Adams County Legal Journal

Vol. 40 March 5, 1999 No. 41, pp. 259-264

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-884 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that parcel of ground lying in Mt. Joy Township, Adams County, Pennsylvania, known as Lot No. 174 of the Lake Heritage Subdivision, as more specifically shown on a plan of lots of Lake Heritage Subdivision, as more specifically shown on a plan of lots of Lake Heritage Subdivision and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Book 4 at page 233.

UNDER AND SUBJECT to legal highways, easements, rights-of-way and restrictions recorded in Adams County Deed Book 252, page 508.

Tax Parcel # 6-12

TITLE TO SAID PREMISES IS VESTED IN Wayne A. Taylor and Linda J. Taylor, husband and wife by Deed from Wayne A. Taylor and Linda J. Taylor, husband and wife dated 6/19/95, recorded 6/28/95, in Record Book 1047 page 227.

SEIZED and taken into execution as the property of **Wayne A. Taylor & Linda J. Taylor**and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

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 April 12, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

2/19, 26 & 3/5

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1207 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

AIL THAT CERTAIN tract of land situate, lying, and being in Latimore Township, Adams County, Pennsylvania, and being more particularly described as (Lot 1471) on a plan of Lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds for Adams County, in Miscellaneous Volume 1, Page 23, and subject to all legal highways, easements, rights of way and restrictions of record.

UNDER AND SUBJECT to restrictions, conditions, and easements as more fully set forth in Deed Book 268 at Page 1038.

TAX PARCEL NUMBER: 1-16

TITLE TO SAID PREMISES IS VESTED IN Jack Cletus Orner, Jr. and Patricia K. Orner, his wife by Deed from Larry E. Stough and Judith A. Stough, husband and wife and Daniel L. Rodgers and Linda L. Rodgers, husband and wife dated 8/19/92 recorded 8/24/92 in Record Book 638 Page 1084.

SEIZED and taken into execution as the property of **Jack Cletus Orner, Jr. & Patricia K. Orner** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

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 April 12, 1999, 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.

2/26, 3/5 & 12

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-918 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows.

BEGINNING at a point in the centerline of New Chester Road (T-514), which point is located at the Southwestern corner of Lot No. 5 on the hereinafter described plan of lots; thence running in the centerline of the New Chester Road (T-514) South 22 degrees 36 minutes 05 seconds West 87.08 feet to a p.k. nail in the centerline of said road; thence running in the centerline of said road and by a curve to the right the radius of which is 741.53 feet with an arc distance of 278.69 feet and a chord bearing of South 34 degrees 29 minutes 00 seconds West for a chord length of 277.05 feet to a p.k. nail in the centerline of New Chester Road; thence continuing in the centerline of New Chester Road South 47 degrees 02 minutes 45 seconds West 204.67 feet to a point in the centerline of said road at the corner of land now or formerly of Randolph Swartz; thence running by land now or formerly of Randolph Swartz and through an existing steel rod set back 22.62 feet from the start of this course North 79 degrees 16 minutes 30 seconds West 277.41 feet to an existing steel rod; thence continuing by the same North 43 degrees 11 minutes 35 seconds West 151.58 feet to an existing steel rod; thence continuing by the same, through an existing steel rod near the line (.3 feet North) 116.1 feet from the start of this course and by Armatha Ford North 67 degrees 56 minutes 35 seconds West 346.98 feet to an existing "eye" steel rod on line of land of Armatha Ford; thence running by land now or formerly of Armatha Ford North 19 degrees 32 minutes 50 seconds East 509.45 feet to a steel rod at the Northwestern corner of Lot No. 5 on the hereinafter described plan of lots; thence running by Lot No. 5 and through a steel rod set back 250 feet from the start of this course and through a steel rod set back 25 feet from the end of this course South 67 degrees 38 minutes 00 seconds East 924.53 feet to a point in the center of New Chester Road (T-514) the point and place of BEGINNING. CONTAINING 10.905 acres.

The description was taken from a draft of survey of J. Riley Redding, R.S., dated October 25, 1991 and recorded in Adams County Plat Book 61 at Page 15. The lot described is Lot No. 6 on said plan of lots.

TITLE TO SAID PREMISES IS VESTED IN Richard L. Henry and Sherry L. Henry, husband and wife by Deed from Philip Reuben Wessel, single dated 11/9/94 recorded 11/18/94 in Record Book 966 Page 235.

SEIZED and taken into execution as the property of **Ricahrd L. Henry & Sherry L. Henry** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

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 April 5, 1999, 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.

2/19, 26, & 3/5

NOTICE

NOTICE IS HEREBY GIVEN that Katrina M. Luedtke, intends to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 10th day of May, 1999, and that she has established a full time legal practice in Adams County within the guidelines established by the Supreme Court of Pennsylvania.

2/19, 26 & 3/5

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 Monday, March 15, 1999, at 9:00 o'clock a.m.

ORDEMANN—Orphans' Court Action Number OC-3-99. The First and Final Account of James E. Stith, Executor of the Last Will and Testament of Anne Stith Ordemann, also known as Anne M. Stith, deceased, late of Straban Township, Adams County, Pennsylvania.

GARRETSON—Orphans' Court Action Number OC-6-99. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Mary L. Garretson, deceased, late of Arendtsville Borough, Adams County, Pennsylvania.

DEATRICK—Orphans' Court Action Number OC-65-97. The First and Final Account of Claude M. Lewenz, Administrator of the Estate of Ralph C. Deatrick, deceased, late of Cumberland Township, Adams County, Pennsylvania.

SPONSELLER—Orphans' Court Action Number OC-7-99. The First and Final Account of Shawn E. Sponseller, Administrator C.T.A., of the Estate of Jacqueline M. Sponseller, deceased, late of McSherrystown Borough, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk Of Courts

3/5 & 12

NOTICE

A HEARING SHALL be held before the Court of Common Pleas, Adams County, Pennsylvania, in Courtroom No. 1 or 2 of the Adams County Courthouse, Gettysburg, Pennsylvania, on March 15, 1999, at 9:00 o'clock, a.m. for the purpose of considering the sale of unimproved real estate from the Upper Adams School District to Inland Container Corp., in exchange for an unimproved tract of real estate to be conveyed by Inland Container Corp., to Upper Adams School District. Any persons interested in the sale and exchange of the aforesaid real estate should appear and be heard at that time.

Robert L. McQuaide
Solicitor for Upper
Adams School District

2/19, 26 & 3/5

COMMONWEALTH VS. TESS KAELIN TRUCKING

By proving (1) the existence of an illegally parked vehicle, (2) registered in the name of the Defendant, the Commonwealth can make out a prima facie case for imposing responsibility for the violation upon the vehicle's owner, which standard, nonetheless, permits an owner to come forward with evidence that someone else was operating his vehicle in order to rebut the inference that the registered owner is responsible for a vehicle's operation.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-878-97, CC-879-97, CC-880-97, COMMONWEALTH VS. TESS KAELIN TRUCKING.

Bernard A. Yannetti, Jr., Esq., Assistant District Attorney
Michael A. Koranda, Esq., for Defendant

MEMORANDUM OPINION

Kuhn, J., February 25, 1998.

The following factual background was presented at a summary appeal hearing held on February 23, 1998.

On September 2, 1997, the Oxford Township Board of Supervisors passed an ordinance amending Section 405 of Chapter 15 of the Code of Ordinances of Oxford Township to make it unlawful for "any person to park, or to remain parked, on any of the following streets, or parts of streets, any large truck, bus, or motor home." A large truck was defined as a "vehicle or combination of vehicle with a registered gross vehicle weight in excess of 12,000 lbs." One of the included streets was East Locust Lane. The ordinance became effective five days after its enactment.

On September 25, 1997, at 7:34 a.m. a tractor and trailer registered to Tess Kaelin Trucking was parked in front of 1 East Locust Lane, the residence of Joseph Reilly. Mr. Reilly admitted to Officer Michael D. Trostle of the Eastern Adams Regional Police Department that he was the person who parked the vehicle in front of his residence and, in fact, admitted being the exclusive operator of the vehicle. The tractor alone has a registered gross vehicle weight of 80,000 pounds. Officer Trostle then issued Citation No. A2169933-3 to Tess Kaelin Trucking for violation of Section 405. See CC-879-97.

On September 30, 1997, Mr. Reilly allowed the same tractor and trailer to be parked in front of his residence at 6:48 a.m. Officer James Costella of the Eastern Adams Regional Police Department issued Citation No. A2169875-1 to Tess Kaelin Trucking for violation of Section 405. See CC-878-97.

On October 2, 1997, Mr. Reilly allowed the same tractor and trailer to be parked in front of his residence at 1:30 p.m. Officer Randy Reichert of the Eastern Adams Regional Police Department issued Citation No. A2169997-4 to Tess Kaelin Trucking for violation of Section 405. See CC-880-97.

Mr. Reilly was aware of the enactment of Section 405 prior to

September 25,1997.

Oxford Township did not conduct a traffic and engineering study before passage of Section 405.

Defendant seeks dismissal of all charges on several basis:

First, Defendant contends that the charges should be dismissed because the Commonwealth failed to prove that the accused parked the vehicle. Each citation charged the registered owner of the vehicle with violating Section 405. With this procedure we have no dispute. Commonwealth v. Rudinski, 382 Pa. Super. 462, 555 A.2d 931 (1989), app. den. 564 A.2d 916 (1989), has given appellate court sanction to the practice of issuing parking violation citations to the registered owner of the vehicle. That Court stated,

> We find that under the public welfare doctrine, it is clear that prima facie strict criminal responsibility may be imposed upon the registered owner of an illegally parked vehicle. Therefore, by proving (1) the existence of an illegally parked vehicle, (2) registered in the name of the defendant, the Commonwealth can make out a prima facie case for imposing responsibility for the violation upon the vehicle's owner. ...This standard, nonetheless, permits an owner to come forward with evidence that someone else was operating his vehicle in order to rebut the inference that the registered owner is responsible for a vehicle's operation. 382 Pa. Super. at 467, 555 A.2d at 934.

In this case even if the Commonwealth established that the vehicle was illegally parked (which Defendant contests) and that Defendant is the registered owner of the vehicle (which Defendant does not deny) the prima facie case has been rebutted. The vehicle was parked in front of the residence of Joseph Reilly at 1 East Locust Lane. The officers did not see who parked the vehicle. Mr. Reilly admitted being the sole operator on each occasion.

We find from the credible evidence that Defendant was not the "person" who "parked" the vehicle. Therefore, a not guilty verdict must be entered as to each citation.

Because of this disposition we need not address the remaining issues raised by Defendant.[1]

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 25th day of February, 1998, the Court enters verdicts of not guilty to each of the citation issued in the above-captioned matter.

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[1]Defendant also argued that a)Section 405 is invalid because it fails to set forth a fine; b) Section 405 is invalid because it was not enacted after consideration of an engineering and traffic study; and c) the Court erred in allowing Officer Trostle to testify as to the vehicle's registered gross vehicle weight.

KIEL VS. DITZLER VS. LITTLE

1. Summary judgment may be entered only in those cases where the right is clear and free from doubt.

2. Where the Lessor retains possession and control, he is liable if, by the exercise of reasonable care, he could have discovered the condition and risks involved and made it safe.

3. Even though the person injured has knowledge of the existence of the dangerous condition, unless the danger is so apparent and so great that it is unreasonable for him to encounter it in view of the purpose of his use, or unless knowing the danger he fails to exercise that caution which a reasonable man would exercise under the same circumstances, the Lessor remains liable to him notwithstanding his knowledge of the condition.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 96-S-455, SHARON KIEL VS. MELVIN L. BARBARA ROSELLA DITZLER VS. JANE LITTLE AND GLENN'S FAMILY RESTAURANT, INC.

Ralph D. Oyler Esq., for Plaintiff
Karen S. Feuchtenberger, Esq., for Defendants
C. Kent Price, Esq., for Additional Defendant

OPINION ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Spicer, P.J., February 25, 1998.

This is the second time this case has come before the court on a motion for summary judgment. On December 2, 1997, the court granted in part and refused in part, a motion filed by additional defendants. Defendants now seek summary judgment against plaintiff.

We view facts in a light most favorable to the nonmoving party. Plaintiff alleges that on July 5, 1995, she slipped and fell on a pile of mud that defendants allowed to accumulate in the basement of her place of work. She suffered serious injuries. Her employer, Glenn's Family Restaurant, Inc., (Glenn's) leased the first floor of a building from defendants. Pursuant to a verbal agreement, Glenn's was permitted to use a portion of the basement of the premises for storage of items used in its restaurant business.

Access to the basement was gained through an outside door located at the rear of the building, next to the parking lot. Although there is some dispute about maintenance responsibilities for the parking lot and entrance area to the basement, the record supports a finding that Melvin Ditzler (Melvin), who was 84 years old at the time of the accident, retained and performed maintenance responsibilities for the area in

question. He visited the leased premises on a daily basis and regularly went into the basement.

The access door, installed by Melvin, had a one-inch gap between it and the threshold. The gap allowed rainwater to flow under the door and into the basement.

A heavy thunderstorm occurred on July 4, 1995, resulting in water and mud entering into the basement. On July 5, plaintiff and another employee, Pam Thomas, entered the basement to hook up a soda cylinder. They noticed an accumulation of mud around the door upon entry. After completing the hook-up, plaintiff slipped and fell on the mud while walking across the basement floor.

Plaintiff argues that Melvin created the dangerous condition by using a cheap door that did not fit properly. She also contends that danger was increased by poor lighting and a dark floor.

Melvin has testified, in his deposition, that he had no knowledge of the condition.

As recited in our prior opinion, the law governing entry of summary judgment has been described as follows:

> Summary judgment is properly granted where 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law.' Pa. R.C.P. 1035(b). 'The record must be viewed in a light most favorable to the nonmoving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.' Marks v. Tasman, 527 Pa. 132, 135, 589 A.2d 205, 206 (1991). Summary judgment may be entered only in those cases where the right is clear and free from doubt. Musser v. Vilsmeier Auction Co. Inc., 522 Pa. 367, 369, 562 A.2d 279, 280. (1989).
>
> Pennsylvania State University v. County of Centre, 532 Pa. 142, 615 A.2d 303, 304 (1992).

Quoted in Kapres v. Heller, 536 Pa. 551, 555, 640 A.2d 888, 890 (1994).

Further, under Pa.R.C.P. 1035.2, summary judgment is appropriate if a party fails to meet his or her burden of producing evidence of facts essential to a cause of action or defense which in a jury trial would require the issue to be submitted to a jury. Ertel V. Patriot-News Co., 544 Pa. 93, 674 A.2d 1038 (1996).

Generally, a lessor is not liable for physical harm caused by natural or artificial conditions on the land. However, there are exceptions, one of which is when the lessor retains possession and control. Deeter v.

Dull Corp., Inc., 420 Pa. Super 576, 617 A.2d 336 (1992); alloc. dn. 535 Pa 619, 629 A.2d 1380 (1992). A landlord is liable if, by the exercise of reasonable care, he could have discovered the condition and risks involved and made it safe. Forgang v. Universal Gym Co., 423 Pa. Super 416, 621 A.2d 601 (1993).

Pennsylvania follows the Restatement 2d. Torts, §360, which provides:

> A possessor of land who leases a part thereof and retains in his own control any other part which the lessee is entitled to use as appurtenant to the part leased to him, is subject to liability to his lessee and others lawfully upon the land with the consent of the lessee or a sublessee for physical harm caused by a dangerous condition upon that part of the land retained in the lessor's control, if the lessor by the exercise of reasonable care could have discovered the condition and the unreasonable risk involved therein and could have made the condition safe.

Bleam v. Gateway Professional Center, 431 Pa. Super. 145, 636 A.2d 172 (1993); alloc. dn. 538 Pa. 639, 647 A.2d 895 (1994).

While the dissent likened the situation to that involved in Carrender v. Fitterer, 503 Pa. 178, 469 A.2d 120 (1983) (No duty to protect invitee against obvious danger), the majority cited Restatement comment b. with approval. That comment reads:

> The rule stated in this Section may also apply even though the person injured, whether he be the lessee himself or a third person, has knowledge of the existence of the dangerous condition. His knowledge may put him in contributory fault (as to which see §463), and in that event he will be disabled from maintaining an action for any harm suffered while using the dangerous premises. But unless the danger is so apparent and so great that it is unreasonable for him to encounter it in view of the purpose of his use, or unless knowing the danger he fails to exercise that caution which a reasonable man would exercise under the same circumstances, the lessor remains liable to him notwithstanding his knowledge of the condition.

Defendants have cited a number of Restatement 2d. §343 cases. Most were considered by this court in Berkhiser, et.ux. v. Giant Food Markets, Inc. 35 Adams Co. L.J. 7 (1992). While the applicability of those cases is doubtful, Bleam v. Gateway Professional Center, supra., they do not support the motion for summary judgment. It is true that a landowner is not an insurer of his invitees'/ lessees' safety, and that the

mere occurrence of an accident is not proof of negligence. It is also true that plaintiff must establish facts from which a jury could infer constructive notice. Id. This may be accomplished through circumstantial evidence showing that the condition existed for such a length of time that the lessor should have, in the exercise of reasonable care, known of it. Moultrey v. Great A&P Tea Company, 281 Pa. Super 525, 422 A.2d 593 (1981).

Plaintiff argues that defendants caused the dangerous condition by putting in a cheap door. The door, however, is not the condition that caused injury. Its condition is, however, a circumstance to be considered. While we understand that facts are hotly disputed, the record would support findings that: 1), defendants installed a door that could be expected to allow rainwater and mud to enter the basement; 2), rainwater and mud washed into the basement on prior occasions; 3), a heavy rainstorm occurred the day prior to the accident; 4), defendants knew that Glenn's employees used the basement for business purposes. From these facts, the jury could conclude that defendants knew it was likely or probable that water and mud would have entered the basement area, creating a slippery condition. It could also conclude that defendants were aware that Glenn's employees would have to walk across the floor in order to fulfill their duties.

This being so, we find summary judgment inappropriate.

The attached order is entered.

ORDER OF COURT

AND NOW, this 25th day of February, 1998, defendants' motion for summary judgment is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-994 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece or parcel of land siuate in the Township of Germany, County of Adams and Commonwealth of Pennsylvania.

Tract No. 1: BEGINNING at a steel pin on the eastern property line of Tract No. 2 below described, and the westernmost corner of land now or formerly of Laverne P. Louey, which point of beginning is South 26 degrees 18 minutes 23 seconds West, 642.50 feet from a point in the center line of U.S. Route 140; thence by said land of Laverne P. Louey, South 63 degrees 41 minutes 37 seconds East. 20.00 feet to a steel pin at corner of land now or formerly of Clair D. Worley; thence by said land of Clair D. Worley, South 26 degrees 18 minutes 23 seconds West, 290.40 feet to a steel pin; thence by same, South 63 degrees 41 minutes 37 seconds East, 150 feet to a steel pin at corner of land now or formerly of Sterling S. Sell; thence by said other land of Sterling S. Sell, South 63 degrees 41 minutes 37 seconds East, 94.99 feet to a steel pin; thence by same, South 26 degrees 18 minutes 23 seconds West, 800.00 feet to a steel pin; thence by same North 63 degrees 41 minutes 37 seconds West, 264.99 feet to a steel pin on line of land now or formerly of William A. Russ; thence by said land of William S. Russ, North 26 degrees 18 minutes 23 seconds East, 916.02 feet to a steel pin at corner of land now or formerly of Chester A. Spangler; thence by said land of Chester A. Spanger, North 26 degrees 18 minutes 23 seconds East, 174.38 feet to a steel pin, the place of BEGINNING. CONTAINING 5.000 acres.

The above description was taken from a draft of survey by J.H. Rife, R.E., dated July 12, 1976, designating the above at Lot No. 1.

Tract No. 2: BEGINNING at a point in the center line of U.S. Route 140 at the northernmost corner of land now or formerly of Laverne P. Louey; thence by said land of Laverne P. Louey, and passing through a steel pin set back 50.00 feet from the last mentioned point, South 26 degrees 18 minutes 23 seconds West, 642.50 feet to a steel pin at corner of Tract No. 1 above described; thence by same, South 26 degrees 18 minutes 23 seconds West, 174.38 feet to a steel pin at corner of land, now or formerly of William A. Russ; thence by said land of William A. Russ, North 57 degrees 32 minutes 37 seconds West, 20.12 feet to a steel pin at corner of land now or formerly of Chester A. Spangler; thence by said land of Chester A. Spangler, and passing through a steel pin set back 50.00 feet from the next mentioned point, North 26 degrees 18 minutes 23 seconds East, 809.80 feet to a point in the center line of U.S. Route 140 aforesaid; thence in said center line of U.S. Route 140, South 77 degrees 30 minutes 46 seconds East, 20.60 feet to a point, the place of BEGINNING. CONTAINING 0.3735 Acre.

Being known as: 5063 Baltimore Pike

Tax Parcel #I17-0011A

Title to said premises is vested in Gary P. Koontz by deed from Rayonne H. Koontz, Married, dated 10/26/1982 recorded 10/29/1982 in deed book 365 page 128.

SEIZED and taken into execution as the property of **Gary P. Koontz & Roxanne H. Koontz** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 23, 1999.

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 April 19, 1999, 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.

3/5, 12 & 19

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY,
PENNSYLVANIA

NO. 99-S-108
CIVAL ACTION–LAW
MORTGAGE FORECLOSURE

PNC BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO THE GETTYSBURG NATIONAL BANK, Plantiff,

vs.

MABLE MARR BOWLING, WILLIAM F. BOWLING AND UNKNOWN HEIRS OF MABLE MARR BOWLING, DECEASED, Defendants.

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

TO: Mable Marr Bowling, whose last known address is 1120 Bull Frog Road, Fairfield, Pennsylvania 17320
William F. Bowling, whose last known address is P.O. Box 4284, Gettysburg, Pennsylvania 17325
and unknown Heirs of Mable Marr Bowling

You are hereby notified that Plaintiff, PNC Bank, National Association, Successor by Merger to The Gettysburg National Bank, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Adams County, docketed to No. 99-S-108, wherein Plaintiff seeks to foreclose its mortgage secured on your property located at 1120 Bull Frog Road, Fairfield, Pennsylvania 17320, whereupon your property would be sold by the Sheriff of Adams County.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. 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 NOTICE 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 Courthouse
Court Administrator's Office
117 Baltimore Street
Gettysburg, PA 17325
(717) 334-6781, Ext. 213

Karl M. Ledebohm, Esquire
Saidis, Shuff and Masland
2109 Market Street
Camp Hill, PA 17011
(717) 737 3405

3/5

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of Act 1982-295 (54 Pa. C.S. 311), of intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about February 12, 1999, an Application for Registration of the Fictitious Name HOMESPUN HARMONY, (a partnership), the character of which is the sale of craft items. The address of the principal place of business is 34 South Queen St., Littlestown, PA 17340, and the only persons owning or interested in said business is Bonnie E. Hood and Linda C. Butcher.

Bonnie E. Hood, Partner

3/5

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 WILLIE LARUTHE DEGROFT, DEC'D
Late of Borough of Littlestown, Adams County, Pennsylvania
Executor: Robert B. DeGroft, c/o 230 York Street, Hanover, PA 17331
Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF EARL W. HARBAUGH, DEC'D
Late of Liberty Township, Adams County, Pennsylvania
Executor: Robert E.E. Harbaugh, 54 Cove Hollow Road, Fairfield, PA 17320
Attorney: Barbara Jo Entwistle, Esquire, Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF HARRY REBERT LIPPY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Kathryn Riley, 3281 Grafton Street, Manchester, MD 21102; Daniel C. Riley, 3281 Grafton Street, Manchester, MD 21102
Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF MARIE S. KELLER, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Executors: Gerald R. Keller, P.O. Box 61, McKnightstown, PA 17343; Roland S. Keller, 108 Halleck Place, Altoona, PA 16602
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BESSIE K. KOHR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Janet E. Miller, 60 Piper Drive, New Oxford, PA 17350
Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF NORA ELIZABETH MCMASTER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Cyril N. McMaster, Jr., 18 Laurel Drive, Hanover, PA 17331
Attorney: Judith Koper Morris, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF RICHARD E. MILLER, DEC'D
Late of Tyrone Township, Adams County, Pennsylvania
Executrix: Dorothy C. Miller, 190 Schoolhouse Road, Aspers, PA 17304
Attorney: Barbara Jo Entwistle, Esquire, Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF EFFIE R. FOX, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executor: Charles R. Fox, 283 Accomac Road, York, Pennsylvania 17406
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JUNIOR EARL MATHIAS a/k/a J. EARL MATHIAS, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Robert Earl Mathias, R. D. #1, Box 334C, Abbottstown, Pennsylvania 17301
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, Pennsylvania 17331

ESTATE OF BLANCHE E. REICHART, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Dorothy Reichart Mummert, 320 Pine Street, Hanover, PA 17331
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, Pennsylvania 17331

ESTATE OF EUGENE W. SMITH, SR., a/k/a EUGENE WILLIAM SMITH, SR., DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executors: Robert E. Smith; Richard J. Smith
Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF LAVERE M. STARNER, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executors: William L. Starner, 5526 Carlisle Pike, New Oxford, PA 17350; Delores V. Sheffield, 3291 Horizon Drive, Lancaster, PA 17601; Shirley L. Heagey, 5500 Carlsisle Pike, New Oxford, PA 17350
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF KEITH A. CAMPBELL, DEC'D
Late of Butler Township, Adams County, Pennsylvania
Co-Administrators: George A. Campbell or Mashanda M. Campbell, 60 Rocky Road, Biglerville, PA 17307
Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HELEN L. DAY, DEC'D
Late of the Borough of York Springs, Adams County, Pennsylvania
Co-Executors: Joyce L. Griest and Melvin E. Griest, 380 Cherry Hill Road, Gardners, PA 17324
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ERMA FREW, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Co-Executors: Dolores F. Jordan, 146 Seminary Avenue, Gettysburg, PA 17325; Ronald Frew, 18146 Woodside Drive, Hagerstown, MD 21740
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CLARA V. LECRONE, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Joyce E. Altland, 120 East King Street, Box 383, East Berlin, PA 17316; Lois L. Aldinger, 503 First Montgomery Boulevard, Thorndale, PA 19372
Attorney: Donald W. Dorr, Esq., Buchen, Wise & Dorr, 126 Carlisle Street, Hanover, PA 17331

ESTATE OF ARTHUR F. O'BRIEN, JR., DEC'D
Late of the Borough of Bonneauville, Adams County, Pennsylvania
Executrix: June F. O'Brien, 823 Chris Haven Drive, Seymour, TN 37865
Attorney: Roy A. Keefer, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CATHERINE S. STAMBAUGH, DEC'D
Late of Germany Township, Adams County, Pennsylvania
Executor: John B. Stambaugh, 720 Georgetown Road, Littlestown, Pa 17340
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-902 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate lying and being partly in the Borough of Abbottstown and partly in Berwick Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

BEGINNING for a point on the right-of-way line of Spicer Drive and Lot No. 26 as shown on the hereinafter referenced Subdivision plan; thence along said Lot No. 26, South seventy-four (74) degrees sixteen (16) minutes forty-two (42) seconds West, ninety-three and nine hundredths (93.09) feet to a point at lands now of formerly of Mount Olivet Cemetery Association as shown on the hereinafter reference subdivision plan; thence along said lands now or formerly of Mount Olivet Cemetery Association, North thirteen (13) degrees eight (08) minutes twenty-four (24) seconds west, one hundred thirty-five and fourteen hundredths (135.14) feet to a point at Lot No. 24 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 24, North seventy-four (74) degrees sixteen (16) minutes forty-two (42) seconds East, eight-seven (87.00) feet to a point on the right-of-way lien of Spicer Drive; thence along the right-of-way lien of Spicer Drive, South fifteen (15) degrees forty-three (43) minutes eighteen (18) seconds East, one hundred thirty-five (135.00) feet to a point, the point and place of beginning.

CONTAINING 12,156 square feet.

HAVING THEREON ERECTED A DWELLING KNOWN AS 61 Spicer Drive, Abbottstown, PA 17301.

BEING THE SAME PREMISES WHICH B-Line Investments, Inc. by their Deed dated December 13, 1996 and recorded in Adams County Recorder of Deeds Office on December 18, 1996 in Deed Book 1305, page 70, granted and conveyed unto Ronald S. Davis and Brenda R. Davis.

SEIZED IN EXECUTION AS THE PROPERTY OF RONALD S. DAVIS, SR. A/K/A RONALD S. DAVIS AND BRENDA R. DAVIS UNDER ADAMS COUNTY JUDGMENT NO. 1998-S-902.

SEIZED and taken into execution as the property of **Ronald S. Davis, Sr. & Brenda R. Davis** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

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 April 19, 1999, 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.

2/26, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-29 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

AIL THAT improved tract of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of Old U.S. Route 15 (prior to its approximately 1963 relocation) where the same is intersected by the northern side of a road entering said State Highway from the west, said intersecting road forming the southern boundary of said road, North 48 1/4 degrees West, 20.4 perches to an iron pin on line of land now or formerly of Albert Keller (formerly a part hereof); thence by said last mentioned land, North 39 degrees East, 37 perches to an iron pin at the southwest corner of a lot containing105 perches previously sold herefrom by John Marshall Cleveland and Gladys E. Cleveland unto Harold M. and Ann Louise Cleveland, husband and wife (see Adams County Deed Book 207, at Page 233); thence by said last mentioned land, South 46 degrees 19 minutes East, 17 perches (280.4 feet), running through an iron pin on the western side of said State Highway, to a point in the center of said State Highway; thence running in the center of said State Highway, South 32 degrees West, 37.11 perches to the above described place of BEGINNING.

CONTAINING 4 acres and 21 perches, more or less.

HAVING ERECTED THEREON a 15 room motel, 2 dwelling houses and a mobile home known and numbered as 2440 Old Harrisburg Road, Straban Township, Adams County, Pennsylvania.

TAX MAP NO. G-10-13

BEING PART OF THE SAME PREMISES, which Clair F. Ditzler and Marie R. Ditzler, husband and wife, by their deed dated July 30, 1979, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 346, Page 874, sold and conveyed unto Edward J. McKenna and Patricia E. McKenna, Mortgagors herein.

LESS HOWEVER, out of the above tract of land, a tract containing 12, 936 square feet which Elwood Miller and wife by deed dated April 25, 1977 and recorded in Adams County Deed Book 330, Page 563, conveyed unto Harold M. Cleveland and wife.

SEIZED and taken into execution as the property of Edward J. McKenna & Patricia E. McKenna, judgement debtors and real owners.

SEIZED and taken into execution as the property of **Edward J. McKenna & Patricia E. McKenna** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 23, 1999.

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 April 19, 1999, 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.

3/5, 12 & 19

NOTICE

The Superior Court of Pennsylvania is now online at its own Internet site at: **www.superior.court.state.pa.us**

The site will include the published opinions of the Court, the schedule of Court Argument Sessions, various appeal forms for downloading, Internal Operating Procedures, the Annual Report for 1998, and other general information about the Court, such as the Court directory, statistics, and biographies of the judges.

Joseph J. Mittleman
Executive Administrator

3/5

Adams County Legal Journal

Vol. 40 March 12, 1999 No. 42, pp. 265-274

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-1207 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 19th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying, and being in Latimore Township, Adams County, Pennsylvania, and being more particularly described as (Lot 1471) on a plan of Lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds for Adams County, in Miscellaneous Volume 1, Page 23, and subject to all legal highways, easements, rights of way and restrictions of record.

UNDER AND SUBJECT to restrictions, conditions, and easements as more fully set forth in Deed Book 268 at Page 1038.

TAX PARCEL NUMBER: 1-16

TITLE TO SAID PREMISES IS VESTED IN Jack Cletus Orner, Jr. and Patricia K. Orner, his wife by Deed from Larry E. Stough and Judith A. Stough, husband and wife and Daniel L. Rodgers and Linda L. Rodgers, husband and wife dated 8/19/92 recorded 8/24/92 in Record Book 638 Page 1084.

SEIZED and taken into execution as the property of **Jack Cletus Orner, Jr. & Patricia K. Orner** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

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 April 12, 1999, 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.

2/26, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-N-376 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at an iron pin on the Eastern side of a 14 foot right of way, said iron pin being South 51 degrees East, 220.8 feet from a point in a joint in the walk at the curb line of Idaville Street, the latter point being the Northwest corner of the original land of Raymond E. Kint and Edna Mae Kint; thence along the line of the original tract, South 51 degrees East, 78.2 feet to an iron pin on the Western side of another alley, located to the west of the land now or formerly of the Bendersville Fire Company; thence by the western side of said alley, South 40 degrees West, 55.0 feet to an iron pin on the western side of said alley and the corner of land now or formerly of Hazel C. Hinkle; thence by said Hinkle land, North 63 degrees 10 minutes West, 80.0 feet to an iron pin on the Eastern side of the 14 foot wide right of way mentioned aforesaid; thence along the Eastern side of said 14 foot right of way, North 40 degrees East, 71.8 feet to an iron pin, the place of BEGINNING. CONTAINING 18 perches.

The description was taken from a Draft of Survey dated July 9, 1964, by LeRoy H. Winebrenner, C.S.

Being the same which David C. Keithley and Beth Lynne Keithley, both single, by their deed dated January 25, 1994, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 839 at page 184, sold and conveyed unto David C. Keithley.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 10, 1998.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/12, 19, 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-842 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows:

Lot 44: BEGINNING at a pin set at the only common corner of Lots 43, 44 and the northern edge of a 60 foot right-of-way known as Dakota Drive on the subdivision plan described below; thence along the eastern edge of Lot 43, North 25 degrees 14 minutes 45 seconds West, 110.00 feet to a pin set on the southern edge of lands now or formerly of Charles L. Messinger, Sr. and Lydia R. Messinger; thence along the southern edge of said lands and lands now or formerly of Thomas C. Klunk and Patricia Ann Klunk, North 64 degrees 45 minutes 15 seconds East, 75.00 feet to a point at the corner of Lot 45 of said plan; thence along the western edge of Lot 45, South 25 degrees 14 minutes 45 seconds East, 110.00 feet to a point on the northern edge of a 60 foot right-of-way known as Dakota Drive; thence along the northern edge of Dakota Drive, South 64 degrees 45 minutes 15 seconds West, 75.00 feet to a pin set at the corner of Lot 43 of said plan, the point and place of BEGINNING. Containing. 8,250.0000 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three-Indian Ridge," prepared by Worley Surveying dated February 21, 1994, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, Page 66, and designated thereon as Lot No. 44.

BEING a part of a larger tract of land which Lewis J. Klunk and Nadine M. Klunk, his wife by deed dated January 7, 1993, and recorded January 8, 1993, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 676, Page 226, granted and conveyed unto J. C. P., Inc., a Pennsylvania corporation, Grantor herein.

Under and subject to the Declarations and Restrictions by J. C. P., Inc., made the 4th day of April, 1995, for all of the lots known as "Indian Ridge - Phase Three", and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1013, Page 278.

SEIZED and taken into execution as the property of **Marsar Development Corporation** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 2, 1999.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/12, 19 & 26

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

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Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

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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 Monday, March 15, 1999, at 9:00 o'clock a.m.

ORDEMANN—Orphans' Court Action Number OC-3-99. The First and Final Account of James E. Stith, Executor of the Last Will and Testament of Anne Stith Ordemann, also known as Anne M. Stith, deceased, late of Straban Township, Adams County, Pennsylvania.

GARRETSON—Orphans' Court Action Number OC-6-99. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Mary L. Garretson, deceased, late of Arendtsville Borough, Adams County, Pennsylvania.

DEATRICK—Orphans' Court Action Number OC-65-97. The First and Final Account of Claude M. Lewenz, Administrator of the Estate of Ralph C. Deatrick, deceased, late of Cumberland Township, Adams County, Pennsylvania.

SPONSELLER—Orphans' Court Action Number OC-7-99. The First and Final Account of Shawn E. Sponseller, Administrator C.T.A., of the Estate of Jacqueline M. Sponseller, deceased, late of McSherrystown Borough, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk Of Courts

3/5 & 12

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

CIVIL DIVISION
NO.:98-S-181

CHASE MANHATTAN MORTGAGE CORP., f/k/a CHEMICAL RESIDENTIAL MORTGAGE CORP., f/k/a MARGARETTEN & COMPANY, INC. Plantiff,

vs.

KENNETH S. TICE and DIANNA L. TICE, Defendants.

NOTICE

If you wish to defend, you must enter a written appearance personally or by 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 without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE 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
111 Baltimore Street,
Gettysburg, PA 17325
(717) 337-9846

3/12

NOTICE

Notice is hereby given that the Reading Township Municipal Authority of Adams County, Pennsylvania, has adopted a Resolution to amend its Articles of Incorporation increasing its term of existence to a date not exceeding 50 years from the date of approval of such amendment.

An amendment to the Articles of Incorporation of Reading Township Municipal Authority shall be executed by the proper officers of the Authority in Reading Township and on March 15, 1999, or on a date thereafter, shall be filed with the Secretary of the Commonwealth of Pennsylvania pursuant to §302 of the Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended, 53 P.S. §302, as amended, the said amendment shall authorize the increase in the Authority's term of existence to a date not exceeding 50 years from the date of approval of said amendment.

Sharon E. Myers, Esquire
Solicitor, Reading Township
Municipal Authority

3/12

NOTICE

To: All those having an interest in a ten foot wide by 150 feet deep strip of land located between No. 147 and 149 Main Street, York Springs Borough, Adams County, Pennsylvania, including all heirs, assigns of owners since William Penn.

You have been sued in the Court of Common Pleas of said county. The case caption is Wayne R. and Shirley M. Wolf vs. Chalmer E. Helm, Jr. and Kay M. Helm, The Borough of York Springs, Adams County, PA, and any person or entity claiming any interest in said land as the successors, assigns, or the descendents of William Penn, Case No. 99-S-25. If you wish to defend against the claims set forth in the Complaint you must take action within twenty (20) days after this publication by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections in the claims set forth against you. 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 the relief requested by the Plaintiff. You may lose money, property or other rights important to you.

You should take this notice to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone

Court Administrator
Adams County Courthouse
Fourth Floor
Gettysburg, PA 17325
337-9846 1-888-337-9846
FAX 334-8817

Plaintiffs claim exclusive ownership of the following described tract of real estate located in the aforesaid York Springs Borough.

BEGINNING at a hole drilled in the western edge of the sidewalk of Main Street and corner of land now or formerly of Chalmer E. Helm, Jr. and Kay M. Helm; thence continuing along land of Helm South 47 degrees 15 minutes 00 seconds West 150.90 feet to an iron pin set as shown on said plan; thence along the eastern edge of Second Street North 42 degrees 45 seconds West 10.00 feet to other lands of Wayne R. and Shirley M. Wolf; thence along Wolf land North 47 degrees 15 minutes 00 seconds East 150.90 feet to the western edge of the sidewalk on Main Street; thence continuing along the western edge of sidewalk South 42 degrees 45 minutes 00 seconds East 10.00 feet to the point and place of BEGINNING.

NOTICE

If you wish to defend, you must enter a written appearance personally or by 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 without further notice for the relief requested by the Plaintiff You may lose money or property or other rights important to you.

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

Wilcox and James
234 Baltimore St.
Gettysburg, PA 17325
(717) 334-6471

3/12

1. It appears therefore that in the process of transferring a sewer project to a township the municipal authority must first satisfy its bonds and the township may agree to assume all other obligations of the authority.

2. Initially, we note that "mandamus is an extraordinary writ and is a remedy used to compel performance of a ministerial act or a mandatory duty."

3. In order to prevail in an action for mandamus, there must be a clear legal right in the appellee for performance of a ministerial act or mandatory duty, a corresponding duty in the appellant to perform the ministerial act or mandatory duty, and no other appropriate remedy available.

4. Our Supreme Court has ruled that in the exercise of a governmental, as opposed to a proprietary function, "no municipal board having legislative authority, can take action which will bind its successors...It cannot enter into a contract which will extend beyond the term for which the members of the body were elected."

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 97-S-1157, BERWICK TOWNSHIP VS. BERWICK TOWNSHIP MUNICIPAL AUTHORITY, FREDERICK O'BRIEN, PETER N. HUGGAR, WILLIAM D. MAHONE, AND MAURICE D. MYERS.

Daniel L. Sullivan, Esq. and Timothy J. Shultis, Esq., for Plaintiff
Larry W. Wolf, Esq., for Defendant

OPINION

Kuhn, J., February 26, 1998.

On December 9,1997, Plaintiff, Berwick Township ("Township"), filed a Complaint against Defendants, Berwick Township Municipal Authority ("Authority"), Frederick O'Brien, Peter N. Huggar, William D. Mahone, and Maurice D. Myers. The Complaint asked for Mandamus and Injunctive Relief. After an in chambers conference held on December 17, 1997 with the undersigned, it was agreed that in order to procure prompt resolution of this case, briefs would be filed on the legal issues and argument would be heard on January 9, 1998. Briefs were filed, argument was heard, and the case is now before this Court for disposition.

STATEMENT OF THE FACTS

The Township is a political subdivision of the Commonwealth and is properly organized under the Second Class Township Code. 53 Pa.C.S.A. §65101 et seq. The Sewage Facilities Act, 35 P.S. §750.1 et seq., hereinafter "SFA", requires the Township to develop and implement plans for a sewage disposal system. The Township is further required to develop an official plan and to submit it to the Department

of Environmental Protection ("DEP")[1]. The original plan submitted to DEP was determined to be inadequate. The Township and DEP entered into a Consent Order and Agreement ("CO&A") in May 1992 to resolve the problems with the plan and create an acceptable one.

Another official plan, known herein as the "Group Hanover Plan", was submitted to DEP and approved. On May 3, 1994, the Township formed the Authority to implement that plan. Subsequently, the Authority and the Township experienced disagreements leading to a lawsuit being filed by the Authority on March 2, 1995 and docketed at 95-S-218 in which the Authority sought, through an action for declaratory judgment, to prevent the Township from taking over the sewer project. The parties settled that lawsuit on December 11, 1995 when they executed a "Settlement Agreement." A "Joint Resolution" was also adopted approving the execution of the "Settlement Agreement."

After the parties entered into the "Settlement Agreement," they decided that the approved plan was inadequate to deal with the sewage disposal needs. The Authority then contacted Nassaux-Hemsley, Inc., a consulting engineering firm, to work on another plan for the project. Approximately one year later, Nassaux-Hemsley, Inc. presented an updated revision of the official plan to the Township. After the Township reviewed this updated plan known herein as the Nassaux-Hemsley plan, and conducted public meetings, it was rejected as unacceptable. The Township then authorized William F. Hill & Associates, Inc. to prepare yet another revised official plan. This plan, known herein as the Hill plan, was eventually adopted and approved by the Township.

Displeased with the Authority's actions on the sewer project, the Township initiated this lawsuit to regain the project pursuant to 53 P.S. § 321(A). The Authority has refused to relinquish the project claiming the Township must first satisfy all of the Authority's obligations and contends that the Township is precluded by the Settlement Agreement from taking back the project. The Township disagrees stating that it must only assume the obligations and argues that the Settlement Agreement is not an impediment to taking back the project.

On June 9,1997, DEP informed the Township that they were fining them for failing to comply with portions of the CO&A. These fines totaled $66,100.00 through April 1997 and presently continue to run at $100.00 per day.

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[1]We will use the abbrebviation DEP to refer to the Department of Environmental Resources and to the Department of Environmental Protection, as it is now titled.

LEGAL DISCUSSION

The Township argues it has a statutory right, pursuant to 53 P.S. §321(A), to take the project back from the Authority and must only assume the Authority's obligations in the process. Section 321(A) reads as follows:

> If a project shall have been established under this act by a board appointed by a municipality or municipalities, which project is of a character which the municipality or municipalities have power to establish, maintain or operate, and such municipality or municipalities desire to acquire the same, it or they may by appropriate resolution or ordinance adopted by the proper Authorities, signify its or their desire to do so, and thereupon the Authorities shall convey by appropriate instrument said project to such municipality or municipalities, *upon the assumption* by the latter of all the obligations incurred by Authorities with respect to that project. (footnotes omitted) (emphasis added).

Commonwealth Court has recently held that in enacting Section 321(A),

> The legislature intended to permit a transfer of authority property by the unilateral action of a municipality in enacting a resolution...Moreover, pursuant to section 18 (A), a municipality may, by ordinance, impose upon an authority the duty of executing the necessary documents for a transfer of all of the authority's property to its creating municipality...
>
> At the same time, there is a limitation on the ability of an authority to convey a project to a municipality and that limitation is set forth in section 14 of the Municipality Act. 53 P.S. §317...

Forward Township Sanitary Sewage Authority v. Forward Township, ___ Pa. Commw. ___,654 A.2d 170,174-5(1995) (citations omitted).

Section 317 reads, in pertinent part, as follows:

> When any *Authority shall have finally paid and discharged all bonds* which, together with the interest due thereon, shall have been secured by a pledge of any of the revenues or receipts of a project, *it may (subject to any agreements concerning the operation or disposition of such project) convey such project to the municipality* or municipalities creating the Authority. ...When any Authority shall

> have finally paid and discharged all bonds issued and outstanding and the interest due thereon, and settled all other claims which may be outstanding against it, it may convey all its property to the municipality or municipalities...and may then terminate its existence. A certificate requesting the termination of the existence of the Authority shall be submitted to the municipality or municipalities creating the Authority. If the certificate is approved by the municipality or municipalities, then the certificate endorsed with such approval shall be filed with the Secretary of the Commonwealth, and thereupon the said secretary shall note the termination of existence in the record of incorporation and return the certificate with his approval shown thereon to the board. ...Thereupon the property of said Authority shall pass to the municipality or municipalities...and the Authority shall cease to exist. (emphasis added).

Thus, if one read Section 321(A) alone, it would appear that the Township's position is correct because the statute only speaks of "assumption" of the Authority's obligations. However, Section 321(A) must be read in conjunction with Section 317 which also applies to the conveyance of a project between a township and an authority. See, Allegheny County v. Moon Township Municipal Authority, 543 Pa. 326, 331-2, 671 A.2d 662, 665 (1996) (noting that "§§ 317 and 321 of the Municipal Authorities Act address the transfer of an authority's project to the municipality or municipalities that created the authority").

Specifically, in Forward Township Sanitary Sewage Authority v. Forward Township, supra. the Court held that *"where there are no impediments under section 14 [53 P.S. § 317] of the Municipality Act,* and an authority is not foisting its debts upon a municipality without its consent, a municipality has the power to take over the project of an authority pursuant to section 18(A) [53 P.S. §321A] of the Municipality Act." 645 A.2d at 175 (citations omitted) (emphasis added).

It appears therefore that in the process of transferring a sewer project to a township the municipal authority must first satisfy its bonds and the township may agree to assume all other obligations of the authority. Thus, the question becomes whether or not the Authority has any bond issues. A bond is defined in broad terms under the Municipalities Act. Section 53 P.S. §302(c) reads:

> The term "bonds" shall mean and include the notes, bonds and other evidence of indebtedness or obligations which each Authority is authorized to issue pursuant to section 4(i) of this act. (footnote omitted).

The footnote explains that 53 P.S. §306B(i) sets forth what the Authority is authorized to issue. This Section provides, in pertinent part, that:

> B. Every Authority is hereby granted, and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:
>
> (i) To borrow money, make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations (herein called "bonds") of the Authority, said bonds to have a maturity date not longer than forty years from the date of issue, except that no refunding bonds shall have a maturity date later than the life of the Authority, and to secure the payment of such bonds or any part thereof by pledge or deed of trust of all or any of its revenues and receipts, and to make such agreements with the purchasers or holders of such bonds.. as the Authority shall deem advisable. ...

53 P.S. § 306B(i).

The only evidence of indebtedness in the case at hand that could be considered a bond, as defined in the Municipality Act, is a loan agreement between the Township and Farmers Bank, a division of Dauphin Deposit Bank. Although the agreement is between the Township and the Bank, the Authority executed a consent and joinder to that agreement. Specifically, the consent and joinder states:

> Berwick Township Municipal Authority consents to and joins the terms and conditions of the foregoing Loan Agreement between the Township of Berwick and Farmers Bank, a division of Dauphin Deposit Bank and Trust Company, pursuant to which the Township is borrowing up to $550,000 as evidenced by its General Obligation Note, Series of 1996, dated August 9,1996, a portion of the proceeds of which will be deposited with the Authority for the purpose of paying the costs of the Sewer System Project.

(Authority's Petition for Relief and for Rule to Show Cause, 95-S-218, Exhibit D).

Additionally, the loan agreement states as follows:

> WHEREAS, It is the intent of the Township to loan a portion of the proceeds of the 1996 Note to the Authority to

> complete the Sewer System Project, the Township and the Bank desire the Authority to execute a consent and joinder to this Agreement, *thereby obligating the Authority to the terms and conditions of this Agreement.* (emphasis added).

(Authority's Petition for Relief and for Rule to Show Cause, 95-S-218, Exhibit D).

Thus, the Authority is a party to the loan agreement and is bound by its terms. However, under the Municipality Act, this type of obligation is considered a bond only when it is to be paid out of the revenue of the project. See, Forward Township Sanitary Sewage Authority v. Forward Township, 654 A.2d at 175 n.6 (holding that a loan evidenced by a note in favor of a bank that is not secured by the receipts or revenues of the Authority project is not a bond as defined under 53 P.S. §§ 306B(i) and 317). Thus, in the case at hand, because the loan to which the Authority is a party is not secured by the receipts or revenues of the Authority's project, it is not a bond.

As there is no outstanding bond issue, the Township would be permitted to take the project back from the Authority pursuant to Sections 317 and 321(A) of the Municipality Act. However, although the Township would normally be permitted to take the project from the Authority upon assumption of the authority's obligations, the Authority argues that there are outstanding circumstances in the case at hand, namely, a settlement agreement between the parties. Therefore, we must address the question of whether or not the "Settlement Agreement" entered into between the Township and the Authority regarding the first lawsuit acts as an "impediment" to the instant mandamus action.

Initially, we note that "mandamus is an extraordinary writ and is a remedy used to compel performance of a ministerial act or a mandatory duty." Borough of Plum v. Tresco, 146 Pa. Commw. 639, 643, 606 A.2d 951, 953 (1992). Additionally, the Pennsylvania Supreme Court has said:

> In order to prevail in an action for mandamus, there must be a clear legal right in the appellee for performance of the ministerial act or mandatory duty, a corresponding duty in the appellant to perform the ministerial act or mandatory duty, and no other appropriate remedy available.

Forward Township Sanitary Sewage Authority v. Forward Township, 654 A.2d at 174 (citing Equitable Gas Company v. City of Pittsburgh, 507 Pa. 53, 488 A.2d 270 (1985)).

The parties have taken opposing positions on the effectiveness of the "Settlement Agreement." Before examining those positions some detailed relevant historical background should be examined.

On April 27, 1992, the Township submitted a revised plan prepared by Group Hanover, Inc. That plan contemplated a pressure collection system with disposal by spray irrigation on a privately owned golf course. That plan was approved by DEP on December 17, 1992. This was the only approved plan in existence when the Authority was formed on May 3, 1994. Two months later on July 8, 1994, DEP issued a permit authorizing construction of the system designed by Group Hanover, Inc. This was the sewer project which was conveyed by the Township to the Authority on September 12, 1994.

By November 1994, the Authority's engineer, Nassaux-Hemsley, Inc., was reviewing the Group Hanover plan and a dispute arose between the parties as to whether the Authority was following the parameters of the approved plan. As a result of this disagreement, the Township on January 3, 1995 and February 13, 1995 passed resolutions indicating its intent to take back the approved project. In response to these resolutions the Authority filed the lawsuit docketed at 95-S-218. That litigation was resolved by the "Settlement Agreement" dated December 11, 1995.

The "Settlement Agreement" set forth in its preambles that a sewer project (the Group Hanover plan) was conveyed to the Authority on September 12, 1994, that disputes arose, that the Township acted to regain control over the project but that the parties had negotiated to return the project to the Authority. The Agreement called for the parties to adopt a Joint Resolution whereby the Township would transfer to the Authority "the Act 537 Sanitary sewer project *presently* being pursued by Berwick Township" (emphasis added by the Court) and rescind the resolutions adopted to reacquire the project and the Authority would "carry out and implement said project in conformity with contractual and statutory limitations imposed by the Pennsylvania Municipal Authorities Act of 1945, 53 P.S. Section 301, et seq."

The Agreement further provided that the Authority would hire an engineer (other than Group Hanover, Inc.), and, upon receipt of the construction permits from the Township, would have the right to forego construction of a system, or to deviate from the plan "as long as the existing permit is satisfied". The Township, in turn, agreed to amend its 537 Plan to make changes which were "legally necessary" and DEP "required".

Subsequently, in early 1996 both parties agreed that the Group Hanover plan was not feasible because the golf course site for the spray irrigation could not accommodate the entire discharge. The Authority hired Nassaux-Hemsley to prepare a revised Act 537 plan which when presented to the Township for approval was rejected for reasons not

relevant to this discussion. The Township then authorized its engineer, William F. Hill & Associates, Inc., to prepare a revised Act 537 plan.

Finally, on September 15, 1997, the Township adopted an ordinance to acquire the sewer project from the Authority and assume all of the Authority's obligations relative to the project. On October 31, 1997, the Hill plan was submitted to DEP for review.

For several reasons we conclude that the Settlement Agreement is not an impediment to the Township's ability to acquire the project pursuant to §321(A).

First, after careful review of the agreement we find that the end result of the agreement was to put the parties in exactly the same position as they were in prior to January 3, 1995 when the Township first moved to acquire the project from the Authority. At that time Section 321(A), subject to the limitations in Section 317, would have provided the framework within which the parties could proceed. Furthermore, we find no express language in the agreement, nor any by necessary implication, which precluded the Township from pursuing its rights under §321(A). For example, in County of Mifflin v. Mifflin County Airport Authority, 63 Pa. Commw. Ct. 56, 437 A.2d 781 (1981) the county was precluded from acquiring an authority's property because a trust indenture for outstanding bonds limited the right acquisition to the authority's failure, neglect or cessation of operation of the airport. Because these prerequisites had not occurred the county could not acquire the property. In the instant agreement there is no similar limiting language.

We recognize that Paragraph 7 of the Settlement Agreement provides that until the agreement "is terminated pursuant to its terms" the parties would use their best efforts to defend the validity of the agreement. We do not believe this language adds any substance to the Authority's position. Initially, it is difficult to ascertain the meaning of "terminated pursuant to its terms". There are no time limits placed in the agreement nor are there any express limitations similar to those in the Mifflin case. The Township argues that the Settlement Agreement, to the extent it had any validity, was limited to the "project" as that term was understood at the time. This issue will be discussed below.

Second, although the County of Mifflin case suggests that limitations can be contractually placed upon a municipality's right to take back a project from an authority the limitation in that case fell within the parameters of Section 317 which allows an authority to convey a project to a municipality "(subject to any agreements concerning the operation or disposition of such project)." As noted, in Mifflin the trust indenture prohibited the transfer of authority property except upon

certain conditions. We question whether circumstances other than those dealing with bonds and Section 317 would allow a township to legally transfer its rights under Section 321(A) in perpetuity.

Pursuant to the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 et seq., the Township has the obligation to submit an officially adopted sewage plan to DEP. 35 P.S. §750.5(a). The Municipality Authorities Act of 1945, 53 P.S. §301, et seq., in turn, allows a township to delegate its responsibilities under the Sewage Facilities Act to an Authority. However, it does not logically follow by the fact that a township can statutorily delegate its responsibilities that it can also contractually limit its right to reacquire a project. It would appear to be contrary to public policy to allow one township board of supervisors to delegate all future sewage responsibility to an authority without allowing a future board the right to exercise its power under Section 321(A). Unlike the settlement of a personal injury claim which would be binding upon future boards the Settlement Agreement cannot be viewed as binding upon future boards because to do so would be restricting future boards in the exercise of a governmental function.

The Second Class Township Code, 53 P.S. §65101, et seq. grants enumerated governmental powers to townships including the right by ordinance to make regulations respecting the installation of public sewage systems under the S.F.A. 53 P.S. §66522. Our Supreme Court has ruled that in the exercise of a governmental, as opposed to a proprietary function, "no municipal board having legislative authority, can take action which will bind its successors...It cannot enter into a contract which will extend beyond the term for which the members of the body were elected." Nutchell v. Chester Housing Authority, 389 Pa. 314, 321, 132 A.2d 873, 877 (1957). See also Falls Township v. McManamon, 113 Pa. Commw. Ct. 504, 537 A.2d 946 (1988). Thus, it follows that the Settlement Agreement does not place an impediment upon the current township board of supervisors to exercise its authorized governmental powers.

Third, as noted earlier the Township argues that the project referred to in the Settlement Agreement is not the same project being pursued at the present time. The agreement is premised by reference to "the project". It is clear from the historical background set forth above that the only project contemplated by the Agreement as of December 11, 1995 was the Group Hanover plan. Shortly thereafter that "project" was abandoned, the Nassaux-Hemsley plan was developed and rejected, and the Hill plan was submitted to DEP as a revised Act 537 plan. These changes apparently were not required by DEP. Even though the agreement allowed for revision of the project such revision

was limited to changes which were "legally necessary" and "which DEP requires". (¶5(b)). There is no suggestion that abandonment of the Group Hanover plan met either of these criteria. Thus, it would appear that the project contemplated by the agreement is no longer being pursued and, therefore, even if the agreement had been an impediment to the Township's right to exercise its Section 321(A) powers, it no longer remains an impediment.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 26th day of February 1998, in consideration of the attached Opinion and the pleadings filed in this matter it is ordered that:

1. Plaintiff has the right pursuant to 53 P.S. §321(A) to order Defendant to convey to it the sewer project by appropriate actions and instruments;
2. Plaintiff shall assume all obligations of Defendant as contemplated by 53 P.S. §321(A);
3. Defendant shall incur no further obligation with respect to the sewer project; and
4. Defendant shall convey to Plaintiff all its books, records and assets related to the sewer project.
5. The conveyance provisions of this Order shall be complied with within forty (40) days of the date of this Order.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-994 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece or parcel of land siuate in the Township of Germany, County of Adams and Commonwealth of Pennsylvania.

Tract No. 1: BEGINNING at a steel pin on the eastern property line of Tract No. 2 below described, and the westernmost corner of land now or formerly of Laverne P. Louey, which point of beginning is South 26 degrees 18 minutes 23 seconds West, 642.50 feet from a point in the center line of U.S. Route 140; thence by said land of Laverne P. Louey, South 63 degrees 41 minutes 37 seconds East. 20.00 feet to a steel pin at corner of land now or formerly of Clair D. Worley; thence by said land of Clair D. Worley, South 26 degrees 18 minutes 23 seconds West, 290.40 feet to a steel pin; thence by same, South 63 degrees 41 minutes 37 seconds East, 150 feet to a steel pin at corner of land now or formerly of Sterling S. Sell; thence by said other land of Sterling S. Sell, South 63 degrees 41 minutes 37 seconds East, 94.99 feet to a steel pin; thence by same, South 26 degrees 18 minutes 23 seconds West, 800.00 feet to a steel pin; thence by same North 63 degrees 41 minutes 37 seconds West, 264.99 feet to a steel pin on line of land now or formerly of William A. Russ; thence by said land of William S. Russ, North 26 degrees 18 minutes 23 seconds East, 916.02 feet to a steel pin at corner of land now or formerly of Chester A. Spangler; thence by said land of Chester A. Spanger, North 26 degrees 18 minutes 23 seconds East, 174.38 feet to a steel pin, the place of BEGINNING. CONTAINING 5.000 acres.

The above description was taken from a draft of survey by J.H. Rife, R.E., dated July 12, 1976, designating the above at Lot No. 1.

Tract No. 2: BEGINNING at a point in the center line of U.S. Route 140 at the northernmost corner of land now or formerly of Laverne P. Louey; thence by said land of Laverne P. Louey, and passing through a steel pin set back 50.00 feet from the last mentioned point, South 26 degrees 18 minutes 23 seconds West, 642.50 feet to a steel pin at corner of Tract No. 1 above described; thence by same, South 26 degrees 18 minutes 23 seconds West, 174.38 feet to a steel pin at corner of land, now or formerly of William A. Russ; thence by said land of William A. Russ, North 57 degrees 32 minutes 37 seconds West, 20.12 feet to a steel pin at corner of land now or formerly of Chester A. Spangler; thence by said land of Chester A. Spangler, and passing through a steel pin set back 50.00 feet from the next mentioned point, North 26 degrees 18 minutes 23 seconds East, 809.80 feet to a point in the center line of U.S. Route 140 aforesaid; thence in said center line of U.S. Route 140, South 77 degrees 30 minutes 46 seconds East, 20.60 feet to a point, the place of BEGINNING. CONTAINING 0.3735 Acre.

Being known as: 5063 Baltimore Pike

Tax Parcel #I17-0011A

Title to said premises is vested in Gary P. Koontz by deed from Rayonne H. Koontz, Married, dated 10/26/1982 recorded 10/29/1982 in deed book 365 page 128.

SEIZED and taken into execution as the property of **Gary P. Koontz & Roxanne H. Koontz** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 23, 1999.

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 April 19, 1999, 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.

3/5, 12 & 19

PARTNERSHIP DISSOLUTION NOTICE

Notice is hereby given, that the Studio 16 Partnership has been dissolved. A Notice of Cancellation of Fictitious Name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on March 3, 1999. The business partnership was located at 16 South Queen Street, Littlestown, Pennsylvania 17340. The name and address of the persons who were party to the registration are Sandra M. Hawk, 2744 Church Lane, Taneytown, Maryland 21787 and Amy E. Forbes, 90 Lovers Drive, Hanover, Pennsylvania 17331. Mrs. Hawk will now operate Studio 16 Hairstyling as a sole proprietorship. Ms. Forbes will operate Artistic Reflections, also as a sole proprietorship.

Thomas R. Campbell
CAMPBELL & WHITE
122 Baltimore Street
Gettysburg, PA 17325
Attorneys for Applicant

3/12

NOTICE

TO: Jorge Espinoza

You are hereby notified that a lawsuit has been filed against you at Kelly Cuttitta, by Christopher Cuttitta and Vicki Cuttitta, her parents and natural guardians, and as individuals v. Walwood Inn, Inc., William E. Wallace, Janet B. Wallace and Jorge Espinoza, Case No. 95-S-279 in the Court of Common Pleas of Adams County, Pennsylvania.

The facts of the accident involve your alleged negligence in driving a motor vehicle recklessly on September 3, 1994, allegedly driving through a stop sign and allegedly driving while intoxicated, resulting in a two-car collision near the Walwood Inn, near the intersection of Gabler's Road and Carlisle Road, Adams County, Pennsylvania, at approximately 10:00 p.m., and resulting in disfiguring injuries to Plaintiff Kelly Cuttitta, a minor child. Plaintiffs have requested a judgment against you in an amount in excess of $25,000.00.

You are required to file a written response to Plaintiffs' Complaint within thirty (30) days of this advertisement. If you fail to file a written response to this Complaint, a default judgment may be entered against you without further notice.

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.

LEGAL REFERRAL SERVICE
THE ADAMS COUNTY BAR ASSOCIATION
111-117 BALTIMORE STREET
GETTYSBURG, PENNSYLVANIA
17325
(717) 334-6781

Patti Collins Lerda, Esquire
2006 Noble Street
Pittsburgh, PA 15218

3/12

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 ELIZABETH C. EVANS, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executors: James VanCleve Lott, 30 East High Street, Gettysburg, PA 17325; William McIlhenny Lott, 6971 Oxford Road, Gardners, PA 17324
Attorney: Edward B. Bulleit, Esq., 16 Lincoln Sq., Gettysburg, PA 17325

ESTATE OF MILDRED R. FLYNN, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, Gettysburg, PA 17325

ESTATE OF ANNA S. PARLEMAN, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Executrix: Bonnie Lou Yelovich, 1634 Carrols Tract Road, Orrtanna, PA 17353
Attorney: Kevin Robinson, Esq., 60 E. Middle Street, Gettysburg, PA 17325

ESTATE OF MALCOLM V. WINTRODE, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331
Attorney: G. Steven McKonly, Attorney, 119 Baltimore Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF WILLIE LARUTHE DEGROFT, DEC'D
Late of Borough of Littlestown, Adams County, Pennsylvania
Executor: Robert B. DeGroft, c/o 230 York Street, Hanover, PA 17331
Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF EARL W. HARBAUGH, DEC'D
Late of Liberty Township, Adams County, Pennsylvania
Executor: Robert E.E. Harbaugh, 54 Cove Hollow Road, Fairfield, PA 17320
Attorney: Barbara Jo Entwistle, Esquire, Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF HARRY REBERT LIPPY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Kathryn Riley, 3281 Grafton Street, Manchester, MD 21102; Daniel C. Riley, 3281 Grafton Street, Manchester, MD 21102
Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF MARIE S. KELLER, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Executors: Gerald R. Keller, P.O. Box 61, McKnightstown, PA 17343; Roland S. Keller, 108 Halleck Place, Altoona, PA 16602
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BESSIE K. KOHR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Janet E. Miller, 60 Piper Drive, New Oxford, PA 17350
Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF NORA ELIZABETH MCMASTER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Cyril N. McMaster, Jr., 18 Laurel Drive, Hanover, PA 17331
Attorney: Judith Koper Morris, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF RICHARD E. MILLER, DEC'D
Late of Tyrone Township, Adams County, Pennsylvania
Executrix: Dorothy C. Miller, 190 Schoolhouse Road, Aspers, PA 17304
Attorney: Barbara Jo Entwistle, Esquire, Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF EFFIE R. FOX, DEC'D
Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executor: Charles R. Fox, 283 Accomac Road, York, Pennsylvania 17406
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JUNIOR EARL MATHIAS a/k/a J. EARL MATHIAS, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Robert Earl Mathias, R. D. #1, Box 334C, Abbottstown, Pennsylvania 17301
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, Pennsylvania 17331

ESTATE OF BLANCHE E. REICHART, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Dorothy Reichart Mummert, 320 Pine Street, Hanover, PA 17331
Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, Pennsylvania 17331

ESTATE OF EUGENE W. SMITH, SR., a/k/a EUGENE WILLIAM SMITH, SR., DEC'D
Late of Conewago Township, Adams County, Pennsylvania
Executors: Robert E. Smith; Richard J. Smith
Attorney: David C. Smith, Esquire, 334 Main Street, McSherrystown, PA 17344

ESTATE OF LAVERE M. STARNER, DEC'D
Late of Reading Township, Adams County, Pennsylvania
Executors: William L. Starner, 5526 Carlisle Pike, New Oxford, PA 17350; Delores V. Sheffield, 3291 Horizon Drive, Lancaster, PA 17601; Shirley L. Heagey, 5500 Carlisle Pike, New Oxford, PA 17350
Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-902 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate lying and being partly in the Borough of Abbottstown and partly in Berwick Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

BEGINNING for a point on the right-of-way line of Spicer Drive and Lot No. 26 as shown on the hereinafter referenced Subdivision plan; thence along said Lot No. 26, South seventy-four (74) degrees sixteen (16) minutes forty-two (42) seconds West, ninety-three and nine hundredths (93.09) feet to a point at lands now of formerly of Mount Olivet Cemetery Association as shown on the hereinafter reference subdivision plan; thence along said lands now or formerly of Mount Olivet Cemetery Association, North thirteen (13) degrees eight (08) minutes twenty-four (24) seconds west, one hundred thirty-five and fourteen hundredths (135.14) feet to a point at Lot No. 24 as shown on the hereinafter referenced subdivision plan; thence along Lot No. 24, North seventy-four (74) degrees sixteen (16) minutes forty-two (42) seconds East, eight-seven (87.00) feet to a point on the right-of-way lien of Spicer Drive; thence along the right-of-way lien of Spicer Drive, South fifteen (15) degrees forty-three (43) minutes eighteen (18) seconds East, one hundred thirty-five (135.00) feet to a point, the point and place of beginning.

CONTAINING 12,156 square feet.

HAVING THEREON ERECTED A DWELLING KNOWN AS 61 Spicer Drive, Abbottstown, PA 17301.

BEING THE SAME PREMISES WHICH B-Line Investments, Inc. by their Deed dated December 13, 1996 and recorded in Adams County Recorder of Deeds Office on December 18, 1996 in Deed Book 1305, page 70, granted and conveyed unto Ronald S. Davis and Brenda R. Davis.

SEIZED IN EXECUTION AS THE PROPERTY OF RONALD S. DAVIS, SR. A/K/A RONALD S. DAVIS AND BRENDA R. DAVIS UNDER ADAMS COUNTY JUDGMENT NO. 1998-S-902.

SEIZED and taken into execution as the property of **Ronald S. Davis, Sr. & Brenda R. Davis** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 16, 1999.

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 April 19, 1999, 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.

2/26, 3/5 & 12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-29 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

AIL THAT improved tract of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of Old U.S. Route 15 (prior to its approximately 1963 relocation) where the same is intersected by the northern side of a road entering said State Highway from the west, said intersecting road forming the southern boundary of said road, North 48 1/4 degrees West, 20.4 perches to an iron pin on line of land now or formerly of Albert Keller (formerly a part hereof); thence by said last mentioned land, North 39 degrees East, 37 perches to an iron pin at the southwest corner of a lot containing105 perches previously sold herefrom by John Marshall Cleveland and Gladys E. Cleveland unto Harold M. and Ann Louise Cleveland, husband and wife (see Adams County Deed Book 207, at Page 233); thence by said last mentioned land, South 46 degrees 19 minutes East, 17 perches (280.4 feet), running through an iron pin on the western side of said State Highway, to a point in the center of said State Highway; thence running in the center of said State Highway, South 32 degrees West, 37.11 perches to the above described place of BEGINNING.

CONTAINING 4 acres and 21 perches, more or less.

HAVING ERECTED THEREON a 15 room motel, 2 dwelling houses and a mobile home known and numbered as 2440 Old Harrisburg Road, Straban Township, Adams County, Pennsylvania.

TAX MAP NO. G-10-13

BEING PART OF THE SAME PREMISES, which Clair F. Ditzler and Marie R. Ditzler, husband and wife, by their deed dated July 30, 1979, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 346, Page 874, sold and conveyed unto Edward J. McKenna and Patricia E. McKenna, Mortgagors herein.

LESS HOWEVER, out of the above tract of land, a tract containing 12, 936 square feet which Elwood Miller and wife by deed dated April 25, 1977 and recorded in Adams County Deed Book 330, Page 563, conveyed unto Harold M. Cleveland and wife.

SEIZED and taken into execution as the property of Edward J. McKenna & Patricia E. McKenna, judgement debtors and real owners.

SEIZED and taken into execution as the property of **Edward J. McKenna & Patricia E. McKenna** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 23, 1999.

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 April 19, 1999, 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.

3/5, 12 & 19

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately February 22, 1999, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of COMMUNITY WELCOME, with its principal place of business at 160 White Rd., Gettysburg, PA. The names and addresses of the persons owning or interested in said business are Virginia M. Davis residing at 160 White Road, Gettysburg, PA; Geraldine O. Markle, residing at 21 Spruce Dr., Gettysburg, PA. The character or nature of the business is home greeting service.

Virginia M. Davis

3/12

Adams County Legal Journal

Vol. 40 March 19, 1999 No. 43, pp. 275-278

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-N-376 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at an iron pin on the Eastern side of a 14 foot right of way, said iron pin being South 51 degrees East, 220.8 feet from a point in a joint in the walk at the curb line of Idaville Street, the latter point being the Northwest corner of the original land of Raymond E. Kint and Edna Mae Kint; thence along the line of the original tract, South 51 degrees East, 78.2 feet to an iron pin on the Western side of another alley, located to the west of the land now or formerly of the Bendersville Fire Company; thence by the western side of said alley, South 40 degrees West, 55.0 feet to an iron pin on the western side of said alley and the corner of land now or formerly of Hazel C. Hinkle; thence by said Hinkle land, North 63 degrees 10 minutes West, 80.0 feet to an iron pin on the Eastern side of the 14 foot wide right of way mentioned aforesaid; thence along the Eastern side of said 14 foot right of way, North 40 degrees East, 71.8 feet to an iron pin, the place of BEGINNING. CONTAINING 18 perches.

The description was taken from a Draft of Survey dated July 9, 1964, by LeRoy H. Winebrenner, C.S.

Being the same which David C. Keithley and Beth Lynne Keithley, both single, by their deed dated January 25, 1994, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 839 at page 184, sold and conveyed unto David C. Keithley.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 10, 1998.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/12, 19, 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-842 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows:

Lot 44: BEGINNING at a pin set at the only common corner of Lots 43, 44 and the northern edge of a 60 foot right-of-way known as Dakota Drive on the subdivision plan described below; thence along the eastern edge of Lot 43, North 25 degrecs 14 minutes 45 seconds West, 110.00 feet to a pin set on the southern edge of lands now or formerly of Charles L. Messinger, Sr. and Lydia R. Messinger; thence along the southern edge of said lands and lands now or formerly of Thomas C. Klunk and Patricia Ann Klunk, North 64 degrees 45 minutes 15 seconds East, 75.00 feet to a point at the corner of Lot 45 of said plan; thence along the western edge of Lot 45, South 25 degrees 14 minutes 45 seconds East, 110.00 feet to a point on the northern edge of a 60 foot right-of-way known as Dakota Drive; thence along the northern edge of Dakota Drive, South 64 degrees 45 minutes 15 seconds West, 75.00 feet to a pin set at the corner of Lot 43 of said plan, the point and place of BEGINNING. Containing. 8,250.0000 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three-Indian Ridge," prepared by Worley Surveying dated February 21, 1994, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, Page 66, and designated thereon as Lot No. 44.

BEING a part of a larger tract of land which Lewis J. Klunk and Nadine M. Klunk, his wife by deed dated January 7, 1993, and recorded January 8, 1993, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 676, Page 226, granted and conveyed unto J. C. P., Inc., a Pennsylvania corporation, Grantor herein.

Under and subject to the Declarations and Restrictions by J. C. P., Inc., made the 4th day of April, 1995, for all of the lots known as "Indian Ridge - Phase Three", and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1013, Page 278.

SEIZED and taken into execution as the property of **Marsar Development Corporation** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 2, 1999.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/12, 19 & 26

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

All that tract of land situate In the Borough of New Oxford, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING on Pitt Street; thence South 170 feet to an alley; thence East 60 feet along said alley; thence North 170 feet to Pitt Street; thence West 60 feet along said Pitt Street to the place of BEGINNING, Being known as 321 Lincoln Way West, New Oxford, PA 17350.

TAX ID# 4-54

SEIZED and taken into execution as the property of **Frank W. Beadle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
February 20, 1999.

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 May 10, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/19, 26 & 4/11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April 9, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows:

LOT 51: BEGINNING at a point at the only common corner of Lots 50, 51 and the northern edge of a 60 foot right-of-way known as Dakota Drive on the subdivision plan described below; thence along the eastern edge of Lot 50, North 25 degrees 14 minutes 45 seconds West, 110.04 feet to a point on the southern edge of lands now or formerly of Nelson R. Warner and Jacqueline A. Warner; thence along the southern edge of said lands, North 64 degrees 44 minutes 03 seconds East, 75.00 feet to a point at the corner of Lot 52 of said plan; thence along the western edge of Lot 52, South 25 degrees 14 minutes 45 seconds East, 110.06 feet to a point on the northern edge of a 60 foot right-of-way known as Dakota Drive; thence along the northern edge of Dakota Drive, South 64 degrees 45 minutes 15 seconds West, 75.00 feet to a point at the corner of Lot 50 of said plan, the point and place of BEGINNING. Containing 8,253.7775 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three - Indian Ridge", prepared by Worley Surveying dated February 21, 1994, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, Page 66, and designated thereon as Lot No. 51.

BEING a part of a larger tract of land which Lewis J. Klunk and Nadine M. Klunk, his wife by deed dated January 7, 1993, and recorded January 8, 1993, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 676, Page 226, granted and conveyed unto J. C. P., Inc., a Pennsylvania corporation, Grantor herein.

Under and subject to the Declarations and Restrictions by J. C. P., Inc., made the 4th day of April, 1995, for all of the lots known as "Indian Ridge - Phase Three", and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1013, Page 278.

SEIZED and taken into execution as the property of **Marsar Development Corporation** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 2, 1999.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/19, 26 & 4/1

NOTICE OF INCORPORATION

NOTICE is hereby given that SPECIALTY CONSTRUCTION SERVICES, INC. has been incorporated under the provisions of the Business Corporation Law of 1988.

Larry W. Wolf,
Solicitor

3/19

FICTITIOUS NAME

NOTICE is hereby given that an application for registration has been filed with the Department of State of the Commonwealth of Pennsylvania, with respect to the Registration of Fictitious Name under 54 PA C.S. §311. The Fictitious Name is ALLURING HAIR DESIGNS.

Brenda K. Keister-George
805 Old Harrisburg Road
Gettysburg, PA 17325

3/19

COMMONWEALTH VS. SUKEENA

1. In an appeal from suspension or revocation of operating privileges, the Commonwealth must prove: (1) that appellant was arrested for driving under the influence; (2) that the trooper asked appellant to submit to a blood test; (3) that appellant refused; and (4) that appellant was specifically warned that his refusal would result in a revocation of his operating privileges.

2. A mere refusal to sign a consent form is not a refusal to submit to a blood test, but may be considered in determining if a driver's consent is unqualified and unequivocal.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 97-S-1126, COMMONWEALTH OF PENNSYLVANIA VS. ROBERT E. SUKEENA.

George Kabusk, Esq., for Commonwealth
Robert J. Chester, Esq., for Defendant

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

Spicer, P.J., March 4, 1998.

Appellant appeals from an order entered February 10, 1998, affirming suspension or revocation of appellant's operating privileges for a period of one year. Action by the Department of Transportation was based upon appellant's refusal to submit to a blood test at Gettysburg Hospital, following appellant's arrest for driving under the influence.

Evidence at the hearing (2-10-98) established that Gregory Dietz, a Pennsylvania State Trooper, effected a traffic stop after following appellant and observing erratic driving and speeding on September 27, 1997. Once stopped, appellant displayed classic signs of alcohol ingestion and was arrested by the officer. Trooper Dietz described appellant as being extremely loud, obnoxious, belligerent and uncooperative. Dietz gave O'Connell warnings[1] and explained Pennsylvania's Implied Consent Law. After being transported to Gettysburg Hospital, appellant refused to alight from the police cruiser and had to be carried into the reception room. When asked if he would sign a consent form and submit to a blood test, appellant wanted his rights read again. Appellant went to the bathroom and after ten minutes had to be encouraged to leave.

Dietz specifically asked appellant, "Are you going to take the test, yes or no?" Appellant answered, "no," then refused to get up from his chair. After requiring the officer to physically pick him up, appellant said he had changed his mind, but Dietz's patience was exhausted at that point.

Appellant's version was entirely different. He described himself as cooperative and said he only tried to read the consent forms at the

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[1]Commonwealth, Department of Transportation, v. O'Connell, 521 Pa. 242, 555 A.2d 873 (1989).

hospital. He said every time he began to read, Trooper Dietz interrupted him and he was required to begin all over again.

As in any cases where there is a conflict in evidence, this case came down to a question of credibility. Appellant attempted to present the factual situation as one involving demands that he sign a consent form, with him reasonably asking for an opportunity to read and consider the form first. He said he was cooperative.

The undersigned found appellant's version incredible, despite bits of testimony that tended to support it.

Commonwealth was required to prove: 1) that appellant was arrested for driving under the influence; 2) that Trooper Dietz asked appellant to submit to a blood test; 3) that appellant refused; and, 4) that appellant was specifically warned that his refusal would result in a revocation of his operating privileges. Commonwealth, Department of Transportation v. Boucher, 547 Pa. 440, 691 A.2d 450 (1997).

This judge attempted to harmonize various Commonwealth Court decisions in *Penn Dot v. Keller*, 35 Adams County Legal Journal 255 (1993). That decision held that, although a driver may not be required to sign a consent form, he or she must unequivocally agree to submit to a test in order for requirements for signing a form to become relevant. A copy of the opinion is appended to this statement.

Keller is consonant with Supreme Court's decision in Commonwealth, Department of Transportation v. Renwick, 543 Pa. 122, 669 A.2d 934 (1996). Our highest appellate court said that mere refusal to sign a consent form is not a refusal to submit to a test, but may be considered in determining if a driver's consent is unqualified and unequivocal.

Appellant never gave an unqualified and unequivocal consent during any relevant time period. In fact, he unequivocally refused, when put to the test. We think the officer was extremely patient, under all the circumstances, and can be excused from giving appellant another chance appellant did not deserve. It is clear he pursued a strategy of delay and obstreperousness.

PENN DOT VS. KELLER

1. On an appeal from a license suspension, if a driver has consented to submit to a blood test, he may refuse to sign a hospital consent or may ask that offending portions be deleted before signing.

2. In a license suspension appeal, if the driver does not consent to submit to a blood test, he is prevented from complaining about the hospital consent form.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil No. 93-S-635, COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION VS. JAMIE KELLER.

Terri J. Cianci, Esq., for Plaintiff
Barbara Jo Entwistle, Esq., for Defendant

OPINION ON LICENSE SUSPENSION APPEAL

Spicer, P.J., November 9, 1993.

This court conducted a hearing October 25, 1993, and gave counsel an opportunity to present legal authority for their respective positions. No notes of testimony have been transcribed. The court relies upon trial notes and memory.

Two persons testified, the arresting officer, Dennis Brilihart of the Littlestown police department, and Clark Keller, appellant's brother. There are minor factual disputes but generally testimony can be reconciled.

The officer first noticed appellant on the square (main intersection) in Littiestown on June 3, 1993. Appellant's car stereo was too loud and appellant turned right without signaling, spinning her tires in the process. The officer followed and said that Ms. Keller's speed fluctuated as she drove. After stopping her, the officer noticed classic signs of alcohol use. Appellant failed to satisfactorily perform field sobriety tests, was arrested and transported to Gettysburg Hospital and asked to submit to a blood test.

Officer Brillhart properly informed appellant of her Miranda rights but emphasized that she had no right to talk to a iawyer before submitting to the test.

Ms. Keller appeared willing to submit until a friend, who had been her passenger, intervened. That person repeatedly told appellant that she shouid not take the test until she taiked to a lawyer.

A consent form, prepared by the hospital, was explained by the hospital administrator and presented to appellant. She was told that she would be required to sign.

Appellant's brother arrived in the hospital around 0145, about fifteen minutes after the arrest. He asked, but was refused, permission to explain the hospital's consent form to appellant. Appellant does not suffer from reduced comprehension and/or reading skills. She made no requests that her brother or anyone else explain the consent form.

That form, introduced as exhibit one, recited that appellant acknowledged and assumed financial liability for the blood test.

Appellant argues that Commonwealth Court has now clearly indicated that any precondition to consent is invalid. Conrad v. Commonwealth Department of Transportation, 142 Pa.Cmwlth. 642, 598 A.2d 336 (1991). In that case, a driver repeatedly said he would submit to a blood test but would not sign any form. Suspension of Conrad's operating privileges was reversed. The Commonwealth Court panel discussed and criticized prior decisions. Appellant suggests that the decision overruled prior cases.

Unfortunately, Conrad was decided by a panel, just as other cases were. To the extent there are inconsistencies, they will have to be explained away on the facts. We harmonize the decisions as follows:

Conrad, supra.—If a driver consents to test, he cannot be required to sign a consent.

Selan v. Department of Transportation, Bureau of Traffic Safety, 108 Pa.Cmwlth. 36, 529 A.2d 65 (1987). —If a driver is told he must sign a consent form which conforms to legal requirements, failure to say or do anything is a refusal.

Department of Transportation, Bureau of Driver Licensing v. Miller, __Pa.Cmwlth.__,625 A.2d 755 (1993).—A driver cannot justify a refusal by a hospital's failure to assume liability for AIDS infection. In other words, a motorist may not impose affirmative demands as a condition of signing a valid consent.

Maffei v. Department of Transportation, 53 Pa.Cmwlth. 182, 416 A.2d 1167 (1980).—A motorist who otherwise consents may refuse to sign a form which absolves the hospital of liability

Appeal of Kilcullen, 103 Pa.Cmwlth. 521,520 A.2d 947 (1987). -Even if the hospital form is objectionable, without a consent, the form's content and wording are irrelevant.

Considering these cases as a whole, we conclude that if a driver consents to submit to a blood test, she may refuse to do a lot of things. She may, under Conrad, refuse to sign anything at all. She may ask that offending portions be deleted before signing. However, if she does not consent, she is prevented from complaining about the form. It does not matter whether the response is complete silence, Selan supra., or an insistence on speaking to a parent before making a decision, Kilcullen, supra.

The facts sub judice closely resemble Kilcullen. The consent form contained wording which was improper under Maffei. However, the panel placed an affirmative duty on the motorist to consent to a test before being heard to complain about a release of liability on the hospital form. As in our case, Kilcullen len was told he was required to sign the hospital consent form. He, like appellant, voiced no objection to the form and refused to submit to a blood test.

To the extent that Conrad conflicts with the cases it analyzes, we think it prudent to leave the task of synthesis to the Commonwealth Court.

The attached order is entered.

ORDER OF COURT

AND NOW, this 9th day of November, 1993, the agency action is affirmed. Costs shall be paid by the appellant.

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 IRENE B. MEYER a/k/a IRENE FRANCES MEYER, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Personal Representative: Carol B. Steele a/k/a Carol Birkett Steele, c/o Patterson, Kiersz & Ganley, PC, 239-B East Main Street, Waynesboro, PA 17268-1681
Attorney: Patterson, Kiersz & Ganley, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

ESTATE OF BERNARD V. MILLER, SR., DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, 2 Chambersburg Street, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Roy A. Keefer, Esquire, Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF CORA K. SHANEBROOK, a/k/a CORA M. SHANEBROOK, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Co-Executors: Wanda K. Clabaugh, 317 North Queen Street, Littlestown, PA 17340; Allen L. Shanebrook, 2901 Bear Creek Court, Bakersfield, CA 93311
Attorney: David K. James, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF RUTH M. THOMPSON, DEC'D
Late of the Borough of York Springs, Adams County, Pennsylvania
Executor: Croydon Ostriche, 400 Bonners Hill Road, York Springs, PA 17372
Attorney: Joseph J. Dixon, Esquire, 126 State Street, Harrisburg, PA 17101

ESTATE OF DONALD A. ULLRICH, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executrix: Emma V. Grove, 49 S. High Street, Arendtsville, PA 17303
Attorney: Gary E. Hartman, Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF NORMAN F. WEAVER, DEC'D
Late of the Borough of Bonneauville, Adams County, Pennsylvania
Administratrix: Rebecca M. Weaver, 1 West Hanover Street, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF VIVIAN S. YAKE, DEC'D
Late of Hamilton Township, Adams County, Pennsylvania
Co-Executors: J. Francis Yake, III, David S. Yake and E. Strayer Yake c/o Ralph D. Oyler,Esquire, 31 S. Washingotn Street, Gettysburg, PA 17325
Attorney: Ralph D. Oyler, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF ELIZABETH C. EVANS, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executors: James VanCleve Lott, 30 East High Street, Gettysburg, PA 17325; William McIlhenny Lott, 6971 Oxford Road, Gardners, PA 17324
Attorney: Edward B. Bulleit, Esq., 16 Lincoln Sq., Gettysburg, PA 17325

ESTATE OF MILDRED R. FLYNN, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, Gettysburg, PA 17325

ESTATE OF ANNA S. PARLEMAN, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Executrix: Bonnie Lou Yelovich, 1634 Carrols Tract Road, Orrtanna, PA 17353
Attorney: Kevin Robinson, Esq., 60 E. Middle Street, Gettysburg, PA 17325

ESTATE OF MALCOLM V. WINTRODE, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331
Attorney: G. Steven McKonly, Attorney, 119 Baltimore Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF WILLIE LARUTHE DEGROFT, DEC'D
Late of Borough of Littlestown, Adams County, Pennsylvania
Executor: Robert B. DeGroft, c/o 230 York Street, Hanover, PA 17331
Attorney: John James Mooney, III, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF EARL W. HARBAUGH, DEC'D
Late of Liberty Township, Adams County, Pennsylvania
Executor: Robert E.E. Harbaugh, 54 Cove Hollow Road, Fairfield, PA 17320
Attorney: Barbara Jo Entwistle, Esquire, Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF HARRY REBERT LIPPY, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executors: Kathryn Riley, 3281 Grafton Street, Manchester, MD 21102; Daniel C. Riley, 3281 Grafton Street, Manchester, MD 21102
Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF MARIE S. KELLER, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Executors: Gerald R. Keller, P.O. Box 61, McKnightstown, PA 17343; Roland S. Keller, 108 Halleck Place, Altoona, PA 16602
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BESSIE K. KOHR, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Janet E. Miller, 60 Piper Drive, New Oxford, PA 17350
Attorney: Larry W. Wolf, Esquire, 215 Broadway, Hanover, PA 17331

ESTATE OF NORA ELIZABETH MCMASTER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Administrator: Cyril N. McMaster, Jr., 18 Laurel Drive, Hanover, PA 17331
Attorney: Judith Koper Morris, Esquire, Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF RICHARD E. MILLER, DEC'D
Late of Tyrone Township, Adams County, Pennsylvania
Executrix: Dorothy C. Miller, 190 Schoolhouse Road, Aspers, PA 17304
Attorney: Barbara Jo Entwistle, Esquire, Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-29 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

AIL THAT improved tract of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the center of Old U.S. Route 15 (prior to its approximately 1963 relocation) where the same is intersected by the northern side of a road entering said State Highway from the west, said intersecting road forming the southern boundary of said road, North 48 1/4 degrees West, 20.4 perches to an iron pin on line of land now or formerly of Albert Keller (formerly a part hereof); thence by said last mentioned land, North 39 degrees East, 37 perches to an iron pin at the southwest corner of a lot containing105 perches previously sold herefrom by John Marshall Cleveland and Gladys E. Cleveland unto Harold M. and Ann Louise Cleveland, husband and wife (see Adams County Deed Book 207, at Page 233); thence by said last mentioned land, South 46 degrees 19 minutes East, 17 perches (280.4 feet), running through an iron pin on the western side of said State Highway, to a point in the center of said State Highway; thence running in the center of said State Highway, South 32 degrees West, 37.11 perches to the above described place of BEGINNING.

CONTAINING 4 acres and 21 perches, more or less.

HAVING ERECTED THEREON a 15 room motel, 2 dwelling houses and a mobile home known and numbered as 2440 Old Harrisburg Road, Straban Township, Adams County, Pennsylvania.

TAX MAP NO. G-10-13

BEING PART OF THE SAME PREMISES, which Clair F. Ditzler and Marie R. Ditzler, husband and wife, by their deed dated July 30, 1979, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 346, Page 874, sold and conveyed unto Edward J. McKenna and Patricia E. McKenna, Mortgagors herein.

LESS HOWEVER, out of the above tract of land, a tract containing 12, 936 square feet which Elwood Miller and wife by deed dated April 25, 1977 and recorded in Adams County Deed Book 330, Page 563, conveyed unto Harold M. Cleveland and wife.

SEIZED and taken into execution as the property of Edward J. McKenna & Patricia E. McKenna, judgement debtors and real owners.

SEIZED and taken into execution as the property of **Edward J. McKenna & Patricia E. McKenna** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 23, 1999.

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 April 19, 1999, 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.

3/5, 12 & 19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-994 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of March, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece or parcel of land siuate in the Township of Germany, County of Adams and Commonwealth of Pennsylvania.

Tract No. 1: BEGINNING at a steel pin on the eastern property line of Tract No. 2 below described, and the westernmost corner of land now or formerly of Laverne P. Louey, which point of beginning is South 26 degrees 18 minutes 23 seconds West, 642.50 feet from a point in the center line of U.S. Route 140; thence by said land of Laverne P. Louey, South 63 degrees 41 minutes 37 seconds East. 20.00 feet to a steel pin at corner of land now or formerly of Clair D. Worley; thence by said land of Clair D. Worley, South 26 degrees 18 minutes 23 seconds West, 290.40 feet to a steel pin; thence by same, South 63 degrees 41 minutes 37 seconds East, 150 feet to a steel pin at corner of land now or formerly of Sterling S. Sell; thence by said other land of Sterling S. Sell, South 63 degrees 41 minutes 37 seconds East, 94.99 feet to a steel pin; thence by same, South 26 degrees 18 minutes 23 seconds West, 800.00 feet to a steel pin; thence by same North 63 degrees 41 minutes 37 seconds West, 264.99 feet to a steel pin on line of land now or formerly of William A. Russ; thence by said land of William S. Russ, North 26 degrees 18 minutes 23 seconds East, 916.02 feet to a steel pin at corner of land now or formerly of Chester A. Spangler; thence by said land of Chester A. Spanger, North 26 degrees 18 minutes 23 seconds East, 174.38 feet to a steel pin, the place of BEGINNING. CONTAINING 5.000 acres.

The above description was taken from a draft of survey by J.H. Rife, R.E., dated July 12, 1976, designating the above at Lot No. 1.

Tract No. 2: BEGINNING at a point in the center line of U.S. Route 140 at the northernmost corner of land now or formerly of Laverne P. Louey; thence by said land of Laverne P. Louey, and passing through a steel pin set back 50.00 feet from the last mentioned point, South 26 degrees 18 minutes 23 seconds West, 642.50 feet to a steel pin at corner of Tract No. 1 above described; thence by same, South 26 degrees 18 minutes 23 seconds West, 174.38 feet to a steel pin at corner of land, now or formerly of William A. Russ; thence by said land of William A. Russ, North 57 degrees 32 minutes 37 seconds West, 20.12 feet to a steel pin at corner of land now or formerly of Chester A. Spangler; thence by said land of Chester A. Spangler, and passing through a steel pin set back 50.00 feet from the next mentioned point, North 26 degrees 18 minutes 23 seconds East, 809.80 feet to a point in the center line of U.S. Route 140 aforesaid; thence in said center line of U.S. Route 140, South 77 degrees 30 minutes 46 seconds East, 20.60 feet to a point, the place of BEGINNING. CONTAINING 0.3735 Acre.

Being known as: 5063 Baltimore Pike

Tax Parcel #I17-0011A

Title to said premises is vested in Gary P. Koontz by deed from Rayonne H. Koontz, Married, dated 10/26/1982 recorded 10/29/1982 in deed book 365 page 128.

SEIZED and taken into execution as the property of **Gary P. Koontz & Roxanne H. Koontz** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 23, 1999.

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 April 19, 1999, 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.

3/5, 12 & 19

Adams County Legal Journal

Vol. 40 March 26, 1999 No. 44, pp. 279-282

CONTINUING LEGAL EDUCATION PROGRAM

Evidence for Family Lawyers
Friday, April 23, 1999 - 9:00 a.m.
Room 307, Adams County Courthouse
Credits: Substantive Law - 4, Ethics - 0

Registration through P.B.I. 800-932-4637.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-842 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows:

Lot 44: BEGINNING at a pin set at the only common corner of Lots 43, 44 and the northern edge of a 60 foot right-of-way known as Dakota Drive on the subdivision plan described below; thence along the eastern edge of Lot 43, North 25 degrecs 14 minutes 45 seconds West, 110.00 feet to a pin set on the southern edge of lands now or formerly of Charles L. Messinger, Sr. and Lydia R. Messinger; thence along the southern edge of said lands and lands now or formerly of Thomas C. Klunk and Patricia Ann Klunk, North 64 degrees 45 minutes 15 seconds East, 75.00 feet to a point at the corner of Lot 45 of said plan; thence along the western edge of Lot 45, South 25 degrees 14 minutes 45 seconds East, 110.00 feet to a point on the northern edge of a 60 foot right-of-way known as Dakota Drive; thence along the northern edge of Dakota Drive, South 64 degrees 45 minutes 15 seconds West, 75.00 feet to a pin set at the corner of Lot 43 of said plan, the point and place of BEGINNING. Containing. 8,250.0000 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three-Indian Ridge," prepared by Worley Surveying dated February 21, 1994, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, Page 66, and designated thereon as Lot No. 44.

BEING a part of a larger tract of land which Lewis J. Klunk and Nadine M. Klunk, his wife by deed dated January 7, 1993, and recorded January 8, 1993, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 676, Page 226, granted and conveyed unto J. C. P., Inc., a Pennsylvania corporation, Grantor herein.

Under and subject to the Declarations and Restrictions by J. C. P., Inc., made the 4th day of April, 1995, for all of the lots known as "Indian Ridge - Phase Three", and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1013, Page 278.

SEIZED and taken into execution as the property of **Marsar Development Corporation** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 2, 1999.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/12, 19 & 26

NOTICE

NOTICE is hereby given in compliance with the requirements of the "Fictitious Name Act", Section 311, Act of 1982-295(54 Pa. C.S.A. 311), of the filing of an application in the Office of the Secretary of the Commonwealth of Pennsylvania, on March 17, 1999, for a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of WWW.FASTNEASY.NET with its principal place of business at 705 Old Harrisburg Road, Suite "F", Gettysburg, Pennsylvania, 17325. The purpose of the business is aggressive priced web site hosting and other internet services. The name and address of the persons owning or interested in said business are C. David Ruff, 935 Highland Avenue, Gettysburg, Pennsylvania and Marion E. Ruff, 935 Highland Avenue, Gettysburg, Pennsylvania.

Ronald J. Hagarman,
110 Baltimore Street,
Gettysburg, Pa. 17325

3/26

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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Periodicals postage paid at Gettysburg, PA 17325.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-807 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

All that tract of land situate In the Borough of New Oxford, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING on Pitt Street; thence South 170 feet to an alley; thence East 60 feet along said alley; thence North 170 feet to Pitt Street; thence West 60 feet along said Pitt Street to the place of BEGINNING, Being known as 321 Lincoln Way West, New Oxford, PA 17350.

TAX ID# 4-54

SEIZED and taken into execution as the property of **Frank W. Beadle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
February 20, 1999.

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 May 10, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/19, 26 & 4/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-840 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April 9, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows:

LOT 51: BEGINNING at a point at the only common corner of Lots 50, 51 and the northern edge of a 60 foot right-of-way known as Dakota Drive on the subdivision plan described below; thence along the eastern edge of Lot 50, North 25 degrees 14 minutes 45 seconds West, 110.04 feet to a point on the southern edge of lands now or formerly of Nelson R. Warner and Jacqueline A. Warner; thence along the southern edge of said lands, North 64 degrees 44 minutes 03 seconds East, 75.00 feet to a point at the corner of Lot 52 of said plan; thence along the western edge of Lot 52, South 25 degrees 14 minutes 45 seconds East, 110.06 feet to a point on the northern edge of a 60 foot right-of-way known as Dakota Drive; thence along the northern edge of Dakota Drive, South 64 degrees 45 minutes 15 seconds West, 75.00 feet to a point at the corner of Lot 50 of said plan, the point and place of BEGINNING. Containing 8,253.7775 square feet.

The above description was taken from a plan of lots entitled "Final Plan, Phase Three - Indian Ridge", prepared by Worley Surveying dated February 21, 1994, File No. C-1350, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 66, Page 66, and designated thereon as Lot No. 51.

BEING a part of a larger tract of land which Lewis J. Klunk and Nadine M. Klunk, his wife by deed dated January 7, 1993, and recorded January 8, 1993, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 676, Page 226, granted and conveyed unto J. C. P., Inc., a Pennsylvania corporation, Grantor herein.

Under and subject to the Declarations and Restrictions by J. C. P., Inc., made the 4th day of April, 1995, for all of the lots known as "Indian Ridge - Phase Three", and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1013, Page 278.

SEIZED and taken into execution as the property of **Marsar Development Corporation** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
January 2, 1999.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/19, 26 & 4/1

FICTITIOUS NAME

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately March 16, 1999, a certificate for the conduct of a business in Adams County, Pennslyvania, under the assumed or fictitious name, style or designation of DECKS, PATIOS & IMPROVEMENTS, with its principal place of business at 59 Ringneck Trail, Fairfield, PA 17320. The names and addresses of the persons owning of interested in said business are Thaddeus Bittner, residing at 59 Ringneck Trail, Fairfield PA, 17320. The character on nature of the business is Construction.

Thaddeus Bittner,
59 Ringneck Trail,
Fairfield PA, 17320

3/26

DESCHEEMAEKER VS. LEHMAN VS. YORK SPRINGS BOROUGH, ET AL.

Implied acceptance of streets by a borough requires unequivocal acts over a long period of time.

In the Court of Common Pleas, Adams County, Pennsylvania, Civil-Equity No. 96-S-728 ROBERT W. DESCHEEMAEKER, JR. AND DENISE L. DESCHEEMAEKER VS. WENDELL L. LEHMAN AND JEANNE E. LEHMAN VS. YORK SPRINGS BOROUGH AND GREGORY R. McCAUSLIN AND JOYCE McCAUSLIN.

Wendy Weikal-Beauchat, Esq., for Plaintiffs
John James Mooney, III, Esq., for Defendants
Catherine J. Gault, Esq., for Additional Defendant York Springs Borough
Kevin G. Robinson, Esq., for Additional Defendants Gregory R. McCauslin and Joyce McCauslin

MEMORANDUM OPINION

PROCEDURAL HISTORY

Bigham, J., March 10, 1998.

Plaintiffs filed a Complaint against Defendants entitled Action to Compel. Plaintiffs claimed that Defendants, as the developers of the subdivision in which Plaintiffs' property was located, had failed to properly install street improvements to a portion of Lindy Avenue in the Borough of York Springs in accordance with applicable standards. Defendants' initial response consisted of Preliminary Objections which were denied by this Court pursuant to Order and Opinion dated November 20, 1996. Defendants subsequently filed a two count Complaint against Additional Defendants McCauslin and York Springs Borough. Defendants claimed that McCauslin, who was another property owner in the same development, had some responsibility for Plaintiffs' problem because of the manner in which McCauslin had constructed improvements on the lot owned by McCauslin. Defendants claimed that York Springs Borough was responsible because it had exercised control over Lindy Avenue and, even though there had been no formal dedication of that portion of Lindy Avenue which is the subject of these proceedings and no formal acceptance of same by the Borough, Defendants argue that there is an acceptance by implication.

Defendants' theory of acceptance by implication rests on the fact that the Borough has plowed and removed snow on that portion of Lindy Avenue in question, and that a sewer line has been installed through that same portion of Lindy Avenue.

Borough has filed a Motion for Summary Judgment averring that the facts set forth in the pleadings amount to no more than occasional plowing and

removal of snow, and by way of affidavit points out that the sewer line that was placed beneath the roadbed of Lindy Avenue was installed by the York Springs Municipal Authority, an entity separate and apart from the Borough.

UNDISPUTED FACTS

1. The subdivision in question straddles two political subdivisions, Latimore Township and the Borough of York Springs.

2. Latimore Township approved the subdivision plan.

3. No record exists showing that York Springs Borough approved the subdivision plan.

4. A subdivision plan was recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, which shows the layout of several streets, one of which is Lindy Avenue, shown to be located in the Borough of York Springs, and such subdivision plan includes language demonstrating an intent to make the streets available for public use.

5. York Springs Borough accepted a portion of Lindy Avenue through the formal ordination process, but the applicable ordinance does not include that portion of Lindy Avenue which is the subject of these proceedings.

6. Borough exercised limited control over that portion of Lindy Avenue which is the subject of these proceedings by plowing and removing snow from time to time.

7. York Springs Municipal Authority installed a sewer line through that portion of Lindy Avenue which is the subject of these proceedings.

8. The Borough does not receive liquid fuel funds from the Commonwealth for that portion of Lindy Avenue which is the subject of these proceedings.

9. York Springs Borough has adopted ordinances with regard to other streets located within the subdivision in question.

ISSUE

Was there an implied acceptance of that portion of Lindy Avenue in question by York Springs Borough based upon the undisputed material facts?

DISCUSSION

When considering a Motion for Summary Judgment, the Court must view material facts in a light most favorable to the non-moving party and give that party the benefit of all reasonable inferences which may be drawn from such facts. Godlewski v. Pars Manufacturing Company, 408 Pa. Super. 425, 597 A.2d 106 (1991). The facts of this case suggest an implied offer of dedication of that portion of Lindy Avenue in question. The facts, however, fall short of establishing an implied acceptance by York Springs Borough of that portion of Lindy Avenue in question. If the non-moving party, Defendants, establish at trial all of the previously referred to facts, they fail to show more than occasional use of that portion of Lindy Avenue by the Borough, and as such fail to meet the requirements set forth in Borough of Milford v. Burnett, 288 Pa. 434, 136 A 669 (1927). The standards set forth in Milford, supra., require unequivocal acts over a long period of time. The activities of York Springs Borough in the case at hand have been

occasional at best, and are therefore insufficient to meet the Milford standard.

Defendants claim that the installation of a sewer line by the York Springs Municipal Authority through that portion of Lindy Avenue in question bolsters the argument that York Springs Borough has by implication accepted that portion of Lindy Avenue as a Borough street. In Williams v. New Cumberland Borough, 31 D&C 3rd 355 (1984), Judge Bayley correctly applied the ruling in Boyer v. Baker, 196 Pa. Super. 405, 175 2d 143 (1961) when he holds that installation of a sewer line by a municipal authority is of no significance because it is not the act of the borough municipality, but rather the act of the municipal authority.

Defendants have argued that there is some significance to the fact that that portion of Lindy Avenue in question is an extension of a previously dedicated and accepted street. While the record does clearly indicate that other portions of Lindy Avenue not material to this proceeding were formally dedicated and formally adopted by ordinance, the record just as clearly shows that the extension of Lindy Avenue in question was not the subject of any formal ordination process, which had uniformly been the practice of York Springs Borough when accepting a street as a Borough street. Acceptance of a part of property dedicated to the public does not constitute acceptance of the entire property. Elliott v. H.B. Alexander & Son, Inc., 41 Pa. Com. 184, 399 A.2d 1130 (1970).

Therefore,the attached Order is entered.

ORDER OF COURT

AND NOW, this 10th day of March, 1998, the Motion for Summary Judgment by Additional Defendant York Springs Borough is granted.

It is noted that the within case is an Action in Equity not an Action at Law and all captions on filings should so indicate.

COMMONWEALTH VS. HARDY

So many safeguards have been imposed by law to insure that a guilty plea is voluntarily and knowingly made, that a Defendant should not be permitted to withdraw his guilty plea, even before sentence, merely by intoning the allegation that "I am not guilty," where his plea of guilty was supported by an extensive colloquy in which the Defendant expressly admitted guilt.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-711-97, COMMONWEALTH OF PENNSYLVANIA VS. DONNA JEAN HARDY.

District Attorney for Commonwealth
Jean Arena, Esq., for Defendant

STATEMENT PURSUANT TO PA. R.APP.P. 1925

Spicer, P.J., March 11, 1998.

Defendant appeared before the undersigned on December 1, 1997, which was Plea Day for the criminal trial term that began December 8, 1997. On that

date, defendants whose cases were listed for trial were required to appear and indicate whether they intended to go to trial, plead guilty or request a continuance. With counsel present, defendant entered a plea of guilty to driving under the influence as a first offense, a violation of 75 Pa.C.S.A.§ 3731. The plea was tendered pursuant to a plea arrangement, which was accepted by this judge.

During the plea colloquy, defendant specifically admitted that she was guilty of the crime to which she pleaded guilty. It is this judge's practice to require defendants to admit guilt when sentencing is postponed. If they do not, the Commonwealth may either accept a plea of nolo contendere or proceed to trial. The reason is simple. We do not want defendants using pleas to obtain continuances. In cases when nolo pleas are accepted, parties are told that a bald assertion of innocence will constitute a fair and just reason that will mandate withdrawal on request, unless the Commonwealth shows substantial prejudice.

When defendant appeared for sentencing on January 20, 1998, she orally asserted her innocence and moved to withdraw her plea. The court ordered that the plea colloquy be transcribed to ascertain whether it conformed to usual practice, and postponed sentencing to February 9, 1998. On this latter date, based upon the transcript showing an admission of guilt, the court rejected arguments that Commonwealth was required to show substantial prejudice, and refused the request. Sentence was then imposed pursuant to the plea arrangement.

The sole issue raised in defendant's appeal, as we understand arguments made prior to sentencing, is that Supreme Court's decision in Commonwealth v. Forbes, 450 Pa. 185, 299 A.2d 268 (1973) required the undersigned to grant her request. She argued that, although various Superior Court decisions appear to distinguish cases involving admissions of guilt from Forbes, all involved a finding of substantial prejudice on the part of Commonwealth.

Forbes did not involve an admission of guilt and Superior Court decisions since have unequivocally stated that bald assertions will not constitute fair and just reasons when there have been admissions.

> So many safeguards have been imposed by law to ensure that a guilty plea is voluntarily and knowingly made, that a defendant should not be permitted to withdraw his guilty plea, even before sentence, merely by intoning the allegation that "I am not guilty," where, as here, his plea of guilty was supported by an extensive colloquy in which the defendant expressly admitted guilt.

Commonwealth v. Miller, 432 Pa. Super. 619, 627, 639 A.2d 815, 819 (1994), quoting Commonwealth v. Cole, 387 Pa. Super. 328, 336, 564 A.2d 203, 207 (1989) (en banc).

Defendant has never argued that the plea colloquy was defective. It is the opinion of the undersigned that granting her request for withdrawal would condone her lying to the court during the colloquy and thereafter postponing final disposition of her case by contradicting what she said. In the words of Cole, id. we do not think this should be permitted.

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 GLADYS E. BLETTNER, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Personal Representatives: Nancy Blettner Crouse, 3 South Street, Hanover, PA 17331; Delores Lau Petry, 2443 Opal Road, York, PA 17404
Attorney: William W. Hafer, Esquire, 215 Baltimore Street, Hanover, PA 17331

ESTATE OF ARCHIE MCKENZIE HAINES, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrx: Ethlyn C. Haines, 62C Peace Court, New Oxford, PA 17350
Attorney: Catherine J. Gault, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF WALTER L. HESS, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executors: John Fuss, Jr., 775 Fairview Drive, Hanover, PA 17331; Leona Wingerd, 17909 Pin Oak Road, Hagerstown, MD 21740-7851
Attorney: Edward B. Bulleit, Esquire, Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF MARK S. KEENEY, DEC'D
Late of Littlestown Borough, Adams County, Pennsylvania
Executrix: Jolene M. Keeney, 53 Stayman Way, Littlestown, PA 17340
Attorney: John A. Wolfe, Esquire, Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF IRENE B. MEYER a/k/a IRENE FRANCES MEYER, DEC'D
Late of Franklin Township, Adams County, Pennsylvania
Personal Representative: Carol B. Steele a/k/a Carol Birkett Steele, c/o Patterson, Kiersz & Ganley, PC, 239-B East Main Street, Waynesboro, PA 17268-1681
Attorney: Patterson, Kiersz & Ganley, P.C., 239-B East Main Street, Waynesboro, PA 17268-1681

ESTATE OF BERNARD V. MILLER, SR., DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, 2 Chambersburg Street, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Roy A. Keefer, Esquire, Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF CORA K. SHANEBROOK, a/k/a CORA M. SHANEBROOK, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Co-Executors: Wanda K. Clabaugh, 317 North Queen Street, Littlestown, PA 17340; Allen L. Shanebrook, 2901 Bear Creek Court, Bakersfield, CA 93311
Attorney: David K. James, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF RUTH M. THOMPSON, DEC'D
Late of the Borough of York Springs, Adams County, Pennsylvania
Executor: Croydon Ostriche, 400 Bonners Hill Road, York Springs, PA 17372
Attorney: Joseph J. Dixon, Esquire, 126 State Street, Harrisburg, PA 17101

ESTATE OF DONALD A. ULLRICH, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executrix: Emma V. Grove, 49 S. High Street, Arendtsville, PA 17303
Attorney: Gary E. Hartman, Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF NORMAN F. WEAVER, DEC'D
Late of the Borough of Bonneauville, Adams County, Pennsylvania
Administratrix: Rebecca M. Weaver, 1 West Hanover Street, Gettysburg, PA 17325
Attorney: Bernard A. Yannetti, Jr., Esquire, Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF VIVIAN S. YAKE, DEC'D
Late of Hamilton Township, Adams County, Pennsylvania
Co-Executors: J. Francis Yake, III, David S. Yake and E. Strayer Yake c/o Ralph D. Oyler,Esquire, 31 S. Washingotn Street, Gettysburg, PA 17325
Attorney: Ralph D. Oyler, Esquire, 31 S. Washington Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF ELIZABETH C. EVANS, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executors: James VanCleve Lott, 30 East High Street, Gettysburg, PA 17325; William McIlhenny Lott, 6971 Oxford Road, Gardners, PA 17324
Attorney: Edward B. Bulleit, Esq., 16 Lincoln Sq., Gettysburg, PA 17325

ESTATE OF MILDRED R. FLYNN, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania
Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
Attorney: Puhl, Eastman & Thrasher, 16 Lincoln Square, Gettysburg, Gettysburg, PA 17325

ESTATE OF ANNA S. PARLEMAN, DEC'D
Late of Hamiltonban Township, Adams County, Pennsylvania
Executrix: Bonnie Lou Yelovich, 1634 Carrols Tract Road, Orrtanna, PA 17353
Attorney: Kevin Robinson, Esq., 60 E. Middle Street, Gettysburg, PA 17325

ESTATE OF MALCOLM V. WINTRODE, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executor: G. Steven McKonly, 119 Baltimore Street, Hanover, PA 17331
Attorney: G. Steven McKonly, Attorney, 119 Baltimore Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-315 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, formerly in Liberty Township, Adams County, Pennsylvania, being Lot No. 20 in Section E, bounded and described as follows:

BEGINNING at a point in the center of Fox Trail at Lot No. 19; thence by said lot South 79 degrees 55 minutes 20 seconds East, 306.74 feet in Lot No. 23; thence by said lot South 1 degree 25 minutes 20 seconds East, 106.49 feet to Lot No. 22; thence by said lot and by Lot No. 21 North 70 degrees 35 minutes 20 seconds West, 333.17 feet to a point in the center of said Fox Trail; thence in said Fox Trail North 12 degrees 32 minutes East 100.34 feet to the place of beginning.

BEING KNOWN AS 6 Fox Trail, Fairfield, Pennsylvania, 17320.

The above description was taken from a plan of lots labeled "Section E, Charnita" and dated July 2, 1966 and revised August 8, 1966, prepared by Gordon L. Brown, R.S. recorded in Adams County Misc. Docket 5 Page 165.

TOGETHER WITH a right of way and easement over the private road, indicated on the said lot plan recorded in Misc. Docket 5 Page 365, for means of ingress, egress and regress.

RESERVING, HOWEVER, unto the grantor, its successors and assigns, a right of way and easement over said private roads indicated on said lot plan recorded in Misc. Docket 5 Page 865, to be used forever in common with the grantees, their heirs and assigns, for means of ingress, egress and regress.

BEING the same premises which Charnita, Inc., a Pennsylvania Corporation by Deed dated 2/29/68 and recorded 6/22/68 in Adams County Deed Book 267 Page 934, did grant and convey unto John C. Shaffner and Lorena A. Schaffner.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
February 27, 1999.

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 May 17, 1999, 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.

3/26, 4/1 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-N-376 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 1999, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT tract of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at an iron pin on the Eastern side of a 14 foot right of way, said iron pin being South 51 degrees East, 220.8 feet from a point in a joint in the walk at the curb line of Idaville Street, the latter point being the Northwest corner of the original land of Raymond E. Kint and Edna Mae Kint; thence along the line of the original tract, South 51 degrees East, 78.2 feet to an iron pin on the Western side of another alley, located to the west of the land now or formerly of the Bendersville Fire Company; thence by the western side of said alley, South 40 degrees West, 55.0 feet to an iron pin on the western side of said alley and the corner of land now or formerly of Hazel C. Hinkle; thence by said Hinkle land, North 63 degrees 10 minutes West, 80.0 feet to an iron pin on the Eastern side of the 14 foot wide right of way mentioned aforesaid; thence along the Eastern side of said 14 foot right of way, North 40 degrees East, 71.8 feet to an iron pin, the place of BEGINNING. CONTAINING 18 perches.

The description was taken from a Draft of Survey dated July 9, 1964, by LeRoy H. Winebrenner, C.S.

Being the same which David C. Keithley and Beth Lynne Keithley, both single, by their deed dated January 25, 1994, which said deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 839 at page 184, sold and conveyed unto David C. Keithley.

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA
October 10, 1998.

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 May 3, 1999, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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.

3/12, 19, 26

NOTICE

NOTICE is hereby given in compliance with the requirements of the "Fictitious Name Act", Section 311, Act of 1982-295(54 Pa. C.S.A. 311), of the filing of an application in the Office of the Secretary of the Commonwealth of Pennsylvania, on March17, 1999, for a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of GETTYSBURGMARKETPLACE.COM with its principal place of business at 705 Old Harrisburg Road, Suite "F", Gettysburg, Pennsylvania, 17325. The purpose of the business is affordable internet solutions for Gettysburg businesses to have global exposure via the world wide web. The name and address of the persons owning or interested in said business are C. David Ruff, 935 Highland Avenue, Gettysburg, Pennsylvania, and Marion E. Ruff, 935 Highland Avenue, Gettysburg, Pennsylvania.

Ronald J. Hagarman,
110 Baltimore Street,
Gettysburg, Pa. 17325

3/26