability of the real property exception requires that the defect be “of” the property.⁵

Navigating through the changing landscape of appellate authority, I find the following direction: 1) the real property exception is applicable where the dangerous condition arises from the real property itself or any permanent attachments to it, *Tackett v. Pine Richland Sch. Dist.*, 793 A.2d 1022, 1024 (Pa.Cmwlth. 2002); 2) the real property exception is applicable where injuries result from the local agency’s negligent care of the real property, *Grieff*, cited above; 3) the real property exception applies where the local agency is negligent in keeping the real property safe, *Kilgore*, cited above; *Hanna*, cited above; 4) the real property exception does not apply where the damages result solely from a third party’s negligent acts while on the real property of the local agency, *Mascaro*, cited above; 5) the real property exception does not apply to the negligent supervision of others on the real property, *Wilson*, 783 A.2d at 876; and 6) the real property exception does not apply to injuries resulting from the dangerous condition of personalty located on, but not attached to, the real property of the local agency, *Blocker v. City of Philadelphia*, 763 A.2d 373, 375 (Pa. 2000). With these lessons in mind and following our appellate courts’ admonition that exceptions to the Act are to be narrowly construed against the plaintiff, I now turn to the specific allegations in Erb’s Complaint.

I find that allegations of placing tables too close together and placing too many chairs at each table are similar to the situations in *Grieff* and *Kilgore*. Erb’s Complaint, ¶¶ 8a, 8b. Thus, the question of whether a dangerous condition exists on real property in Greenmount’s possession is a question of fact for the jury. See *Kilgore*, 717 A.2d at 517 (citing *Bendas v. Twp. of White Deer*, 611 A.2d 1184 (Pa. 1992)). Accordingly, summary judgment in regard to these allegations will be denied.

⁵In his dissenting opinion in *Kilgore*, Justice Castille opined:

Although *Finn* . . . was decided less than four years ago, the majority has *sub silentio* overruled it, and in so doing, has abandoned the principle of *stare decisis*. As I believe that we are constrained to adhere to the holding of *Finn* under the principle of *stare decisis*, I respectfully dissent.

Kilgore, 717 A.2d at 518 (Castille, J., dissenting)(emphasis in original).

On the other hand, summary judgment will be granted in regard to the remaining allegations of negligence. Claims related to the dangerous or unsafe condition of the tables and chair legs are directed at the dangerous condition of personalty and, thus, not encompassed within the real property exception. Erb's Complaint, ¶ 8g; see *Blocker*, cited above. Greenmount's alleged failure in properly organizing and serving the meals are similar to the negligent supervision which our appellate courts rejected as a basis for triggering applicability of the real estate exception. Erb's Complaint, ¶¶ 8c, 8d and 8f; see generally *Wilson*, cited above. Finally, permitting too many patrons on the property relates to the negligent care, custody and control of the patrons rather than the real property. Erb's Complaint, ¶ 8e; see *Wilson*, cited above.⁶

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 13th day of August, 2003, Defendant Greenmount Community Fire Company's Motion for Summary Judgment is granted in part and denied in part. Summary Judgment is granted in favor of the Defendant in regard to Paragraphs 8c, 8d, 8e, 8f, 8g and 8h of the Plaintiffs' Complaint. The Defendant's Motion for Summary Judgment in regard to Paragraphs 8a and 8b of the Plaintiffs' Complaint is denied.

⁶Erb alleges through boilerplate language that Greenmount failed to care for their rights and safety required under law. Erb's Complaint, ¶ 8h. This allegation lacks the specificity necessary to fit within any exception under the Act and, therefore, will be stricken. See generally *Wilson*, 783 A.2d at 875; Pa.R.C.P. 1019.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-327 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point at Poplar Street and Lot No. 125; thence along Lot No. 125, South thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds East, one hundred eighty (180.00) feet to a point at Lot No. 121; thence along Lot No. 121, North fifty-eight (58) degrees two (02) minutes twenty-one (21) seconds East, ninety and sixty-nine hundredths (90.69) feet to a point at Lot No. 122; thence along Lot No. 122 and Lot No. 123, North thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds West, one hundred ninety-one and nineteen hundredths (191.19) feet to a point at Poplar Street; thence along Poplar Street, South fifty (50) degrees fifty-seven (57) minutes four (04) seconds West, ninety (90.00) feet to the point and place of BEGINNING. CONTAINING 16,703 square feet and identified as Lot No. 124 on a plan of lots entitled Phase III, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, In Plan Book 51, page 82.

IT BEING the same tract of land which Harold Hartlaub and Delores V. Hartlaub, husband and wife, and Louis T. Guthrie, unmarried, by Deed dated July 9, 1990, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 561, page 375, granted and conveyed unto Anthony J. Misiti and Lois A. Misiti, husband and wife, as Tenants by the Entireties. The said Anthony J. Misiti, have predeceased the said Lois A. Misiti, whereby title to the within described property descended to and vested in the said Lois A. Misiti, MORTGAGOR HEREIN.

TITLE TO SAID PREMISES IS VESTED IN Anthony J. Misiti and Lois A. Misiti, husband and wife by Deed from Harold Hartlaub and Delores V. Hartlaub, husband and wife and Louis T. Guthrie, unmarried, dated 7/9/1990 and recorded 7/11/1990, in Record Book 561, Page 375.

Premises being: 719 Poplar Street, Hanover, PA 17331

Tax Parcel No. 6-166

SEIZED and taken into execution as the property of **Lois A. Misiti** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-67 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Hamiltonban Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin driven at the point of intersection of the center line of Legislative Route 01016, running between Mt. Hope through Virginia Mills and to the Fairfield-Ortanna State Highway, and the center line of the Western Maryland Railroad right of way near Virginia Mills; thence running in the center of said Legislative Route 01016, North 70-3/4 degrees West 574 feet to an iron pin in the center of said State Highway; thence by land now or formerly on Mike McGlaughlin, land now or formerly of Lloyd Benner and land now or formerly of Ronald Kump, North 52 degrees East 980 feet, running through an elm tree 44 feet from the end of this course, to a point in the center of said Railroad right of way; thence running in the center of said Railroad right of way, South 12-1/4 degrees West 412.5 feet to a point in the center of said Railroad right of way, in a curve thereof; thence continuing in the center of said Railroad right of way, South 19-1/2 degrees West 415.8 feet to the above described place of BEGINNING. CONTAINING 5 acres and 122.04 square perches.

BEING KNOWN AS: 401 Mount Hope Road, Fairfield, (Hamiltonban Township), PA 17320

Property ID No. C14-22

TITLE TO SAID PREMISES IS VESTED IN Randy A. Rippeon and Tracie L. Rippeon, husband and wife as tenants of an estate by the entireties by deed from Robert G. Coy and Janet M. Coy, husband and wife dated 06/30/99 recorded 07/08/99 in Deed Book 1869, Page 329.

SEIZED and taken into execution as the property of **Randy A. Rippeon & Tracie L. Rippeon** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-542 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Western edge of the Pennsylvania State Highway which leads from Littlestown to the Gettysburg-Hanover State Highway, which point is South six (06) degrees thirty (30) minutes East, five (05) feet from the corner of Lot No. 2 from the plan of lots of Clayton E. and Annie E. Runk; thence along said Highway South six (06) degrees thirty (30) minutes East, one hundred fifteen (115) feet to a stake at corner of Lot No. 5, thence along Lot No. 5, South eighty-three (83) degrees thirty (30) minutes West, one hundred fifty (150) feet to lands now or formerly of Clayton E. Runk and Annie E. Runk; thence along same North six (06) degrees thirty (30) minutes West, one hundred fifteen (115) feet to a point which is South six (06) degrees thirty (30) minutes East, five (05) feet from the Southwest corner of Lot No. 2, aforesaid; thence North eighty-three (83) degrees thirty (30) minutes East, one hundred fifty (150) feet to a point along the Pennsylvania State Highway which leads from Littlestown to Gettysburg-Hanover State Highway, the place of BEGINNING. Being known and numbered as 660 Littlestown Road.

Being known as: 660 Littlestown Road, Littlestown, PA 17340

Property ID No. J15-37

TITLE TO SAID PREMISES IS VESTED IN Marilyn R. Barrick by deed from Steven D. Barrick and Marilyn R. Barrick, persons who are or have been married dated 2/23/95 recorded 2/28/95 in Deed Book 1000 Page 39.

SEIZED and taken into execution as the property of **Marilyn R. Barrick** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-2 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 10th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground situate along the public road leading from the Hanover-Carlisle State Highway to the Hanover-Abbottstown State Highway, in Berwick Township, Adams County, Pennsylvania, which is bounded and described as follows:

BEGINNING at an iron pin on the North side of the public road aforesaid at land now or formerly of Merle C. Brailinger; thence by said lands North 28 degrees 15 minutes West 120 feet to an iron pin at other land now or formerly of C.H. Blittinger; thence by the same North 62 degrees East 35.5 feet to an iron pin at lands now or formerly of the Evangelical Church; thence by the same South 31 degrees 30 minutes East 120 feet to an iron pin at the public road aforesaid; thence by the same South 62 degrees West 42 feet to an iron pin, the place of BEGINNING.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Richard E. Luckabaugh, Deed from Richard E. Luckabaugh, Donald L. Luckabaugh and Robert D. Luckabaugh, Executors of the Estate of Gilbert D. Luckabaugh, Deceased, dated March 19, 1993, recorded April 6, 1993, in Deed Book 707, Page 341.

(Parcel ID No. (04)-L12-53)

BEING KNOWN AS: 342 Green Springs Road, Hanover, PA 17331

SEIZED and taken into execution as the property of **Richard E. Luckabaugh** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 4, 2004,

and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, August 24, 2004, at 9:00 a.m.

FINK—Orphans' Court Action Number OC-114-03. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Emma Scott Fink a/k/a Emma R. Fink, deceased, late of the Borough of Biglerville, Adams County, Pennsylvania.

SNYDER—Orphans' Court Action Number OC-63-04. The First and Final Account of R. Glenn Snyder and Kay R. Stuffle, Co-Executors of the Estate of Roy C. Snyder, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

APPLER—Orphans' Court Action Number OC-76-03. The First and Final Account of Judith Showwaker Creutzer and Marian Kay Fekula, Co-Executors of the Estate of Bernice Mae Appler, deceased, late of Union Township, Adams County, Pennsylvania.

KEEFER—Orphans' Court Action Number OC-67-04. The First and Final Account of Kenneth F. Keefer, Executor of the Last Will and Testament of Robert E. Keefer, deceased, late of Conewago Township, Adams County, Pennsylvania.

KNOWLES—Orphans' Court Action Number 15 October 1964. The First and Partial Account of PNC Bank, N.A., Successor to the Littlestown National Bank, Plenary Guardian of the Estate of Nathaniel Knowles III, an incapacitated person.

Lisa K. Grubbs
Clerk of Courts

8/13 & 20

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF RITA B. GOULD, DEC'D**

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Suzanne Leib, 1627 West Lisburn Road, Mechanicsburg, PA 17055

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF KENNETH R. HOCK, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Scott A. Hock, c/o Roger B. Irwin, Esq., 60 West Pomfret Street, Carlisle, PA 17013

Attorney: Roger B. Irwin, Esq., Irwin & McKnight, Attorneys, 60 West Pomfret Street, Carlisle, PA 17013

ESTATE OF ROBERT K. HOTT, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: John L. Hott, 4408 Peaceford Glen Drive, High Point, NC 27265

Attorney: Walton V. Davis, Esq., 63 W. High Street, Gettysburg, PA 17325

ESTATE OF MARGARET S. KESSEL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Karen Rabine, 1221 Hunterstown-Hampton Road, New Oxford, PA 17350; Clyde Kepner, 1225 Brickcrafters Road, New Oxford, PA 17350

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF EVELYN GRACE LONG-STAFF a/k/a EVELYN B. SCHRIVER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Patricia A. Schriver, 616 East Hills Road, Glen Gardner, NJ 08826; Roland Henry Schriver, 5 Lexington Court, McMurray, PA 15317

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HENRY C. ORDEMANN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Elizabeth C. Werner, 39 Leonard Road, Hamden, CT 06514; Carl W. Ordemann, 317 Riverville Road, Greenwich, CT 06830

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY E. SMALL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Mary S. Brenner, 341 North 26th Street, Camp Hill, PA 17011; William D. Small, 2701 Murkle Road, Westminster, MD 21158

Attorney: Neil E. Hendershot, Esq., Goldberg Katzman, P.C., P.O. Box 1268, Harrisburg, PA 17108-1268

SECOND PUBLICATION**ESTATE OF ANNIE BELLE DAVIS, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrators: Dorinda Shepley, 1101 Evergreen Avenue, Frederick, MD 21701; Ellen Kessler, 220 N. Fifth St., Apt. 13, McSherrystown, PA 17344

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF A. KENNETH DICK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Jacqueline D. White, 89 Steinwehr Avenue, Gettysburg, PA 17325

Attorney: Thomas R. Campbell, Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY STONE OBERNIER, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executrix: Frances Renee Kiefer, 1 Diane Trail, Carroll Valley, PA 17320

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF ELSIE F. STEPHENS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Tammi L. Swartzbaugh, 18 Redding Lane, Gettysburg, PA 17325

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

THIRD PUBLICATION**ESTATE OF HARRY C. MACJILTON, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-344 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, together with the improvements thereon erected, situate in Oxford Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the property line of Carly Drive, a fifty (50) foot street, at corner of Lot No. 558, on the hereinafter referred plan of lots; thence by said lot North thirty-eight (38) degrees forty-nine (49) minutes fifty-eight (58) seconds East, one hundred sixty-four and ninety-eight hundredths (164.98) feet to a steel pin at Lot No. 536; thence by said lot South seventy-four (74) degrees seven (07) minutes two (02) seconds East, eighty-one and forty-five hundredths (81.45) feet to a steel pin at other lands of Oxford Estates; thence by said lands South thirty-eight (38) degrees forty-nine (49) minutes fifty-eight (58) seconds West one hundred ninety-six and seventy-four hundredths (196.74) feet to a steel pin on the property line of Carly Drive; thence by said street North fifty-one (51) degrees ten (10) minutes two (02) seconds West, seventy-five (75.00) feet to the point and place of BEGINNING, CONTAINING 13,564 square feet and being known as Lot No. 559 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, Page 66.

BEING known as: 19 Carly Drive, New Oxford, PA 17350 Incorrectly stated on Mtg as Carley.

Property ID No.: 10-50

TITLE TO SAID PREMISES IS VESTED IN Cheryl L. Peters, a single adult individual by deed from Michael E. Peters, a single adult individual and Cheryl L. Peters, a single adult individual, former husband and wife dated 05/06/99 recorded 05/13/99 in Deed Book 1830 Page 52.

SEIZED and taken into execution as the property of **Cheryl L. Peters** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after

the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/6, 13 & 20

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-543 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the thirty (30) foot right-of-way line of Trenton Court at Lot No. 22 as shown on the hereinafter mentioned referenced subdivision plan; thence running along said Lot No. 22 South eighty-seven (87) degrees fifty-five (55) minutes twenty-seven (27) seconds East, one hundred twenty-six and seventy-one hundredths (126.71) feet to a point at lands now or formerly of Robert G. Stouffer; thence running along said lands now or formerly of Robert G. Stouffer South two (02) degrees fifty-nine (59) minutes nine (09) seconds West, eighty and one hundredths (80.01) feet to a point at Lot No. 20 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 20 North eighty-seven (87) degrees fifty-five (55) minutes twenty-seven (27) seconds West, one hundred twenty-five and forty hundredths (125.40) feet to a point on the right-of-way line of Trenton Court; thence running along said right-of-way line by a curve to the right having a radius of three hundred seventy-five (375.00) feet an arc length of five and seventy-seven hundredths (5.77) feet and along chord bearing and distance of North one (01) degrees thirty-eight (38) minutes twelve (12) seconds East, five and seventy-seven hundredths (5.77) feet to a point on the right-of-way line of Trenton Court; thence continuing along said right-of-way line of Trenton Court, North two (02) degrees four (04) minutes thirty-three (33) seconds East, seventy-four and twenty-three hundredths (74.23) feet to a point on the right-of-way line of Trenton

Court at Lot No. 22. the point and place of BEGINNING. CONTAINING 10,188 square feet.

THE above description being Lot No. 21 on the Phase 6 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated October 4, 1999, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 79 at page 64.

TITLE TO SAID PREMISES IS VESTED IN Julie R. Hieronimus and Randall S. Hieronimus, wife and husband by Deed from Julie R. Hieronimus and Randall S. Hieronimus, wife and husband dated 9/28/2001 and recorded 10/1/2001 in Record Book 2417 Page 327.

Premises being: 11 Trenton Court, Lot 21, Littlestown, PA 17340

Tax Parcel No. 19 Map #10

SEIZED and taken into execution as the property of **Randall S. Hieronimus & Julie R. Hieronimus** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 25, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/20, 27 & 9/3

Adams County Legal Journal

Vol. 46

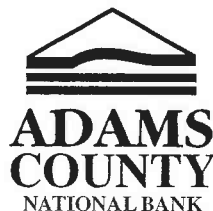
August 27, 2004

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PARICHUK VS. HICKS

Our Trust Department
makes a business of caring
for other people's property.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-489 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of September, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, being Lot No. 5 of Springfield Estates, bounded and described as follows:

BEGINNING at an iron pin on the Southerly edge of Summer Drive at Lot No. 4; thence by said Lot South 33 degrees 36 minutes 10 seconds West, 179.63 feet to an iron pin at lands now or formerly of Guy Francis Gebhart; thence by said lands North 56 degrees 20 minutes 46 seconds West, 115 feet to an iron pin at Lot No. 6; thence by said Lot North 33 degrees 36 minutes 10 seconds East, 179.53 feet to an iron pin on the Southerly edge of Summer Drive; thence along the Southerly edge of said Summer Drive South 56 degrees 23 minutes 50 seconds East, 115 feet to the place of BEGINNING.

CONTAINING 20,652 square feet.

The above description was taken from a plan of lots labeled "Springfield Estates", dated June 22, 1977, prepared by Gettysburg Engineering Co., Inc., and recorded in Adams County Plan Book No. 20, Page 29.

SEIZED and taken into execution as the property of **Kathy L. Eckard** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 8, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/13, 20 & 27

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-543 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the thirty (30) foot right-of-way line of Trenton Court at Lot No. 22 as shown on the hereinafter mentioned referenced subdivision plan; thence running along said Lot No. 22 South eighty-seven (87) degrees fifty-five (55) minutes twenty-seven (27) seconds East, one hundred twenty-six and seventy-one hundredths (126.71) feet to a point at lands now or formerly of Robert G. Stouffer; thence running along said lands now or formerly of Robert G. Stouffer South two (02) degrees fifty-nine (59) minutes nine (09) seconds West, eighty and one hundredths (80.01) feet to a point at Lot No. 20 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 20 North eighty-seven (87) degrees fifty-five (55) minutes twenty-seven (27) seconds West, one hundred twenty-five and forty hundredths (125.40) feet to a point on the right-of-way line of Trenton Court; thence running along said right-of-way line by a curve to the right having a radius of three hundred seventy-five (375.00) feet an arc length of five and seventy-seven hundredths (5.77) feet and along chord bearing and distance of North one (01) degrees thirty-eight (38) minutes twelve (12) seconds East, five and seventy-seven hundredths (5.77) feet to a point

on the right-of-way line of Trenton Court; thence continuing along said right-of-way line of Trenton Court, North two (02) degrees four (04) minutes thirty-three (33) seconds East, seventy-four and twenty-three hundredths (74.23) feet to a point on the right-of-way line of Trenton Court at Lot No. 22, the point and place of BEGINNING. CONTAINING 10,188 square feet.

THE above description being Lot No. 21 on the Phase 6 Final Plan for Heritage Hill II, prepared by Martin and Martin, Incorporated, dated October 4, 1999, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 79 at page 64.

TITLE TO SAID PREMISES IS VESTED IN Julie R. Hieronimus and Randall S. Hieronimus, wife and husband by Deed from Julie R. Hieronimus and Randall S. Hieronimus, wife and husband dated 9/28/2001 and recorded 10/1/2001 in Record Book 2417 Page 327.

Premises being: 11 Trenton Court, Lot 21, Littlestown, PA 17340

Tax Parcel No. 19 Map #10

SEIZED and taken into execution as the property of **Randall S. Hieronimus & Julie R. Hieronimus** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 25, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/20, 27 & 9/3

PARICHUK VS. HICKS

1. Specific performance will not be granted unless an agreement's terms are sufficiently set forth and the property to be conveyed is sufficiently identified and described.

2. If the subject-matter, the land, be described, we admit evidence in order to apply the description to the land; but we cannot admit parol evidence, first, to describe the land sold, and then, to apply the description.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 03-S-330, JOHN PARICHUK, SR. VS. HENRY HICKS AND PATIENCE HICKS, HUSBAND AND WIFE.

Judith K. Morris, Esq., for Plaintiff

George L. Lensbower, Esq., for Defendants

George, J., August 14, 2003

OPINION

On March 27, 2003, the Plaintiff, John Parichuk, Sr. (hereinafter referred to as "Parichuk"), brought suit against the Defendants, Henry Hicks and Patience Hicks (hereinafter referred to as "Hicks"), seeking specific performance of an alleged written agreement for the transfer of real estate located at 1301 Pine Run Road, Abbottstown, Hamilton Township, Adams County, Pennsylvania. In preparing for trial, Parichuk seeks to take depositions of the Hicks. In response, Hicks filed a Motion for Judgment on the Pleadings alleging Parichuk's Complaint does not support a cause of action. Additionally, Hicks filed a Motion for a Protective Order alleging that the parol evidence rule bars any attempt by Parichuk to salvage his cause of action through oral testimony and, thus, Hicks reasons, depositions will not lead to the discovery of admissible evidence. Consequently, both motions focus upon the issue of whether the alleged agreement attached to Parichuk's Complaint is sufficient to support a cause of action for specific performance.

The alleged agreement at issue is handwritten and reads as follows:

This is an agreement of sale between Henry Hicks address [sic] 1301-1327 Pine Run Rd. Abbottstown, PA. 17301 as the seller and John Parichuk address [sic] 1261 Pine Run Rd. Abbottstown, PA. 17301 as the buyer.

Purchase amount of \$80,000.00
down Payment – 5,000.00 <- deposit amount
balance – 75,000.00

Terms of Purchase: To be settled within 60 days from today: 2/10/03 –

Parichuk's Complaint, Exhibit A. Thereafter, the alleged agreement contains the signatures of John Parichuk, Henry Hicks and a witness.

In *Pierro v. Pierro*, 264 A.2d 692 (Pa. 1970), the Pennsylvania Supreme Court reiterated the well-settled principle that specific performance will not be granted unless an agreement's terms are sufficiently set forth and the property to be conveyed is sufficiently identified and described. Furthermore, the Court summarized the circumstances in which parol evidence may be admissible to supplement the written agreement when it stated:

'Where it is necessary to prove any essential feature of an agreement for the sale of land by oral testimony, the agreement is not in writing within the meaning of the statute of frauds.' *Shaw, Ex'rs v. Cornman*, 271 Pa. at 262, 114 A. at 663. "[P]arol evidence to describe the land intended to be sold is one thing, (and hence is inadmissible) and parol evidence to apply a written description to land is another and very different thing, and for that purpose is admissible." *Suchan v. Swope*, 357 Pa. at 20, 53 A.2d at 118. *Mrahunec v. Fausti*, 385 Pa. 64, 121 A.2d 878 (1956). "If the subject-matter, the land, be described, we admit evidence in order to apply the description to the land; but we cannot admit parol evidence, first, to describe the land sold, and then, to apply the description." *Cohen v. Jones*, 274 Pa. 417, 419, 118 A. 362 (1922). *Sawert v. Lunt*, 360 Pa. 521, 62 A.2d 34 (1948). "[P]arol evidence may be used to explain and define the description contained in the writing, but not to create the description itself.' *Bartlow v. Campbell*, 49 Lack.Jur. 126, 130 (1947).

Pierro, 264 A.2d at 695.

The *Pierro* Court found parol evidence was not admissible to create a description where the underlying agreement contained no description. Instantly, the document, upon which Parichuk relies to

support his cause of action, lacks any indication or description of the realty to be transferred. Since I find no reason to distinguish *Pierro* from the issue before the Court, the Defendants' motions will be granted.

ORDER OF COURT

AND NOW, this 14th day of August, 2003, the Defendants' Motions for Summary Judgment and for a Protective Order are granted. Judgment is entered in favor of the Defendants and the Plaintiff's cause of action is dismissed with prejudice.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-287 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 1st day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate, locally known as 16 Valley View Trail, lying and being situate in the Borough of Carroll Valley, Adams County, Pennsylvania, bounded and described as follows:
Lot #161

BEGINNING at a point in the center of Valley View Trail at Lot No. 160; thence by said lot South 62 degrees 13 minutes East 200 feet to Lot No. 193; thence by said lot South 27 degrees 47 minutes West, 100 feet to Lot No. 162; thence by said lot North 62 degrees 13 minutes West 200 feet to a point in the center of said Valley View Trail; thence in center of said Valley View Trail North 27 degrees 47 minutes East 100 feet to the place of BEGINNING.

Lot #162

BEGINNING at a point in the center of Valley View Trail at Lot No. 161; thence by said lot South 62 degrees 13 minutes East, 200 feet to Lot No. 192; thence by said lot South 27 degrees 47 minutes West, 100 feet to Lot No. 163; thence by said lot North 62 degrees 13 minutes West, 200 feet to a point in the center of Valley View Trail; thence in said Valley View Trail North 27 degrees 47 minutes East, 100 feet to the place of BEGINNING.

THE above descriptions were taken from a plan of lots labeled "Section A, Charnita" dated March 10, 1965, prepared by Gordon L. Brown, R.S., and recorded in Adams County Miscellaneous Docket 3 at page 733.

BEING the same real estate conveyed to Daniel J. Leclerc, unmarried, mortgagor(s) herein, by deed of Robert H. Jones and Elizabeth M. Jones, husband and wife, dated October 31, 1994, and recorded in Adams County Record Book Volume 960, Page 100.

SEIZED and taken into execution as the property of Daniel Leclerc and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 25, 2004, and distribution will be made in accordance with said schedule, unless

exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/27, 9/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-78 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point in middle of a public road known and identified as Pennsylvania Legislative Route No. 01037 and at lands now or formerly of Donald E. Danner, Jr.; thence through and along the middle of the public road identified as Pennsylvania Legislative Route No. 01037, North twenty (20) degrees thirteen (13) minutes twenty-eight (28) seconds West, one thousand two hundred eight and eleven hundredths (1208.11) feet to a point in the middle of the aforementioned public road and at lands now or formerly of E. L. Eckert Estate; thence through and across a portion of said public road identified as Pennsylvania Legislative Route No. 01037 and along lands now or formerly of E. L. Eckert Estate, South sixty (60) degrees East, one thousand three hundred and two tenths (1300.2) feet to a point at lands now or formerly of Samuel Baker; thence along lands now or formerly of Samuel Baker, South forty-one (41) degrees West, five hundred sixty-five and nine hundred and five thousandths (565.905) feet to an iron pin at lands now or formerly of Donald E. Danner, Jr.; thence along lands now or formerly of Donald E. Danner, Jr. North twenty-one (21) degrees West, sixty-seven (67) feet to an iron pin at lands of same; thence along said lands and through an iron pin located twenty (20) feet from the place of beginning and through and across one-half (1/2) of the aforementioned public road identified as Pennsylvania Legislative Route No. 01037, South sixty-nine (69) degrees

eleven (11) minutes three (03) seconds West, three hundred thirteen and eighty-two hundredths (313.82) feet to a point in the middle of the aforementioned public road identified as Pennsylvania Legislative Route No. 01037, the place of BEGINNING.

CONTAINING approximately 12.40 acres.

THE above description has been prepared from a plotted plan from a deed and subdivision plan prepared by George M. Wildasin, Civil Engineer, for Wilson S. Linebaugh and Ruth C. Linebaugh, dated May 12, 1979.

BEING Tax Map K8 Parcel 112.

BEING THE SAME PREMISES WHICH Jan W. Zimmerman, widow, by Indenture dated December 10, 1999 and recorded December 15, 1999 in the Office of the Recorder of Deeds in and for the County of Adams in Record Book 1970 page 240, granted and conveyed unto Burton F. Karsteter and Pamela S. Karsteter, husband and wife.

Anthony R. Distasio, Esq.
No. 04-S-78
Judgment: \$302,605.26

SEIZED and taken into execution as the property of Burton F. Karsteter & Pamela S. Karsteter and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/27, 9/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-867 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 827 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County in Misc. Deed Book 1, page 5, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation areas, and other public areas, as shown on the said plot, and the right in common with the other owners of lots in the said subdivision to use the lake and beaches for swimming, fishing and boating in accordance with the rules and regulations of Lake Meade Property Owners Association, its successor or assigns.

UNDER AND SUBJECT to the restrictions, conditions and agreement set forth at length in deed of Lake Meade, Inc. to the grantors herein, referred above.

HAVING THEREON erected a dwelling house known as: 397 Lake Meade Drive, East Berlin, PA 17316

BEING THE SAME PREMISES WHICH Robert W. Snyder and Linda S. Snyder, by Deed dated 6/30/00 and recorded 7/25/00 in Adams County Deed Book 2093, Page 56, granted and conveyed unto Gary Zittle.

SEIZED IN EXECUTION AS THE PROPERTY OF GARY D. ZITTLE UNDER ADAMS COUNTY JUDGMENT NO. 03-S-867

Map & Parcel 37-10-56

SEIZED and taken into execution as the property of Gary D. Zittle and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/27, 9/3 & 10

IN THE COURT OF
COMMON PLEAS FOR
ADAMS COUNTY, PENNSYLVANIA

CIVIL—LAW
NO. 04-S-747
Quiet Title Action

BRUCE W. TOBERY, TINA L. TOBERY,
Plaintiffs

vs.

REDISCOUNT CORPORATION OF
AMERICA, Defendant

NOTICE—ACTION TO QUIET TITLE

NOTICE TO: The above-named Defendants, their heirs, assigns and all persons claiming any right, title, claim or interest to that property located in Carroll Valley Borough, Adams County, Pennsylvania, and further identified as 12 Gladys Trail, Fairfield, PA 17320, as shown on a plan of lots labeled "Section WA of Charnita, Inc." dated January 17, 1970 prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 65.

TAKE NOTICE that Bruce W. Tobery and Tina L. Tobery have filed an Action to Quiet Title in the aforesaid Court, averring that they have acquired title to the property by virtue of purchasing said property. Plaintiffs have requested an order declaring Plaintiffs to be the legal and equitable owner of the property and ordering the Recorder of Deeds to record an Order awarding fee simple title to the Plaintiff. You are hereby notified to file an Answer and any claims of ownership within twenty (20) days following the date of this publication. If you fail to do so, final judgment may be entered against you.

If you wish to defend, you must enter a written appearance personally or by an attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE

THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Adams County Court Administrator
117 Baltimore Street
Gettysburg, PA 17325
(717) 337-9846

/s/Andrea M. Singley, Esq.
Beauchat & Beauchat
63 W. High Street
Gettysburg, PA 17325
(717) 334-4515
ID #91278
Attorney for Plaintiffs

8/27

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF ROMAINE W. MILLER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Richard P. Arigo, 209 Spring Avenue, Hanover, PA 17331

Attorney: Crabbs & Crabbs, Attorneys for the Estate, 202 Broadway, Hanover, PA 17331

ESTATE OF HARRY D. PATTERSON, JR., DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Executor: James L. Patterson, P.O. Box 137, 100 Laurel Lane, Bendersville, PA 17306

Attorney: John R. White, Esq., Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RAYMOND E. ROUTSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Barry W. Routson, 456 Moul Avenue, Hanover, PA 17331; Ronald J. Routson, 1074 Irishtown Road, New Oxford, PA 17350; William D. Routson, 2690 Water Street, York, PA 17403

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

ESTATE OF MARY H. TOLLIVER, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Executor: Harold Thomas Hafley, Jr., 619 Park Avenue, Laurel, MD 20707

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF RITA B. GOULD, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executrix: Suzanne Leib, 1627 West Lisburn Road, Mechanicsburg, PA 17055

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF KENNETH R. HOCK, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: Scott A. Hock, c/o Roger B. Irwin, Esq., 60 West Pomfret Street, Carlisle, PA 17013

Attorney: Roger B. Irwin, Esq., Irwin & McKnight, Attorneys, 60 West Pomfret Street, Carlisle, PA 17013

ESTATE OF ROBERT K. HOTT, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: John L. Hott, 4408 Peaceford Glen Drive, High Point, NC 27265

Attorney: Walton V. Davis, Esq., 63 W. High Street, Gettysburg, PA 17325

ESTATE OF MARGARET S. KESSEL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Karen Rabine, 1221 Hunterstown-Hampton Road, New Oxford, PA 17350; Clyde Kepner, 1225 Brickcrafters Road, New Oxford, PA 17350

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF EVELYN GRACE LONG-STAFF a/k/a EVELYN B. SCHRIVER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Patricia A. Schriver, 616 East Hills Road, Glen Gardner, NJ 08826; Roland Henry Schriver, 5 Lexington Court, McMurray, PA 15317

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HENRY C. ORDEMANN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Elizabeth C. Werner, 39 Leonard Road, Hamden, CT 06514; Carl W. Ordemann, 317 Riverville Road, Greenwich, CT 06830

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY E. SMALL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Mary S. Brenner, 341 North 26th Street, Camp Hill, PA 17011; William D. Small, 2701 Murkle Road, Westminster, MD 21158

Attorney: Neil E. Hendershot, Esq., Goldberg Katzman, P.C., P.O. Box 1268, Harrisburg, PA 17108-1268

THIRD PUBLICATION

ESTATE OF ANNIE BELLE DAVIS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrators: Dorinda Shepley, 1101 Evergreen Avenue, Frederick, MD 21701; Ellen Kessler, 220 N. Fifth St., Apt. 13, McSherrystown, PA 17344

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF A. KENNETH DICK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Jacqueline D. White, 89 Steinwehr Avenue, Gettysburg, PA 17325

Attorney: Thomas R. Campbell, Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY STONE OBERNIER, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executrix: Frances Renee Kiefer, 1 Diane Trail, Carroll Valley, PA 17320

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF ELSIE F. STEPHENS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Tammi L. Swartzbaugh, 18 Redding Lane, Gettysburg, PA 17325

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-525 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated, lying and being in Hamiltonban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin driven at the point of intersection of the center line of Legislative Route 01016 running between Mt. Hope through Virginia Mills and to the Fairfield-Orrtanna State Highway and the center line of the Western Maryland Railroad right-of-way near Virginia Mills; thence running in the center of said Legislative Route No. 01016 North 70-3/4 degrees West 574 feet to an iron pin in the center of said state highway; thence by land now or formerly of Mike McGlaughlin land now or formerly of Lloyd Benner and land now or formerly of Ronald Kump North 52 degrees East 980 feet running through an elm tree 44 feet from the end of this course to a point in the center of said railroad right-of-way; thence running in the center of said railroad right-of-way South 12-1/4 degrees West 412.5 feet to a point in the center of said railroad right-of-way in a curve thereof; thence continuing in the center of said railroad right-of-way South 19-1/2 degrees West 415.8 feet to the above described place of BEGINNING.

Premises known as: 401 Mt. Hope Road, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Randy A. Rippeon & Tracie L. Rippeon** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

8/27, 9/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-10 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 8th day of October, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that improved lot of ground situate on the East side of Fourth Street, in the Borough of Gettysburg, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a steel rod on the East property line of Fourth Street at lands of Gettysburg Area School District, which steel rod is more particularly set forth on the subdivision plan hereinafter referred to; thence by lands of Gettysburg Area School District, South 68 degrees East, 125.48 feet to a steel rod; thence continuing by lands of Gettysburg Area School District, South 5 degrees 4 minutes 50 seconds West, 59.74 feet to a steel rod; thence by lands formerly of Clair F. Ditzler, now lands of John P. DeHaas and Patsy A. DeHaas, Lot No. 2, North 85 degrees 30 minutes 40 seconds West, 119.92 feet to a steel rod on the East property line of Fourth Street; thence along the East property line of Fourth Street, North 5 degrees East, 97.50 feet to a steel rod, the point and place of BEGINNING. CONTAINING 9,430 square feet.

The foregoing description was taken from a draft of survey prepared by Adams County Surveyors, J. Riley Redding, R.S., dated August 1, 1984, which subdivision is approved by the various municipal subdivisions and commissions of Adams County and duly recorded in Adams County Plat Book 40, at page 101, and identified thereon as Lot No. 1.

BEING KNOWN AS: 421 North Fourth Street, Gettysburg, PA 17325

PROPERTY ID NO.: 5-3

TITLE TO SAID PREMISES IS VESTED IN Edwin E. Wickline, a single man by deed from Diane K. Barbour and Gary L. Barbour, her husband dated 10/14/99 recorded 10/14/99 in Deed Book 1932 Page 341.

SEIZED and taken into execution as the property of **Edwin E. Wickline, Charles Wickline, Known and/or Unknown Heirs of Edwin E. Wickline, Last Record Owner** and to be sold by me.

Raymond W. Newman-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on November 1, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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8/27, 9/3 & 10