

Adams County Legal Journal

Vol. 42

August 4, 2000

No. 10, pp. 44-55

IN THIS ISSUE

VARDJAN VS. POIST ET AL

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-249 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of September, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TAX PARCEL NO. 1-7-34B

ALL THAT CERTAIN lot, parcel, piece of ground situate in Tyrone Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING for a point in the center of Township Road T-565 in lands now or late of Charles T. Baker; thence along said center line of Route T-565, South Eighty-one (81) degrees Six (6) minutes Twenty-five (25) seconds West, Eighteen and Six hundredths (18.06) feet to a point at other lands of now or late of Howard M. Buell and Shirley L. Buell, his wife, of which this was formerly a part; thence along same the following courses and distances: (1) North Four (4) degrees Nine (9) minutes Two (2) seconds West, Two Hundred Twenty-nine and Nineteen hundredths (229.19) feet to a point; (2) North Fifty-nine (59) degrees Thirty (30) minutes Zero (0) seconds West, Thirty-three and Fifty-five hundredths (33.55) feet to a point; (3) North Thirty-one (31) degrees Fifty-five (55) minutes Fifteen (15) seconds East, Two Hundred Ninety and Four hundredths (290.04) feet to a point at lands now or late of Millard Wolfe; thence along same, South Fifty-eight (58) degrees Fourteen (14) minutes Forty (40) sec-

onds East, Ninety-five and Fifteen hundredths (95.15) feet to a point; thence continuing along said Wolfe lands and land now or late of John Stevens, South Fifteen (15) degrees Thirty-five (35) minutes Zero (0) seconds West, Two Hundred Ninety-seven and Ninety hundredths (297.90) feet to a point of lands now or late of Charles T. Baker; thence along same the following Two (2) courses and distances (1) North Fifty-nine (59) degrees Thirty (30) minutes West, One Hundred Twenty-three and Fifty-seven hundredths (123.57) feet to a point; (2) South Four (4) degrees Nine (9) minutes Two (2) seconds East, Two Hundred Fifteen and Twenty-six hundredths (215.26) feet to a point on the center of Township Road T-565 the PLACE OF BEGINNING.

CONTAINING 1.00 acres and identified as Lot Nos. 1 and 2 on a Plan of Lots prepared by Mort, Brown and Associates on November 1, 1982. Said Plan is recorded in the Adams County Recorder of Deeds Office in Map Book 37 page 113.

THE ABOVE TRACT consists of Two (2) lots as shown on the above referenced subdivision plan.

BEING the same premises which Michael N. Smith, a single person, and Peggy Sue Smith, now Peggy Sue Decker and Brian Joseph Decker, husband and wife, by Deed dated January 10, 1997 and recorded in the Recorder of Deeds of Adams County on January 21, 1997, in Deed Book 1318, Page 349, granted and conveyed unto Ronald E. Moats and Diane A. Moats, husband and wife.

SEIZED and taken into execution as

the property of **Ronald E. Moats & Diane A. Moats** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 9, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/21, 28 & 8/4

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 144, No. 177, as amended. The name of the corporation is ZE'BARES HAIR STUDIO & TANNING, INC.

8/4

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.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

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

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-296 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of September, 2000, 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 unit in the property known, named and identified in the declaration referred to below as South Branch Estates, located in the Township of Oxford, Adams County, Pennsylvania which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act 68 P.S.A. Section 3101 et seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a Land Development Plan dated October 6, 1995, last revised December 14, 1994 and recorded in Book 69, page 23 (together with all amendments and supplements thereto recorded on or before the date hereto) being all designated in such plan as Unit No. 14 as more fully bounded and described in such plan, together with a proportionate undivided interest in the Common Elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for York County, PA in Record Book 1271, page 34.

Tax Parcel #1-52-014

TITLE TO SAID PREMISES IS VESTED IN Kerry L. Snyder and Sharon F. Snyder, their heirs and assigns by Deed from Philip R. Garland t/d/b/a Garland Construction dated 8/10/1998 recorded 8/26/1998 in Record Book 1648 Page 165.

SEIZED and taken into execution as the property of **Kerry L. Snyder & Sharon F. Snyder** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 9, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/21, 28 & 8/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-431 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 lot or piece of ground, with the buildings and improvements thereon erected, situate in Reading Township, Adams County and State of Pennsylvania, being in the Plan of Lake Meade Subdivision, as recorded in Plat Book 1, page 1, more specifically bounded and described, as follows:

BEGINNING at a point on the western line of Wadsworth Avenue, said point being on the dividing point between Lots Nos. 132 and 133, aforesaid Plan of Lots; thence North 66 degrees 53' 06" East, a distance of 200 feet to a point; thence North 23 degrees 06' 54" West, a distance of 75 feet to a point; thence South 66 degrees 53' 06" West, a distance of 200 feet to a point; on western line of Wadsworth Avenue; thence along the western line of Wadsworth Avenue, South 23 degrees 06' 54" East, a distance of 75 feet to a point the place of BEGINNING.

HAVING thereon erected a ranch type dwelling house.

UNDER AND SUBJECT to easements and restrictions, as contained in prior deeds and Plans of record.

BEING Tax Parcel #11-21A.

SEIZED and taken into execution as the property of **Barry A. Price & Sandra E. Price** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser

must settle for property on or before filing date.

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

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

7/28, 8/4 & 11

FICTITIOUS NAME NOTICE

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 July 27, 2000 a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of SPIC-N-SPAN DISCOUNT CLEANING, with its principal place of business at 1489 Fish and Game Road, Littlestown, PA 17340. The names and addresses of the persons owning or interested in said business are Lisa M. Baudassi and Tammy O'Malley, residing at 1489 Fish and Game Road, Littlestown, PA and 125 Hospital Road, Gettysburg, PA. The character or nature of the business is janitorial services.

8/4

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §311, that an Application to conduct business in Pennsylvania under the assumed or fictitious name, style or designation of BIG JIM'S BEVERAGE was filed with the Department of State, Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania. The business is located at 219 West High Street, Gettysburg, Adams County, Pennsylvania. The names and addresses of the persons who are parties to the registration are: Gemmell, L.L.C., 219 West High Street, Gettysburg, Pennsylvania, 17325.

Robert L. McQuaide
Solicitor
Suite 204
18 Carlisle Street
Gettysburg, PA 17325

8/4

VARDJAN VS. POIST ET AL

1. It is well-settled that summary judgment may not be entered where the moving party relies exclusively upon deposition testimony in order to establish that there is no genuine issue of material fact. An exception to this rule exists, however, where the moving party supports the motion by using admissions of the opposing party's own witnesses. We have previously defined admissions as:

Confessions, concessions or voluntary acknowledgments made by a party of the existence of certain facts. More accurately regarded, they are statements by a party, or someone identified with him in legal interest, of the existence of a fact, which is relevant to the cause of his adversary.

2. In real estate transactions, fraud arises where a seller knowingly makes a misrepresentation, undertakes a concealment calculated to deceive, or commits non-privileged failure to disclose. Fraud is a generic term used to describe "anything calculated to deceive, whether by single act or combination, or by suppression of truth, or suggestion of what is false, whether it be direct falsehood or by innuendo, by speech or silence, word of mouth, or look or gesture."

3. To recover on a claim of fraud, a plaintiff must prove by clear and convincing evidence six elements: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance.

4. Concealment of a material fact can amount to actionable fraud if the seller intentionally concealed a material fact to deceive the purchaser. Active concealment of defects known to be material to the purchaser is legally equivalent to an affirmative misrepresentation. However, mere silence without a duty to speak will not constitute fraud.

5. In proving fraud a plaintiff must first establish that there was a misrepresentation known to be false, an intentional concealment calculated to deceive, or a non-privileged failure to disclose.

6. A duty to disclose a fact in a real estate transaction arises when "there is a serious and dangerous latent defect known to exist by the seller."

In the Court of Common Pleas of Adams County, Pennsylvania, Civil. No. 95-S-263. MARK D. VARDJAN AND KATHLEEN M. VARDJAN VS. GEORGE H. POIST, A/K/A GEORGE H. POIST, JR., KAREN S. POIST, AND PATRICIA C. NULL.

Walton V. Davis, Esq., for Plaintiff
Clayton R. Wilcox, Esq., for Defendants
Kuhn, J., March 23, 1999.

OPINION ON DEFENDANT KAREN S. POIST'S
MOTION FOR SUMMARY JUDGMENT

On September 24, 1996, Plaintiffs, Mark and Kathleen Vardjan, filed a complaint against Defendants, George and Karen Poist and Patricia Null. A pre-trial conference was held on March 25, 1998, at which time the parties were given 90 days to complete discovery and an additional 30 days to file any relevant motion for summary judgment. On September 21, 1998, Defendant, Karen S. Poist, filed a Motion for Summary Judgment and the matter is now before this Court for disposition. Count IV of the Complaint alleged that Karen S. Poist is liable for the acts of her agent, Patricia C. Null, and Count V alleged that Ms. Poist misrepresented the presence of underground storage tanks in the course of a real estate transaction.

STATEMENT OF FACTS

On August 8, 1986, Small's Auto Parts, Inc. purchased real estate located at 334 York Street, Gettysburg, Pennsylvania. The corporation was represented in the transaction by Attorney Alan M. Cashman. On August 18, 1987, Small's Auto Parts, Inc. sold the premises to the Poists who appeared on the deed as President and Secretary of the corporation. Mr. Cashman acted as attorney in this transaction as well. In late 1990, Lily Myers, an agent for Coldwell Banker, was trying to put together a marketing proposal for the purpose of enticing the Poists to give her a listing contract on the property. (Deposition of R. Scott Hartman at 4). She asked R. Scott Hartman, a more experienced agent, to accompany her through the property. (Deposition of R. Scott Hartman at 4). To Mr. Hartman, the configuration of the building caused him to believe the building had once been a gas station. That opinion, together with the presence of vent pipes at the front of the building, caused him to also believe underground storage tanks might be present. (Deposition of R. Scott Hartman at 5). However, he never met the Poists and a listing proposal was not made. (Deposition of R. Scott Hartman at 7).

Sometime prior to May 1991, the Poists listed the property for sale with their friend, Patricia Null, broker for Century 21 Olde Towne Realty of New Oxford, Pennsylvania. (Deposition of Patricia Null at 5). Null claims that at the time the property was being listed for sale she specifically asked the Poists if there were any underground

storage tanks present and was advised by the Poists that they had no knowledge of the existence of any tanks on the property. (Deposition of Patricia Null at 10).

At or about the same time, Arturo Ottolenghi was interested in purchasing a building for his business and contacted Barbara Shultz, an agent for Century 21 Neighborhood Realty of Gettysburg for the purpose of inspecting the property. (Deposition of Arturo Ottolenghi at 4). Ms. Shultz was a relatively inexperienced realtor having only worked in the business from March 1990 to September 1991. (Deposition of Barbara Shultz at 3). When Ottolenghi and Shultz first visited the property Ottolenghi noticed that it appeared to be a converted gas station. (Deposition of Arturo Ottolenghi at 6; Deposition of Barbara Shultz at 8). At the front of the property he noticed two pipes (3-5" in diameter) sticking out of the pavement. (Deposition of Arturo Ottolenghi at 7) and requested Ms. Shultz to obtain an estimate of the cost to remove any storage tanks that might exist. (Deposition of Arturo Ottolenghi at 8).

A report dated June 12, 1991, and prepared by Precision Installation Tank Testing, Inc. (PITT) of Shippensburg, Pennsylvania, was sent to Mr. Ottolenghi. The report expressly stated it was prepared at the request of Ms. Shultz. The report is actually a proposal to remove two 4,000-gallon gasoline tanks and one 550-gallon fuel oil underground storage tanks for \$11,543.22. Ms. Shultz claims she never saw the report. (Deposition of Barbara Shultz at 9, 15). Likewise, Ms. Null claims she never saw the report (Deposition of Patricia Null at 11, 13) and, in fact, denies being aware that Ottolenghi was even interested in the property. (Deposition of Patricia Null at 19). Mr. Ottolenghi contacted Fred Shultz, presumably a representative of the Poists' mortgage lender, to determine whether the bank was aware of the presence of underground tanks, however, that information was not known. (Deposition of Arturo Ottolenghi at 13). Mr. Ottolenghi made no purchase offer and began investigating other properties for his business. (Deposition of Arturo Ottolenghi at 12). During this time Ms. Shultz denies ever meeting the Poists or Ms. Null or discussing the property with them. (Deposition of Barbara Shultz at 10-11). Ms. Null, however, acknowledges that in May 1991, Kay Shriver, an agent in her office, faxed Ms. Shultz information regarding rental of one of the units in the property. (Deposition of Patricia Null at 19).

Sometime prior to December 1991, persons by the name of Crook were looking at the property as a place to relocate their paint supply business. They did not believe they were able to obtain the necessary financing so they asked their friend, Mark Vardjan, to purchase the property and lease it to them. (Deposition of Mark Vardjan at 6). Mr. Vardjan contacted Neal Oussoren, an agent for Marshall L. Miller Real Estate of Gettysburg, who arranged to show him the property. Mr. Oussoren suspected the building had once been an automotive garage, especially after noticing two screw covers in front of the building. (Deposition of Neal Oussoren at 9, 15). After visiting the property Mr. Oussoren suggested to Mr. Vardjan the possibility of the presence of underground storage tanks. (Deposition of Neal Oussoren at 10). There was some pressure to proceed because the Crooks were losing their lease. Therefore, on December 2, 1991, Mr. Oussoren drafted and Mr. Vardjan executed an offer to purchase the property for \$158,500.00. (Deposition of Mark Vardjan at 8; Deposition of Neal Oussoren at 8; Plaintiffs' Complaint, Exhibit E). Upon either the advice of Mr. Oussoren (Deposition of Neal Oussoren at 9) or Mr. Vardjan's attorney, Gary E. Hartman (Deposition of Mark Vardjan at 10), the offer contained a handwritten "special clause" which reads as follows:

5b). Subject to the sellers certifying that the property has no potential gasoline storage tank problems.

The offer was then transmitted to Ms. Null who reviewed it with the Poists. On December 9, 1991, the Poists deleted "special clause" 5b and increased the purchase price to \$160,000.00. (Deposition of Patricia Null at 8, 9, 28). The proposed agreement was then returned to Mr. Oussoren. (Deposition of Patricia Null at 26). Mr. Vardjan initialed the deletion of "special clause" 5b and the price change on December 12, 1991, (Deposition of Mark Vardjan at 12) on the basis that Mr. Oussoren assured him that the tank problem was satisfied. (Deposition of Mark Vardjan at 13). Mr. Oussoren claims that he contacted the Department of Environmental Resources and was advised of no record of any underground storage tanks on the property. (Deposition of Neal Oussoren at 13.) He also asserts that other verbal assurances came from Ms. Null that no tanks existed. (Deposition of Neal Oussoren at 12, 15).

Sometime after December 12, 1991, Mr. Oussoren made inquiry of Ms. Null whether there were any problems with tanks on the

property. Mr. Vardjan suggests that this inquiry had been made in order to satisfy his lender. (Deposition of Mark Vardjan at 14). When Ms. Null suggested that Mr. Oussoren contact the Gettysburg Borough Office regarding that question, he responded that as the listing agent it was her duty to find the answer to this question. (Deposition of Patricia Null at 23). Ms. Null complied and contacted Walter Powell who, in his capacity as the Historic Preservation Officer for the Borough, responded to Ms. Null by letter dated December 18, 1991. The letter explained that based upon information available to him, "I would have to conclude no tanks were located on the property, but this can only be confirmed through interviews with previous owners." Several days later, on December 23, 1991, Mrs. Poist's attorney, Alan M. Cashman, wrote a letter to Plaintiffs' lender, The Gettysburg National Bank, with a copy to Ms. Null, which stated, "I can verify that from the time that Karen purchased the property and the prior owner, Small's Auto Parts, in August of 1986, there has been no storage tank used for the facility." Mr. Vardjan testified that this letter was also sent to satisfy the bank's concerns. (Deposition of Mark Vardjan at 14).

Settlement occurred on February 28, 1992, and no discussion took place at that time regarding the underground storage tanks. (Deposition of Mark Vardjan at 22, 37). The Poists did sign an affidavit stating, *inter alia*, that they had "not dumped or caused to be dumped any hazardous or toxic waste on the property" and that they were "not aware of the existence of hazardous or toxic waste thereon." (Plaintiffs' Complaint, Exhibit H).

With regard to what information was known about the existence of underground tanks up to the time of settlement and who had that information, the record reveals the following: 1) Mr. Hartman suspected the presence of underground tanks when he visited the property in late 1990 based upon the configuration of the building and the presence of vent pipes in the front of the building; 2) Mr. Hartman never spoke to the Poists about his observations or concerns; 3) when listing the property for sale in the Spring of 1991 the Poists indicated to Ms. Null they had no knowledge of the existence of any tanks; 4) Mr. Ottolenghi suspected the presence of underground tanks when he investigated the property in or about May of 1991; 5) Mr. Ottolenghi relayed his suspicions to Ms. Shultz; 6) Ms. Shultz ordered the PITT report but never saw a copy or knew of its contents;

7) the PITT report was mailed to Mr. Ottolenghi but he did not share it with anyone else; 8) Ms. Shultz never spoke to Ms. Null about the property or the presence of tanks; 9) Ms. Shultz never spoke to the Poists about the property; 10) Mr. Ottolenghi never made a contract offer so Ms. Shultz never became a sub-agent for the Poists; 11) Mr. Oussoren was not aware of the PITT report (Deposition of Neal Oussoren at 16); 12) the Plaintiffs were not aware of the PITT report; 13) Mr. Vardjan never met or discussed the property with Ms. Shultz, Ms. Null, or any other real estate agent except Mr. Oussoren (Deposition of Mark Vardjan at 7, 8, 10, 16, 17, 28); 14) D.E.R. records did not reveal the presence of underground tanks; 15) Mr. Vardjan never met or spoke to the Poists prior to settlement; 16) Borough records did not reveal the presence of tanks; however, Mr. Powell qualified his remarks by suggesting to Ms. Null that prior owners be interviewed; and 17) Attorney Cashman wrote to Plaintiffs' lender that while the Poists owned the property no storage tanks had been used.

Sometime within the first six months after settlement Mr. Ottolenghi visited the property again and gave a copy of the PITT report to William C. Rogers who, at the time, was managing the property for Plaintiffs. (Deposition of Arturo Ottolenghi at 16-17; Deposition of Mark Vardjan at 21, Deposition of William C. Rogers at 17-18). Mr. Rogers made Mr. Vardjan aware of the report but nothing further was done at that time. (Interrogatory 5b,c). Approximately six months later Mr. Rogers began looking for evidence of tanks on the property. (Deposition of William C. Rogers at 11, 12, 19). At the rear of the property and approximately eight feet from the exit door on the east side of the building he observed a "breathe" (vent) pipe running up the outside wall. (Deposition of William C. Rogers at 7). He also cleared away some vegetation and broken asphalt and discovered a fill pipe at ground level. (Deposition of William C. Rogers at 6, 8; Deposition of Mark Vardjan at 26). This information was made known to Mr. Vardjan. Plaintiffs were interested in selling the building so in or about June and July of 1994, and knowing the tank issue had to be resolved in order to effectuate a sale, they obtained estimates for the cost of removing any tanks. (Deposition of Mark Vardjan at 24, 25, 42; Interrogatory 3b). In late 1994 or early 1995 Mr. Hartman visited the property again because his agency obtained a listing contract from Plaintiffs. He immediately

noticed the vent pipes he had seen in 1990. (Deposition of R. Scott Hartman at 8-9).

In December of 1995, one tank was removed, the location of which is not clear (apparently only one was present). (Deposition of Mark Vardjan at 42, 44). Mr. Vardjan testified that automobile cleaning fluid was found in the tank.

LEGAL DISCUSSION

Defendant, Karen Poist¹, raises three issues in her motion for summary judgment. First, she argues the statute of limitations has run on Plaintiffs' cause of action. Second, Defendant argues that there is no genuine issue of material fact. Lastly, Defendant claims no evidence has been shown which would warrant punitive damages.²

Our Superior Court has recently set forth the standard for summary judgment as follows:

Summary Judgment is proper when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits demonstrate that there exists no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Pa.R.C.P. 1035.2, 42 Pa.C.S.A. In determining whether to grant summary judgment a trial court must resolve all doubts against the moving party and examine the record in a light most favorable to the non-moving party. *Id.* Summary judgment may only be granted in cases where it is clear and free from doubt that the moving party is entitled to judgment as a matter of law. *Id.*

Electronic Laboratory Supply v. Cullen, ___ Pa. Super. ___, 712 A.2d 304, 307 (1998).

Additionally, our Superior Court has held:

...it is well-settled that summary judgment may not be entered where the moving party relies exclusively upon deposition testimony in order to establish that there is no genuine issue of material fact.

¹George H. Poist died during the pendency of this action.

²Defendant waived the statute of limitations issue at argument held on January 19, 1999. Additionally, due to the Court's determination on Defendant's second argument, it is not necessary to address the issue of punitive damages.

Drapeau v. Joy Technologies, Inc., 447 Pa. Super. 560, 564, 670 A.2d 165, 167 (1996); *alloc. den.* 683 A.2d 883 (citations omitted).

An exception to this rule exists, however, where the moving party supports the motion by using admissions of the opposing party or the opposing party's own witnesses. *Pew*, 409 Pa. Super. at 428, 598 A.2d at 71. We have previously defined admissions as:

Confessions, concessions or voluntary acknowledgments made by a party of the existence of certain facts. More accurately regarded, they are statements by a party, or someone identified with him in legal interest, of the existence of a fact, which is relevant to the cause of his adversary.

Durkin v. Equine Clinics, Inc., 376 Pa. Super. 557, 569, 546 A.2d 665, 670 (1988) (quoting Black's Law Dictionary 47 (6th ed. 1990) (emphasis omitted), *appeal denied*, 524 Pa. 608, 569 A.2d 1367 (1989)).

Sherman v. Franklin Regional Medical Center, 443 Pa. Super. 112, 115, 660 A.2d 1370, 1372 (1995); *alloc. den.* 670 A.2d 142.

The Court will first address Defendant's claim that there is no genuine issue of material fact. Defendant argues that testimony provided by Plaintiffs and their witnesses fails to show that Defendant or her agents made any fraudulent misrepresentations inducing Plaintiffs to purchase the property.

Fraud, in connection with a real estate transaction, has recently been explained by our Superior Court as follows:

In real estate transactions, fraud arises where a seller knowingly makes a **misrepresentation**, undertakes a concealment calculated to deceive, or commits non-privileged failure to disclose. *DeJoseph v. Zambelli*, 392 Pa. 24, 25-26, 139 A.2d 644, 647 (1958). Fraud is a generic term used to describe "anything calculated to deceive, whether by single act or combination, or by suppression of truth, or suggestion of what is false, whether it be direct falsehood or by innuendo, by speech or silence,

word of mouth, or look or gesture.” *Moser v. DeSetta*, 527 Pa. 157, 163, 589 A.2d 679, 682 (1991).

To recover on a claim of fraud a plaintiff must prove by clear and convincing evidence six elements:

- (1) a representation;
- (2) which is material to the transaction at hand;
- (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false;
- (4) with the intent of misleading another into relying on it;
- (5) justifiable reliance on the misrepresentation;
- and (6) the resulting injury was proximately caused by the reliance.

Gibbs v. Ernst, 538 Pa. 193, 207, 647 A.2d 882, 889 (1994) (footnote omitted).

Concealment of a material fact can amount to actionable fraud if the seller intentionally concealed a material fact to deceive the purchaser. *Moser*, 589 A.2d at 682; *Wilson v. Donegal Mutual Insurance Company*, 410 Pa.Super. 31, 41, 598 A.2d 1310, 1315 (1991). “[A]ctive concealment of defects *known to be material* to the purchaser is legally equivalent to an affirmative misrepresentation.” *Sevin v. Kelshaw*, 417 Pa.Super. 1, 11, 611 A.2d 1232, 1237-1238 (1992) (emphasis in original). However, mere silence without a duty to speak will not constitute fraud. *Wilson*, 598 A.2d at 1316.

Sewak v. Lockhart, ___ Pa.Super. ___, 699 A.2d 755, 759 (1997) (emphasis added).

In proving fraud a plaintiff must first establish that there was a representation known to be false, an intentional concealment calculated to deceive, or a non-privileged failure to disclose. The Court does not believe there is sufficient factual evidence, even when taking the record in the light most favorable to Plaintiffs, to show that Karen Poist misrepresented the existence of underground storage tanks or committed an intentional act calculated to deceive. Plaintiffs admit that they had no contact with the Poists when looking at the property and, in fact, never saw them until the date of closing. There is no evidence in the record from which a jury could infer that Karen Poist or her husband knowingly made false misrepresentations to Plaintiffs because there is no evidence that the parties had

any communication whatsoever. In fact, Plaintiffs have made no argument in their brief that Karen Poist is liable beyond that which could arise because of acts of her agent, Patricia Null. Additionally, there is no evidence in the record that Karen Poist intentionally concealed the presence of the tanks. Again, there was no direct contact between the parties and no indication that Karen Poist committed any intentional act to conceal the presence of the tanks.

There is also no evidence of an intentional act or concealment calculated to deceive by Karen Poist's agent Patricia Null.³ Again, Plaintiffs' own deposition testimony indicates that they had no contact with Patricia Null. Plaintiffs argue in their brief that Patricia Null misrepresented the presence of the tanks by forwarding a letter to them from Mr. Powell; however, Ms. Null's presentation of a letter from Mr. Powell does not constitute an intentional misrepresentation. Ms. Null was simply forwarding, without comment, information that she obtained from a borough official. That letter indicated that available documentation did not evidence the presence of underground tanks; however, it warned that "this can only be confirmed through interviews with previous owners." Likewise, the letter from Attorney Cashman contained no misrepresentation but rather an uncontradicted affirmation that the Poists did not use any underground storage tanks while in possession of the property. The letter does not deny the existence of tanks.

Thus, not being able to establish a misrepresentation, Plaintiffs' claim would have to be based on the fact that, assuming Karen Poist or Patricia Null knew of the presence of tanks, they had an affirmative duty to disclose the existence of the tanks.

A duty to disclose a fact in a real estate transaction arises when "there is a serious and dangerous latent defect known to exist by the seller." *Gozon v. Henderson-Dewey & Associates, Inc.*, 312 Pa.Super. 242, 245, 458 A.2d 605, 607 (1983). If the tanks, in the present case, do not constitute a "serious and dangerous latent defect" there is no affirmative duty upon either Karen Poist or Patricia Null to disclose presence of the same to Plaintiffs.

³ Plaintiffs argue in their brief that Karen Poist would be liable for the misrepresentations of many of her agents, including, Neal Oussoren, Patricia Null, Barbara Shultz, and Alan Cashman. However, the Complaint states a cause of action only for those misrepresentations made by Patricia Null. Therefore, any misrepresentations made by other individuals are irrelevant to the present discussion.

The underground storage tank at issue may arguably be latent. It was located underground, although there was some strong indication above ground (i.e., ventilation pipes, configuration of the building) of its presence. Taking the record in the light most favorable to Plaintiffs, the Court will accept that the underground storage tank was latent. The next question becomes whether the tank was defective.

Case law on the issue fails to define what may be considered a defect. However, interpreting the word in its common usage “defect” would imply some type of imperfection in the tanks. Plaintiffs have not alleged a defect in the tank and there is no evidence in the record to support a finding that the tank was defective.

The only claim remotely suggesting a defect is Plaintiffs’ allegation in their Complaint that the tank was not “registered in accordance with Pennsylvania law” and that the tank was not “the subject of proper ‘closure’ in accordance with the law.” (Plaintiffs’ Complaint at ¶ 24).⁴ Not being registered properly does not cause the tank to be defective and clearly does not make it a “dangerous latent defect.” Additionally, not being closed properly (whatever that means) does not make the tank defective. Although Plaintiffs allege in their Complaint that the tank was not closed properly and that it contained toxic fluids, there is no allegation that these conditions made the tank defective. Clearly, if the failure to “close” the tank caused leakage of toxic fluids into the ground, that would arguably constitute a “dangerous” latent defect. However, there is no evidence indicating that the tank leaked fluids or was defective in any manner that would make the tank dangerous.

The Court realizes that the presence of underground storage tanks may be burdensome to potential buyers due to possible environmental liabilities. However, that burden alone does not make the mere

⁴ The Court notes that this allegation was made in the Complaint but the record does not support it in any way. (See, Pa.R.C.P. 1035.3, which holds that “an adverse party may not rest upon the mere allegations or denials of the pleadings but must file a response...identifying (1) one or more issues of fact arising from evidence in the record controverting the evidence cited in support of the motion or from a challenge to the credibility of one or more witnesses testifying in support of the motion, or (2) evidence in the record establishing the facts essential to the cause of action or defense which the motion cites as not having been produced.”). There is no evidence in the record indicating that the tank was not registered or closed properly and Plaintiffs do not testify in their depositions to improper registration or closure of the tanks.

presence of a tank a “serious and dangerous latent defect” on the property. Therefore, Karen Poist and Patricia Null had no duty to affirmatively disclose that an underground storage tank was present on the property.⁵

The Court further notes that Plaintiffs acknowledged being forewarned of the possible presence of underground storage tanks. (Deposition of Mark Vardjan at 10). In fact, Mr. Vardjan admits that the issue of this possibility seemed to be constant throughout the sale of the property. (Deposition of Mark Vardjan at 19). The tank issue was first brought to Mr. Vardjan’s attention by Neal Oussoren and a “special clause” was inserted into the sales agreement to address any problems with tanks. (Deposition of Mark Vardjan at 10). Despite any concern he had Mr. Vardjan knowingly affirmed the deletion of the very language which offered him the contractual protection he wanted. The evidence in the record shows that all parties involved were aware of the possible presence of underground storage tanks. Plaintiffs even attempted to gain certification from the Poists that there were no “problems” with underground storage tanks. The fact that the Poists would not make this assurance should have alerted Plaintiffs to the possible presence of tanks and/or that there may be problems associated with tanks. Instead of demanding assurances, refusing to go forth with the purchase of the property, or conducting further investigation to determine if tanks were present and were defective, Mr. Vardjan simply chose to sign the sales agreement without any certification from the Poists or contingency in the contract.

Accordingly, the attached Order is issued.

ORDER OF COURT

AND NOW, this 23rd day of March, 1999, Defendant’s Motion for Summary Judgment is hereby granted. Counts IV and V of Plaintiffs’ Complaint stating claims against Karen Poist are dismissed.

⁵ Additionally, the Court notes that the present transaction was not the sale of residential real estate but was the sale of commercial property. Under these circumstances, the duty to disclose may arguably be less stringent.

**LEGAL NOTICE
ADAMS COUNTY TAX CLAIM BUREAU**

Pursuant to Court Orders 00-S-541 through 00-S-550, the following real property will be offered for sale Friday, September 22, 2000 at 1:00 p.m. E.D.S.T., at the Adams County Courthouse, 111-117 Baltimore Street, 4th floor, Gettysburg, Pennsylvania. The purpose of this sale is to dispose at public sale the following parcels of real estate:

SALE NO.	OWNERS OR REPUTED OWNERS	TOWNSHIP/ BOROUGH	MAP NO., PARCEL NO., LOT NO. OR PROPERTY DESCRIPTION
7	Cynthia A. Teal	Berwick	L11-0072B
22	Howard S. & Margarite Wilt	Franklin	002-0023
170	Mitchell & Lavada Andrew	Hamiltonban	C14-0024-001, 1985 Skyline MH
313	Susan Shuff	Mt. Pleasant	J12-0061-002, 1984 Liberty MH
346	Garland Construction	New Oxford	007-0104A
389	Rodger J. Stine	Reading	L07-0017-2, 1979 Fleetwood MH
414	Frederick M. & Faye Shealer	Straban	G09-0040
431	Diane Van Metre	Straban	G10-0013-2, 1965 New Moon MH
438	Robert Yingling	Straban	G10-0013-4, 1969 Buddy MH
623	Fred Widdowson	Mt. Pleasant	002-0033

TERMS OF SALE: Cash in the form of currency of the United States if the purchase price is \$50.00 or less. For properties selling for more than \$50.00, \$50.00 in the form of currency of the United States and a check or other satisfactory payment of the balance. All properties shall be paid for at the time the property is struck down. The purchaser(s) shall be required to pay, in addition to the bid price, the fees for preparing and recording a deed, and any applicable transfer taxes due (the assessed value x 2.60% x 2).

The above properties were previously advertised for sale in the *Adams County Legal Journal* and *The Gettysburg Times* and in *The Hanover Evening Sun* on July 31, 1999.

**ADAMS COUNTY TAX CLAIM BUREAU
NOTICE OF PUBLIC TAX SALE**

TO OWNERS OF PROPERTIES DESCRIBED IN THIS NOTICE AND TO ALL PERSONS HAVING LIENS, JUDGMENTS OR MUNICIPAL OR OTHER CLAIMS AGAINST SUCH PROPERTIES.

Notice is hereby given by the Tax Claim Bureau in and for the County of Adams under the Act of 1947, P.L. 1368, as amended, that the Bureau will expose at public sale in the Adams County Courthouse, fourth floor, Jury Assembly Room, 111-117 Baltimore Street, in the Borough of Gettysburg, Pennsylvania at 9:00 a.m. E.D.S.T. on September 22, 2000, or any date to which the sale may be adjourned, re-adjourned or continued, for the purpose of collecting unpaid 1998 and any prior real estate taxes, prior liens, municipal, and all costs thereto, the following described set forth.

The sale of the property may, at the option of the Bureau, be stayed if the owner thereof or any lien creditor of the owner, on or before the date of the sale enters into an agreement with the Bureau to pay the taxes, claims, and all costs in installments in the manner provided by said Act, and the agreement be entered into.

There will be no Redemption Period after the date of the sale, but these taxes and costs can be paid up to the date of the sale, September 22, 2000.

It is strongly urged that the prospective purchasers have an examination made of the title of any property in which they may be interested. Every reasonable effort has been made to keep the proceedings free from error. However, in every case the Tax Claim Bureau is selling the taxable interest and the property is offered for sale by the Tax Claim Bureau without guarantee or warranty whatsoever.

The property so struck down will be settled for before the next property is offered for sale. Deeds for the premises will be prepared by the Tax Claim Bureau and recorded. Buyer(s) will be required to pay, in addition to their bid, at the time the property is struck down to them, the basic sum for preparing and recording the deed, and the costs of such realty transfer stamps as required (assessed value x 2.60 % X 2). The Recorder of Deeds will mail the deeds to the address given by the purchaser.

A property will not be sold if the delinquent taxes and all costs are paid prior to the sale and it is suggested that this be done as soon as possible before the sale, as the earlier this is done, the more saving there will be in the amount of costs etc.

It is repeated that there is no redemption after the property is sold and all sales will be final. No adjustments will be made after the property is struck down.

NOTICE TO PROSPECTIVE TAX SALE BIDDERS

IN ACCORDANCE WITH ACT NO 133 P.L. 1368, NO 542, PROSPECTIVE PURCHASERS AT ALL TAX SALES ARE NOW REQUIRED TO CERTIFY TO THE TAX CLAIM BUREAU AS FOLLOWS:

1. A SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE CERTIFICATION TO THE BUREAU THAT, WITHIN THE MUNICIPAL JURISDICTION, SUCH PERSON IS NOT DELINQUENT IN PAYING REAL ESTATE TAXES OWED TO TAXING BODIES WITHIN ADAMS COUNTY, AND

2. A SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE CERTIFICATION TO THE BUREAU THAT, WITHIN THE MUNICIPAL JURISDICTION, SUCH PERSON IS NOT DELINQUENT IN PAYING MUNICIPAL UTILITY BILLS OWED TO MUNICIPALITIES WITHIN ADAMS COUNTY.

TERMS OF SALE: In the case of all properties selling for one hundred dollars (\$100.00) or less, cash in the form of currency of the United States must be paid in full at the time the property is struck down. In the case of properties for which more than one hundred dollars (\$100.00) has been bid, the sum of one hundred dollars (\$100.00) cash in the form of currency of the United States must be paid in full when the property is struck down and a check on a bank or other satisfactory payment for the balance must be paid at the same time. If the balance of the purchase price is not paid for any reason (for example, if a check is not paid), the one hundred dollars (\$100.00) cash paid shall be forfeited as liquidated damages.

David K. James, III
Solicitor, Tax Claim Bureau
Danielle Asper
Director, Tax Claim Bureau

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
ARENDSVILLE BOROUGH			
9	Hays, Lawrence Walter & Bessie D.	004-0008	\$3,358.64
BENDERSVILLE BOROUGH			
11	Lamothe, Lewis G. & Ola K.	001-0038B	\$517.32
12	Poland, Steven W. & Debra K.	004-0002	\$2,542.28
BERWICK TOWNSHIP			
14	Hauck, Clarence	L10-0040-4270 1988 Fleetwood	\$1,286.79
17	Miller, Joseph A. & Loretta P.	L10-0040-268 1985 Commodore	\$768.31
18	McAbee, Curtis R. & Little, Linda	L10-0040-247 1979 Dupont	\$414.50
20	Smith, Gary L.	L11-0091	\$1,962.69
23	Godfriaux, Ryan	L10-0040-312 1989 Urban	\$742.67
24	Miller, Joshua C.	L10-0040-400 1981 Landmark	\$551.82
28	Wells, Thomas	L10-0040-504 1997 Skyline	\$1,199.18
31	Wilkinson, Ron	L120059-001 1960 Mobile Home	\$362.82
35	Childrens Developmental Center Corp.	L10-0026	\$72,954.41
36	Hollinger, Diane M.	L10-0040-429 1981 Commodore	\$532.14
37	Manzo, Ernest	L10-0040-224 1979 Suncrest	\$368.52
38	Smith, Todd Allen	L10-0040-283 1981 Nova/Commodore	\$500.22
39	Smuck, Valli	L10-0040-277	\$200.48
40	Fine, Tisha	004-0148	\$811.38
BIGLERVILLE BOROUGH			
41	Wintrade, Dwight R. & Pearl A.	001-0013	\$17,072.32
43	R F Truesdell Inc.	004-0040	\$1,231.43
45	R F Truesdell Inc.	004-0055A	\$4,536.16
BUTLER TOWNSHIP			
52	Arentz, David Allen & Barbara	G08-0042	\$5,574.85
53	Bailey, Parker & Velma	F10-0038-078 1982 Liberty	\$689.25
56	Flickinger, Donald W. & Pamela	F09-0070	\$4,744.16
57	Lener, Phyllis J.	F10-0038-074 1989 Windgate	\$1,883.37
58	Half, Uhlmont L.	F09-0043B	\$554.19
61	Kuhn, Toni L.	F10-0038-081 1998 Sunset	\$2,173.14

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
62	Loubier, John R. & Donna	F09-0092	\$14,642.76
66	Taylor, Woodrow & Tammy III	F10-0038-062 1994 Redman	\$1,158.31
69	Miller, George & Rose	F10-0038-13A 1993 Colony	\$1,469.30
72	Heckendorn, James Jr.	F10-0038-044 1985 Heritage	\$911.94
73	Brinkley, Scott & Rebecca	F10-0038-057 1990 Fleetwood	\$1,119.13
75	Strawsburg, Nadine	F10-0038-017 1995 Skyline	\$2,122.07
78	Morales, David C.	F10-0038-13B 1993 Sandpointe	\$1,465.17
79	Spring Valley Farms	F07-0073	\$7,912.39
81	Anchor Associates	F10-0038-054 1990 Windgate	\$1,423.32
82	Gormley, William G.	E08-0051	\$222.84
83	Gormley, William G.	E08-0051-001 1963 Richardson	\$139.42
84	Rex, Kathy	F07-0030-001 1968 Rembrandt	\$132.42
86	Wenschof, Richard D. & Sandra	F09-0032	\$485.73
87	Wenschof, Richard D. & Sandra	F09-0032D	\$660.30
89	Spring Valley Farms	F07-0073A	\$1,956.83
CONEWAGO TOWNSHIP			
96	Wildasin, Lee A. & Margaret A.	L14-0009	\$9,802.65
97	Wintrode, Dwight R. & Pearl A.	001-0200	\$10,774.14
99	Cent Realty Inc.	008-0049	\$8,151.84
100	Hanover Scrap Processing Co.	L16-0001	\$2,044.99
CUMBERLAND TOWNSHIP			
107	Andrew, Richard L.	G14-0042A	\$463.17
113	Kirkham, Barbara & Doris Lee	F17-0022C	\$2,612.99
118	Scott, James M.	E14-0010B	\$916.53
120	Sheppard, Warren H.	E13-0072	\$11,278.66
126	Eberhart, John W., Jr.	E17-0066A	\$924.61
128	Kern, Susan B.	E13-0026	\$10,217.63
129	Martin, Colleen	E13-0025A	\$3,673.31
132	Gettysburg Foundry Specialties	E16-0072	\$4,461.61
133	CM Metals Gettysburg Inc.	E16-0075	\$6,091.56
134	CM Metals Gettysburg Inc.	E16-0075	\$1,269.91
135	CM Metals Gettysburg Inc.	E16-0075	\$96,471.68
136	CM Metals Gettysburg Inc.	E16-0075	\$11,670.32
137	Sanders, Deborah	F15-0065-039 1994 Fleetwood	\$2,113.84
142	Toler, Otis H.	E12-0082-051 1982 Homette	\$318.22
143	Brown, Kimberly K.	E12-0082-40 1989 Redman	\$1,308.82
144	Nell, Ray A. & Carol A.	F17-0036	\$5,714.04
146	Head, Ronald W. & Sylvia M.	E12-0082-024 1976 Homette	\$337.85
148	Sanders, Susan	E12-0082-801 1984 Skyline	\$576.68
150	Knott, Joni	F15-0065-015 1981 Burlington	\$328.93
151	Hegglin, Amy J.	E12-0082-364 1987 Redman	\$867.09
153	Stitely, Ruth M.	E12-0082-205 1988 Derose	\$419.60
155	Smith, Ronald W. & Deanna G.	F16-0022	\$6,631.47
156	Bachert, Clyde	E12-0107	\$19,423.30

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
EAST BERLIN BOROUGH			
160	Hull, Donald A.	004-0129	\$2,804.66
160A	Roberson, Carole	004-115	\$8,323.82
FRANKLIN TOWNSHIP			
163	Beamer, William H. & Lynda M.	D08-0010	\$2,455.91
164	Bolton, Rose B.	D12-0019	\$4,139.65
168	Chase, Daniel R. & Jennifer L.	B09-0080	\$2,576.49
169	Coene, Charles & Hoff, Karen	002-0099	\$546.91
170	Denike, Brenda A.	C10-0009A	\$238.85
172	Gilland, Jeffrey	C11-0052	\$789.54
173	Stanhope, Robert C.	A09-0087	\$1,147.96
174	Hahn, Eugene	C11-0029	\$4,072.34
176	Herring, Thomas James	B08-0047-001 1980 Liberty	\$335.53
181	Nathan, Rose B.	D12-0033	\$2,762.50
182	Pritt, Eddie A. & Sharon	B10-0013B	\$618.70
184	Rodriquez, Monica S.	C10-0027A	\$675.29
185	Slusser, Thomas E. & Doris J.	E10-0039A	\$5,278.34
187	Strausbaugh, Charles W. & Alverda	B09-0038G	\$696.35
188	Swayzer, Fred L. & Estella M.	C11-0047	\$345.39
189	Verdier, Linwood R. & Karan S.	B09-0038E	\$1,279.90
191	Wherley, Daniel C. & Susan A.	D12-0017	\$665.84
193	Smith, Richard J., Jr.	002-0025	\$662.98
194	Smith, Richard J., Jr.	002-0025A	\$117.50
195	Hartzell, Ellwood V. & Margaret	B09-0072	\$600.31
196	Hartzell, Elwood V. & Margaret	C12-0030	\$1,076.11
198	Shank, Arthur F.	B08-0013-043 1953 Alma	\$126.86
199	Bittinger, Ronald J. & Elaine	D11-0029	\$3,276.94
201	Cassatt, Merle M. & Linda Jr.	C11-0034-001 1967 Patriot	\$213.37
202	Cassatt, Merle M. Jr.	C11-0034B	\$436.30
203	Smith, Richard J. Jr.	002-0024	\$130.11
204	Johnson, L. G.	B07-0001-060 1975 Avion	\$276.26
206	Deatrick, G. Robert	B09-0190	\$269.04
207	Fritts, Robert E. & Holly N.	B12-0008	\$1,234.37
208	Reaver, Stephan H. & Cindy L.	D11-0095A	\$5,198.21
209	Reecher, David W. & Brenda S.	C11-0091	\$4,097.72
210	Roser, John A.	C11-0004	\$1,343.28
211	Shelleman, John	C10-0013-001 1992 Redman	\$1,673.25
FREEDOM TOWNSHIP			
216	Keckler, Bonnie J.	E17-0033	\$2,248.21
218	Olswski, Michael A.	D15-0025	\$3,504.54
219	Musselman, John E. & Holsinger, Dannie	D16-0017	\$179.67
221	Millett, John J. & Fetrow, Raymond F.	D17-0053	\$5,509.62
224	Gonsalves, Richard & Golden, John F., III	F18-0014-003 Cottage # 6	\$359.78
GERMANY TOWNSHIP			
228	Wilson, Nancy W.	I18-0085	\$1,954.78
231	Brooks, Garrett S. Sr.	I17-0008	\$2,341.89
232	Edwards, Gary J. & Nancy A.	I18-0075	\$4,442.96
234	King, Loy L. & Julia C.	I17-0077B	\$1,794.88
235	Mitchem, Albert F. & Olla M.	J18-0082A	\$139.07
GETTYSBURG BOROUGH			
236	Carmichael, William L.	007-0010	\$10,108.39
237	Harris, Richard A. & Rhonda L.	011-0002	\$5,995.99
238	Harris, Richard A. & Rhonda L.	011-0001	\$1,815.95

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
239	Johnson, Sharon	010-0227	\$1,634.02
241	King, Olia S.	010-0332	\$2,540.85
247	Murtoff, Jennifer L.	013-0105	\$2,678.68
248	Mitchell, Kathleen L.	010-0317	\$2,946.69
249	Mitchell, Kathleen	010-0318	\$4,436.53
252	Sheppard, Warren H.	013-0053	\$25,218.00
258	Williams, Patricia Sarah	010-0228	\$1,228.26
259	Schwartz, J. William & Joanne	007-0069	\$4,682.38
261	Mauston, James W. & Catherine	010-0257	\$1,127.28
263	Baltimore Street Income	010-0117	\$15,348.02
265	Codori, Richard C.	004-0130	\$6,828.98
267	Liberty Properties & Verber, Stephen J. & Cullison, James R.	010-0162	\$3,931.82
268	Naugle, K. David	007-0067	\$3,917.00
272	Olympian Corp, The	007-0214	\$14,238.17
273	Sheaffer Brothers Inc.	007-0267	\$17,089.95
275	Norwest Bank Minnesota N.A.	007-0188	\$7,745.70
276	Phi-Delity Assoc. Inc.	004-0076	\$19,748.05
HAMILTON TOWNSHIP			
279	Ness, John B. & Eleanor H.	K11-0012	\$15,597.69
HAMILTONBAN TOWNSHIP			
285	Kauffman, Ronald D.	A12-0006	\$2,078.30
287	Mort, Catherine C.	A17-0052	\$16,404.47
288	Nicholas, George W. & Mary A.	B16-0114	\$3,818.48
290	Sites, Judith E.	B16-0015	\$1,627.20
291	Sprankle, Lawrence K. & Sharon	A15-0010	\$831.70
293	Carbaugh, Jock & Tammy	A12-0010A	\$944.98
294	Mort, Catherine	BB-17	\$279.96
296	Gladhill, Richard	B17-0001-001 1983 Brigadier	\$300.37
301	Mort, Catherine	BB-136	\$333.85
306	Knepper, Brian Lee	A12-0009C	\$319.29
HIGHLAND TOWNSHIP			
307	Harris, Richard A. & Rhonda L.	D13-0075	\$10,935.92
308	Keller, Carl L. & Janice M.	D12-0024	\$7,434.26
309	Keller, Carl L. & Janice M.	D13-0028	\$3,379.98
310	Ruch, Blakley E. & Terry L.	D13-0065	\$1,247.32
312	Trostle, Rondale A. & Karen S.	E12-0121	\$3,312.94
314	Settle, Keith T.	D13-0069	\$2,440.34
315	Wolfe, Keller C.	D12-0001C	\$1,765.54
316	Ortman, Kenneth John	D14-0049	\$2,600.66
HUNTINGTON TOWNSHIP			
325	Parsley, Richard	G02-0013-004 1974 Derosé	\$138.89
326	Wolf, Larry M. & Linda M.	G03-0067	\$2,011.94
328	Fair, Tina M.	I07-0017A	\$2,821.08
331	Price, Beatrice M.	I06-0032	\$2,174.49
332	B S B Bank & Trust	G03-0122-008 1969 Skyline	\$187.82
334	Wheatley, Sherry	G03-0122-015 1998 Marlette	\$166.39
335	Michael, Timothy E.	G02-0015-002 1988 Fleetwood	\$443.28
LATIMORE TOWNSHIP			
339	Brown, Janet L.	I03-0024B	\$1,337.19
340	Conley, Robert H. & Anna Mae	I03-0038	\$3,441.46
342	Golden, Emory C. & Jacqueline	I04-0016B	\$2,879.55
343	Golden, Doralyn S.	I04-0015	\$4,560.07
344	Golden, Doralyn	I04-0002	\$2,945.43

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
345	Kernan, Thomas B. & Linda E.	J04-0037	\$6,292.78
346	Kropp, Lawrence C.	K04-0006A	\$1,541.13
347	Mandeville, Mark T. & Maria A.	I01-0032	\$794.89
349	McGinty, Charles E.	I02-0070-001 1982 Poloron	\$537.62
356	King, Timothy M. & Donna F.	J03-0020B	\$3,906.95
359	Kress, Michelle R.	I02-0004-001 1985 Shults	\$810.37
360	Ash, Jerry L. & Glenna L. Sr.	I03-0002B	\$1,338.13
361	Crook, Michael	J03-0012	\$2,062.74
362	Clopper, Brian K.	J03-0009	\$2,460.16
363	Kernan, Thomas B. & Linda E.	J04-0037	\$4,772.63
365	Smothers, Roby D. & Lora M.	004-0001	\$842.21
366	Smothers, Roby D. & Lora M.	004-0001	\$2,712.54
LIBERTY TOWNSHIP			
367	Cole, Mary Ellen	QQ-56	\$384.65
370	Gladhill, Richard L. & Deborah	A18-0044	\$4,368.09
372	Quinn, Michael K.	QQ-0009	\$184.40
373	Moore, Kendall E. & Janet L.	QQ-0053	\$698.78
376	Sheldon, William Robert & Cheryl Ann	OO-0064	\$308.54
377	Sheldon, William Robert & Cheryl Ann	OO-0061	\$3,583.94
380	Hill Country Enterprises Inc.	A18-0049	\$1,838.03
384	Parham, Lovell & Gloria M.	AA-0179	\$262.98
393	Zimmerman, Thomas W. & Deborah	AB-0048	\$5,814.84
394	Dunaway, Paul & Kenneth	AA-0181	\$291.84
395	Hill Country Enterprises Inc.	A18-0049A	\$185.97
396	Lease, Thomas S.	B17-0072	\$1,316.20
405	Stowick, Evelyn S.	AB-0098	\$225.70
409	Workman, Billie M.	AA-0114	\$283.18
410	Piper, Wayne W. & Elaine L.	C18-0042	\$4,259.94
LITTLESTOWN BOROUGH			
412	Collins, Anthony G. & Tracy A.	006-0065	\$5,138.37
421	Birtic Jr., Edward L., Et Al	012-0007	\$3,554.93
422	Foltz Architectural Millwork	008-0364	\$21,977.86
423	Dennis, Edward F. & June E.	006-0011	\$7,046.16
427	Harman, Audrey A.	008-0205	\$544.24
428	Henne, Dorothy R.	014-0052	\$1,663.47
MCSHERRYSTOWN BOROUGH			
431	Sipe, Jan B. Et Al	002-0111	\$3,586.59
434	Lawrence, Tamara A. & David J.	002-0026	\$1,769.53
435	King, Loy L. & Julia C.	001-0017	\$2,040.59
MENALLEN TOWNSHIP			
438	Harris, Tom & Kathy	E07-0033-003 1979 Sylran	\$429.40
439	Musgrave, Robert S. & Susan G.	B05-0003	\$762.65
440	King, Mary A.	E07-0007	\$3,070.30
445	Strine, Kenneth L.	F05-0078-001 1977 Liberty	\$306.14
450	Harpster, Scott C.	B05-0007B	\$467.85
451	Schrivver, Peter J. & Vickie L.	F04-0024	\$8,545.07
452	Taylor, Clifford W.	E06-0042	\$1,023.46
454	Hostetter, Mark L. & Kelly P.	C05-0020	\$2,309.46
455	McQuay, William J. & Toni	E05-0031	\$1,956.37
456	Fry, Lionel T. & Linda D.	D05-0031	\$2,333.75
457	Langen, Frank & Catherine J.	E06-0001I	\$2,202.12
459	Sharrah, Scott E. & Joann	E05-0045	\$3,163.25
MT. JOY TOWNSHIP			
469	Higgs, Gilbert & Mary C.	G14-0011-002 1972 Flamingo	\$231.14

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
472	Mikesell, Paul M. & Lois A.	H15-0064	\$5,454.39
474	Poole, Barry N. & Kelly A.	H15-0047	\$6,466.45
480	Strausbaugh, William J. & Mary	G17-0038	\$1,445.56
484	Bui, Hien Van	G14-0089	\$7,303.25
486	Hogan, Dennis E. & Darlene A.	008-0040	\$212.14
487	Demps, Heather	010-0002	\$4,427.19
490	IMC Mortgage Company	007-0082	\$6,665.95
491	Alexander, Sally	H16-0052	\$3,286.16
494	Full Gospel Lighthouse Of Gettysburg	G15-0012	\$9,961.20
496	Holland, Larry L. & Rita A.	011-0011 H-997	\$3,673.81
497	Holland, Larry L. & Rita A.	011-0012 H-998	\$318.42
MT. PLEASANT TOWNSHIP			
501	Benson, William E. Sr. & Benson	I15-0078	\$1,638.91
503	M & T Bank	H14-0032-049 1998 Clayton	\$1,163.14
507	Cyryca, Jeffrey & Ania J.	I14-0052	\$5,272.19
510	Bobb, Cynthia & Jacobs, Richard	J12-0061-143 1981 Liberty	\$471.19
513	Laughman, Leo T. Jr.	J12-0061-071 1985 Liberty	\$606.37
514	Lawrence, William & Pam	J12-0061-013 1990 Fleetwood	\$1,101.33
515	Light, David	J11-0052-045 1968 Schult	\$148.52
516	Lupp, John W. L. & Eleanora P.	H13-0029-006 1978 Skyline	\$272.79
519	Mullin, Richard P. & Mullin, Michael S.	J11-0006A	\$2,678.26
522	Parsley, Kathleen M. & Carnes, EIVEN L.	I12-0025	\$3,200.53
525	Smith, Roger & Jane	J12-0061-060 1985 Liberty	\$680.58
527	Basehoar, Charles D. & Robin L.	I13-0013	\$1,700.56
528	Beach, Carl L.	J12-0061-141 1981 Derose	\$757.97
529	Grothe, Stephen A.	J12-0061-014 1994 Whiterose	\$1,203.39
532	Benson, William E. & Emma M. Sr.	I15-0074	\$3,259.36
534	German, Gil	J12-0061-031 1976 Metomora	\$187.88
538	Moreno, Jesus Jr.	J12-0061-073 1987 Skyline	\$810.26
539	Eckenrode, Amy S.	H14-0032-009 1995 Wexford	\$820.56
543	Vasquez, Miguel & Beatriz	J11-0052-030 1987 Commodore	\$1,190.46
544	Dauberton Manor Inc.	J11-0052	\$28,389.06
545	Dauberton Manor Inc.	J11-0052A	\$1,439.99
546	Degroft, Derrick	J12-0061-040 1996 Fleetwood	\$1,196.90
548	Bolinsky, Michael R. Et Al	J11-0052-034 1986 Scott	\$549.48
549	Becker, Keith R. & Jennifer	J11-0052-020 1996 Southern Energy	\$1,644.47
553	Mummert, Merrill A. & Barbara	005-0097A	\$292.15
NEW OXFORD BOROUGH			
556	Cottage Products Partnership	004-0097	\$2,574.31
558	Brock, Roy L. & Sandra L.	005-0172	\$2,188.49
561	Oxford Manor Ltd. Part II	001-0011	\$1,488.96
562	Sipe, Jan B. & Howells, William E., II	005-0112	\$4,909.96
563	Wildason, Charles D. & Carol E. & Wintrode, Dwight R.	005-0212	\$2,035.90
565	Wallen Homes Inc.	007-0075	\$226.48
566	Halterman, Lorain D. & Martha	004-0028A	\$5,225.75

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
567	Wolf, Sonja M.	007-0076	\$1,958.36
568	Halterman, Lorain D. & Martha	004-0012	\$522.51
572	Cottage Products Partnership	004-0099	\$5,735.81
OXFORD TOWNSHIP			
576	Karnot, Sana E.	J11-0131M	\$1,753.83
578	Rodriguez, Irene	K11-0105F-028 1998 Fleetwood	\$1,071.71
580	Sponseller, Wendy	K11-0105F-030 1975 Norris	\$244.80
583	Wentz, James E. & Reindollar, Bertha	K12-0002A	\$912.67
585	Sipling, John	K11-0105F-031 1997 Fleetwood/Lake Springs	\$996.48
587	Hoover, Clair L. & Ruth L.	K11-0105A	\$7,991.54
588	Clark, Luella	J13-0007J-001 1995 Imperial	\$2,411.80
596	Ketterman, Barry & Barbara	K11-0026C-013 1997 Liberty	\$1,267.35
598	Wagner, Robert D.	K12-0035	\$1,266.39
600	Hufnagle, Aaron & Little, Jen	K11-0026C-014 1997 Ritzcraft	\$1,273.96
READING TOWNSHIP			
603	Brashears, Charles	L07-0005-017 1988 Brigadier	\$1,136.95
608	Groft, Michael & Brown, Hilda	J08-0045-032 1991 Skyline	\$1,229.17
609	Hamilton Homes Inc.	002-0031	\$2,721.61
610	Hampton Plains Inc.	J08-019B	\$316.84
613	Jarrett, Edward & Diane	J08-0045-117 1976 Metomora	\$233.47
614	Quinn, Michael K.	J08-0110A	\$273.53
616	Myers, Kenneth E.	J08-0045-008 1985 Skyline	\$576.72
617	Reese, Steven	J08-0045-108 1992 Skyline	\$1,234.92
621	Sullivan, Ronald W.	J09-0070F	\$2,342.94
623	Wildasin, Christine A.	K07-0038	\$2,059.30
624	Hertz, Crystal D. & Starnier, Cornelius & Pearl	J08-0045-133 1992 Colony	\$1,484.89
626	Mehring, Scott & Topper, Wendy	L07-0005-025 1991 Skyline	\$681.84
627	Schoolcraft, David B. & Lois	J09-0074	\$3,547.26
631	Wildasin, Malinda & Crane, Rockie A.	K07-0006B	\$3,462.61
632	Hynson, David & Debra	005-0082	\$286.27
633	Petosky, Joyce	J08-0045-137 1995 Skyline	\$762.77
634	Glacken, Paul & Ann, Jr.	J08-0045-122 1979 Hillcrest	\$373.94
635	Meckley, Thomas Et Al	L07-0005-016 1999 Claremont	\$816.20
637	Chance, Robert & Marie	L07-0005-018 1972 Sheraton	\$193.16
643	Brown, Guy I. & Lori A.	K08-0002F	\$4,695.24
644	Carbaugh, Daniel M. & Althoff, Barbara	002-0002	\$2,198.98
648	Archer, Donald S. & Valerie A.	K08-0120	\$1,195.01
649	Bachert, Clyde C. Jr.	008-0016	\$4,974.57
STRABAN TOWNSHIP			
652	Grimes, George E.	G12-0124-077 1977 Lagrande	\$225.54
653	Harris, Richard A. & Rhonda L.	001-0079	\$1,132.28
655	Powell, Judy	G12-0124-023 1966 Schult	\$236.37
656	Kyle, Timothy H.	G12-0124-083 1995 Colony	\$1,352.41

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
657	Kennedy, Annette E.	G13-0066	\$2,542.61
658	Klein, Herbert F. & Naomi C.	I11-0023A	\$2,063.39
659	Klein, Herbert F. & Naomi C.	I11-0023C	\$2,686.16
660	Klinefelter, James & Dawn	H10-0017-102 1985 Skyline	\$878.67
661	Lane, Suatpeng	H10-0017-132 1983 Skyline	\$442.13
664	McKenna, Edward J. & Patricia	G10-0013	\$16,025.43
665	Rosensteel, George & Catherine	G12-0124-026 1984 Skyline	\$740.38
667	Shipley, Dorothy	G12-0124-054 1973 Zimmer	\$218.06
668	Aliff, Leonard	G12-0124-084 1977 Classic	\$241.23
669	Taughinbaugh, Jere W.	H10-0061	\$812.61
670	Taughinbaugh, Jere W. & Sue E.	H10-0062	\$408.12
671	Group, Nancy	H10-0017-130	\$888.86
674	Henry, Richard L. & Sherry L.	I10-0015D	\$12,737.71
677	Simmons, Lawrence M.	G11-0034	\$7,272.93
678	Uber, Howard	G12-0125-00A 1965 Marlette	\$169.49
679	Monahan, Carrie M.	H10-0017-152 1995 Skyline	\$2,389.26
680	Bevard, David L. & Bertha A.	H10-0017-149 1993 Sunliner	\$1,917.75
682	Lawver, Tammy	G12-0124-042 1977 Liberty	\$256.13
683	Mahalage, Michael W.	G10-0013-001 1970 Pride Estate	\$342.15
687	Zartman, Gerald J.	H11-0014-001 1975 Newport	\$225.48
688	Orner, James & Bucher, Debora	H10-0017-138 1995 Fleetwood	\$1,378.80
689	Hoffman, Kurt V. & Carol A.	H11-0006	\$3,872.05
690	Millar, John Z. Jr.	I10-0029	\$2,819.58
691	Powell, Julie	G12-0124-027 1971 Hillcrest	\$211.06
693	Harrison, Anthony	G12-0125-00K 1971 Hillcrest	\$205.31
697	Sadler, Ronald H. Et Al	H10-0017-143 1987 Derose	\$659.15
698	Scott, Karen	H10-0017-141 1986 Sunliner	\$1,018.10
703	Slick, Miriam L.	H10-0017-103 1996 Liberty	\$1,345.33
705	Evans, Sharon	G12-0124-043 1973 Marlette	\$150.11
707	Wright, Kevin & Lori	H10-0017-148 1997 Redman	\$1,692.04
708	Deckert, Jennifer	H10-0106	\$1,374.85
709	Elwood, Kenneth	H12-0021-005 1998 Nova	\$1,277.45
710	Stewart, Joe & Irene	H10-0017-142 1989 Fleetwood	\$1,380.34
711	Kalb, Patricia A.	H10-0017B	\$2,556.83
TYRONE TOWNSHIP			
722	Staub, Clifford K. & Maria M.	H07-0013A	\$3,285.14
723	Wallace, Janet A. & Edward B.	H06-0028B	\$645.06
725	Althoff, Jacqueline A.	H07-0075-076 1996 Fleetwood	\$3,291.80
730	Rudolph, Patrick J. & Sara A.	I09-0016A-013	\$203.99
731	Gemmill, Craig	H07-0075-121 1998 Commodore	\$2,647.04

SALE NO.	OWNER OR REPUTED OWNER	PROPERTY DESCRIPTION	APPROXIMATE UPSET PRICE
732	Greenpoint	H07-0075-086 1996 Fleetwood	\$1,982.83
734	Lewis, Tammy	H07-0075-118 1995 Imperial	\$1,795.13
UNION TOWNSHIP			
741	G. C. W. Properties Inc.	J16-0007A	\$1,452.04
742	Mickley, Chad M. & Lisa O.	006-0143	\$2,802.53
YORK SPRINGS BOROUGH			
745	Hoffman, William D.	005-0022	\$3,467.13
746	Kernan, Thomas B. & Linda E.	002-0007	\$3,754.11
747	Topper, Richard M. Et Al	003-0004	\$3,094.53
748	Harter, Forrest J.	005-0040	\$1,095.36
CARROLL VALLEY BOROUGH			
751	Boothe, Louise M.	022-0119 WA-271	\$505.42
754	Farinick, Lorraine R.	023-0117 A-0006	\$5,744.17
756	Helmke, Thomas W.	046-0111 RC-0105	\$431.81
757	Moore, Kendall E.	025-0076 D-0094	\$228.58
758	Moore, Kendall E. & Janet L.	024-0021 A-0017CR	\$450.01
759	Moore, Kelly E.	025-0111 D-0041	\$148.18
760	Moore, Kendall E. & Janet L.	045-0094 R-0057	\$873.39
761	McClellan, John B.	019-0063 D-0032	\$180.67
762	McConeghy, Daniel J. & Mary B.	045-0035 RA-0061	\$541.11
763	Schaffner, John C. & Lorena A.	034-0052 E-0019	\$150.14
764	Sedr, William W. & Dolores C.	018-0049 C-0023	\$210.87
773	Weaver, John R. & Martha	046-0066 RC-0027	\$421.92
775	Whitcomb, Lionel & Amanda	003-0060 K-0311	\$580.96
777	Anders, Gary L. & Debra J.	016-0055	\$315.93
778	Carr, Anna Vieth	030-0062	\$168.62
788	Dunaway, Paul & Kenneth	019-0028 D-0210	\$793.95
789	Dunaway, Paul & Kenneth	024-0080 C-0086	\$641.58
790	Dunaway, Paul & Kenneth	035-0104 B-0023CR	\$450.01
791	Smith, Sharon K.	034-0099 P-0160	\$11,816.21
795	Rich, Dorothy	047-0066 R-0108	\$779.92
797	Brockhoeft, David L. Et Al	024-0026 A-0012CR	\$4,594.85
798	Calhoun, Gerald M. & Judith E.	025-0096 D-0104	\$213.76
800	Didio, Dennis M.	034-0146 E-0025+	\$5,247.54
801	Dungan, Denise Et Al	047-0055 R-0097	\$515.15
802	Dunning, Charles A. & Bessie O.	022-0095 WA-0218	\$180.77
803	Grana, Judith M.	006-0035 K-0067	\$5,416.78
804	Havens, Daniel W. & Hance, Jean	028-0134 W-0296+	\$5,253.45
806	Marsh, John M.	035-0152 P-0091	\$181.73
807	Nelson, Gilbert J.	045-0027 RA-0048	\$201.70
808	Russell, Thomas C. & Mary B.	047-0043 R-0085	\$492.15
810	Smith, Sharon K.	034-0100 P-0161	\$656.18
811	Tokarski, Charles F. & Jean A.	006-0001	\$701.63
812	U & T Inc.	021-0001 IW-0034	\$630.99
813	Wilder, Harold	029-0063 B-0043	\$444.26
814	Moser, Dayna C. & Jeffrey A.	023-0111	\$159.16
816	Myers, Daniel W.	035-0132 P-0102	\$660.02
818	Cornelius, William E. & Julia	035-0180 P-0012	\$158.33
819	Country Builder Custom Homes	029-0032 B-0026	\$406.33
820	Cromlish, David A. & Eileen J.	041-0188 RB-0079	\$434.99
821	Gibbons, T. J. Jr., & Rita M.	046-0102 RC-0137	\$440.92
823	Wood, John H. & Pauline A.	003-0041 K-0054	\$452.17
824	Topper, Jacob & Brenda L.	046-0064 RC-0029	\$2,197.75

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-377 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of September, 2000, 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 two tracts of land lying and situate in Carroll Valley, Borough known as Lot RC-17+ (formerly Liberty Township) Adams County, Pennsylvania, Charnita Section RC Lots No. 17 and 19) more particularly bounded and described as follows:

BEGINNING at a point in the center of Lower Trail South 45 degrees, 42 minutes, 40 seconds West 225 feet along Lot No. 37 to a point at corner adjoining Lot No. 20 and 21; thence by Lot No. 20 North 44 degrees, 17 minutes, 20 seconds West 125 feet to a point in the center of Toms Creek Trail; thence along center of Toms Creek Trail South 45 degrees, 42 minutes, 40 seconds West 89.61 feet to a point in the center of Toms Creek Trail and at corner of Lot No. 18; thence by Lot No. 18 North 42 degrees, 56 minutes, 00 seconds West 206.81 feet to a point at the corner of Lot No. 18 and lands of Bartholomew Hogan; thence along lands of Bartholomew Hogan North 47 degrees, 04 minutes, 00 seconds East 115 feet to a point; thence South 42 degrees, 56 minutes, 00 seconds East 204.09 feet to a point in the center of Toms Creek Trail; thence through the center of Toms Creek Trail North 45 degrees, 42 minutes, 40 seconds East 199.58 feet to a point in the center of the intersection of Toms Creek Trail and Lower Trail at corner of former Lot No. 19; thence along the center of Lower Trail South 44 degrees, 17 minutes, 20 seconds East 125 feet to the PLACE OF BEGINNING.

CONTAINING 1.188 acres, more or less.

The above described was taken from a survey plat labeled Lot Recombination Plan dated May 23, 1991 prepared by Adams County Surveyors, J. Riley Redding, R.S. recorded in Adams County Plat Book 58 at page 57.

NOTE: Being known and designated as Map/Parcel 46/74 Lot RC 17 and 19 and known as RC 19+ (as per the Adams County Assessing Department) as shown on Plat Book 58 at page 57.

TITLE TO SAID PREMISES IS VESTED IN Tom Simpson and Melanie Simpson, husband and wife by Deed from Bryan E. Fogle and Melody A. Fogle, husband and wife dated 5/13/98 recorded 5/15/98 in Record Book 1581 page 57.

SEIZED and taken into execution as the property of **Tom Simpson & Melanie Simpson** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 9, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/21, 28 & 8/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-364 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of September, 2000, 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 Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on the property line of Pine Lane at corner of Lot No. 86 on the hereinafter referred to plan of lots; thence along Lot No. 86, South forty-three (43) degrees fifty-six (56) minutes fifty-one (51) seconds West, one hundred fourteen and sixty hundredths (114.60) feet to a point where the corners of Lots Nos. 86, 69, 70 and 85 intersect; thence along Lot No. 70; North forty-two (42) degrees fifty-seven (57) minutes thirty (30) seconds West, seventy-eight (78) feet to a point on the property line of Walnut Lane; thence along said Walnut Lane by a curve to the left, the radius of which is eight hundred forty-seven and seven hundred twelve thousandths (847.712) feet, an arc length of ninety-five and thirteen hundredths (95.13) feet, and having a long chord bearing and distance of North forty-three (43) degrees twenty (20) minutes seven (7) seconds East, ninety-five and eight hundredths (95.08) feet to a point; thence by a curve to the right, the radius of which is fifteen (15) feet, an arc length of twenty-two and eighty-seven hundredths (22.87) feet, and having a long chord bearing and distance of North eighty-six (86) degrees seven (7) minutes forty-six (46) seconds East, twenty

and seventy-two hundredths (20.72) feet to a point on the property line of Pine Lane, aforesaid; thence along said Pine Lane by a curve to the right, the radius of which is one thousand five hundred seventy and two hundred fifty-five thousandths (1,570.255) feet, an arc length of sixty-five (65) feet and having a long chord bearing and distance of South forty-six (46) degrees zero (0) minutes fifty-seven (57) seconds East, sixty-four and ninety-nine hundredths (64.99) feet to a point at Lot No. 86, the point and place of BEGINNING. (CONTAINING 8,712.039 square feet or 0.200 acres). (Being Lot No. 85 on a plan of lots of Oxford Estates dated January, 1983, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 37, at page 122.)

Tax Parcel # 9-39

TITLE TO SAID PREMISES IS VESTED IN William E. Earle and Lisa Rae Earle, his wife by Deed from Oxford Estates, a General Partnership dated 8/21/84, recorded 8/9/84, in Deed Book 384, Page 381.

SEIZED and taken into execution as the property of **William E. Earle & Lisa Rae Earle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 9, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/28, 8/4 & 11

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on June 15, 2000.

The name of the corporation is **BONHAM IM/IT SERVICES, INC.**

The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

Bonham IM/IT Services, Inc.
1051 Taneytown Road
Gettysburg, PA 17325

8/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 THOSE CERTAIN (3) tracts of land, together with the improvements thereon erected, Situate, lying and being in Reading Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows:

TRACT NO. 1:

BEGINNING at a point on the Northwest bank of the Conewago Creek at the Southwest corner of Lot No. 21 on the plan hereinafter referred to: thence along said Lot No. 21, North 41 degrees West 258 feet to a point at a 20 feet wide driveway, thence along the South side of said last mentioned driveway, South 57-1/2 degrees West, 50 feet to a point at Lot No. 19; thence along said Lot No. 19, South 33 degrees East, 280 feet to a point on the Northwest bank of said Conewago Creek; thence along the Northwest bank of said Conewago Creek, North 40 degrees East, 87 feet to a point at Lot No. 21, the place of BEGINNING. (Being known as Lot No. 20, Block 3, on a plot or plan as per survey of Charles E. Hoke, Registered Surveyor, on August 6, 1946).

TRACT NO. 2:

BEGINNING at a point on the West bank of Conewago Creek at the Southwestern corner of Lot No. 22 on the plan hereinafter referred to and being lands now or formerly of William E. Stock; thence along said lands now or formerly of William E. Stock, North 50-1/2 degrees West, 237 feet to a point at a 20 feet wide driveway; thence along the Southern side of said driveway, South 57-1/2 degrees West, 50 feet to a point at Lot No. 20 on said plan; thence along said Lot No. 20, South 41 degrees East, 258 feet to a point on the West bank of the Conewago Creek; thence along the West bank of said Conewago Creek, North 40 degrees East, 87 feet to a point at Lot No. 22 of said plan, the place of BEGINNING. (Being known as Lot No. 21, Block 3, on a plot or plan as per survey of Charles E. Hoke, Registered Surveyor, on August 6, 1946).

TRACT NO. 3:

BEGINNING at a point at the Southeast corner of Lot No. 21 on the plan hereinafter referred to and being lands now or formerly of William E. Stock; thence along said lands now or formerly of William E. Stock, North 50-1/2 degrees West, 237 feet to a point at a 20 feet wide driveway; thence along the Southern side of said driveway, North 57 degrees 30 minutes East, 50 feet to a

point at a 20 feet wide private driveway; thence along said last mentioned private driveway, South 56 degrees East, 221.26 feet to a point at Conewago Creek; thence along said Conewago Creek, South 40 degrees West, 67 feet to a point at Lot No. 21, the place of BEGINNING. (Being known as the major portion of Lot No. 22 on a plot or plan of a series of lots laid out by Harry A. Lauchman and Gertle R. Lauchman, his wife, as per survey of Charles E. Hoke, Registered Surveyor, and as revised by J.R. Fleming).

TOGETHER with the free ingress, egress and regress to and for the said Grantees, their heirs and assigns, their tenants and under-tenants, occupiers and possessors of the above land, in along, upon and out of a 20 feet wide driveway running along the front of the above mentioned lots, in common with the owners, their heirs and assigns, their tenants and under-tenants, occupiers and possessors of adjoining lands thereto.

Tax Parcel # L8-49

SEIZED and taken into execution as the property of **Randy L. Stevens & Betsy Ritter Stevens** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/28, 8/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-365 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 ground, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Stayman Way at corner of

Lot No. 64 on subdivision plan hereinafter referred to; thence along the right-of-way line of Stayman Way, by a curve to the left, having a radius of two hundred fifty (250.00) feet, an arc length of fifty-one (51.00) feet, and along chord bearing and distance of South twenty-eight (28) degrees fifty-seven (57) minutes fifty-six (56) seconds West, fifty and ninety-one hundredths (50.91) feet to a point a corner of Lot No. 66 on subdivision plan hereinafter referred to; thence along Lot No. 66, North sixty-six (66) degrees fifty-two (52) minutes forty-three (43) seconds West, one hundred ten (110.00) feet to a point along Lot No. 472 on subdivision plan hereinafter referred to; thence along Lot No. 472, North thirty-four (34) degrees forty-eight (48) minutes thirty-five (35) seconds East, seventy-two and ninety-three hundredths (72.93) feet to a point at corner of Lot No. 64 aforesaid; thence along Lot No. 64, South fifty-five (55) degrees eleven (11) minutes twenty-five (25) seconds East, one hundred two and fifty-four hundredths (102.54) feet to a point along the right-of-way line of Stayman Way, the point and place of BEGINNING.

CONTAINING 6,480 square feet and being designated as Lot No. 65 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated 7/15/94, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, page 89.

TITLE TO SAID PREMISES IS VESTED IN Steve A. Miller and Tina M. Miller, husband and wife by Deed from S & A Custom Built Homes, Inc., A Pennsylvania Corporation dated 5/3/96, recorded 5/10/96, in Record Book 1191, Page 196.

SEIZED and taken into execution as the property of **Steve A. Miller & Tina M. Miller** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/4, 11 & 18

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 MARY JANE CABLE, DEC'D

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

Brenda C. Petersen, 111 Massbury Street, Gaithersburg, MD 20878

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF ALAN G. GENTLE, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Administrator: Bernard A. Yannetti, Jr., 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOHNNIE M. JOHNSTON, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Richard I. DeGroft, Sr., 31 Bonneau Heights, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF JOHN H. SHANK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Ray S. Shank, 1317 Red Hill Rd., New Oxford, PA 17350; Lewis J. Shank, 80 Becker Road, New Oxford, PA 17350

Attorney: Larry W. Wolf, Esq., 215 Broadway, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF BLANCHE A. BARNHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: James W. Barnhart, 531 Locust Street, Hanover, PA 17331

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

ESTATE OF R. KENNETH FOUST, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Gary E. Hartman, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF KATHERINE A. FUHRMAN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrices: Loretta M. Harrison, 3523 Meadowdale Drive, Baltimore, MD 21244; Barbara E. Louser, 532 Sabal Lake Dr., #112, Longwood, FL 32779

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

ESTATE OF RUELLE W. WOLFE, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Sally Ann Kemp a/k/a Sally W. Kemp, 6909 Deloache Avenue, Dallas, TX 75225

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF ROBERT E. CURTIS a/k/a DR. ROBERT E. CURTIS, ROBERT CURTIS, and ROBERT EDMUND CURTIS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Margaret B. Curtis, c/o Brian R. Price, Esq., 140 East Butler Avenue, Chalfont, PA 18914

Attorney: Brian R. Price, Brian R. Price & Associates, P.C., 140 East Butler Avenue, Chalfont, PA 18914

ESTATE OF HAZEL V. MILLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Lisa A. Miller, 36 Dewey Street, 2nd Floor, York, PA 17404

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

ESTATE OF HENRY W. SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Michael J. Smith, 400 Chapel Road, Hanover, PA 17331; Brian F. Smith, 176 Irishtown Road, Hanover, PA 17331

Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ADA B. TUCKEY, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: James Daryl Tuckey, 7 Burns Way Ct., Baltimore, MD 21236; Judith G. Smith, 127 Plank Rd., Gettysburg, PA 17325

Attorney: John W. Phillips, Esq., 101 W. Middle St., Gettysburg, PA 17325

ESTATE OF BEATRICE IRENE WAY-BRIGHT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Garnette Reeve Grimes, 3427 Fringer Road, Taneytown, MD 21787; John Martin Frock, 725 Russell Tavern Road, Gettysburg, PA 17325

Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ISABELLA D. WEANER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Robert W. Weaner, Sr., 244 Springs Ave., Gettysburg, PA 17325

Attorney: John W. Phillips, Esq., 101 West Middle St., Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-385 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 lot or tract of land situate on the southerly right of way line of Abbott's Drive in the Borough of Abbottstown County of Adams and State of Pennsylvania known and numbered as Lot No. 23 on a plan of lots for Abbott's Manor Phase II recorded in the office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plot 73, page 43, more fully bounded and described as follows to wit:

BEGINNING at a point on the southerly right of way line at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line of Abbott's Drive north thirty (30) degrees, fifty-seven (57) minutes, thirty-three seconds East, eighty-six and forty-three one-hundredths (86.43) feet to a point; thence continuing along the said right of way line of Abbott's Drive on a line curving to the right leaving a radius of two hundred seventy-five (275) feet an arc distance of sixty-three and ninety-nine one hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East, sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on said plan South twelve (12)

degrees three (03) minutes, thirty-three seconds one hundred seventy-seven and fifteen one hundredths (177.15) feet East to a point; thence south sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24, North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one-hundred two and eighty-eight one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 Sq. Ft.

UNDER AND SUBJECT TO part of a 50 foot wide gas transmission right of way conveying the subject premises as shown on said plan.

TOGETHER, with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

TO HAVE AND TO HOLD the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successor's and assigns forever, under and subject to the conditions set forth, if any.

AND THE SAID Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

UNDER AND SUBJECT, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

IT BEING THE SAME PREMISES which Hadley Holdings Corporation, by their deed dated May 30, 1996, and recorded in the Office of the recorder of deeds in and for Adams County, Pennsylvania in record book 1218, page 136, granted and conveyed unto Garland Construction, Inc., Grantors herein.

Premises being known as 158 Abbott's Drive, Abbottstown, PA 17301.

SEIZED and taken into execution as the property of **Chad M. Surdich** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/4, 11 & 18

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



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Adams County Legal Journal

Vol. 42

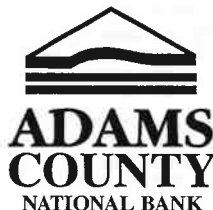
August 11, 2000

No. 11, pp. 56-59

IN THIS ISSUE

COMMONWEALTH VS. MYERS

Helping families achieve
their long-range financial goals
is our business.



Member FDIC

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.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

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

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-402 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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, with the appurtenances belonging thereto, situate, lying and being in the village of Irishtown in Oxford Township, Adams County, Pennsylvania, bounded by lands now or formerly of John L. Jenkins, William S. Jenkins, Edgar L. Jenkins and the public road running through Irishtown, as follows:

BEGINNING at a stone for a corner on said public road; thence with the same North, twelve and one-fourth (12-1/4) degrees East, ten and six-tenths (10.6) perches to a corner of land now or formerly of John L. Jenkins; thence with the same North seventy-four and one-half (74-1/2) degrees West, seventeen and seven-tenths (17.7) perches to a corner of lands now or formerly of W. S. Jenkins; thence with the same South twenty-nine and one-half (29-1/2) degrees West, ten and seven-tenths (10.7) perches to a corner of lands now or formerly of Edgar L. Jenkins; thence with the same South seventy-three and one-half (73-1/2) degrees East, twenty and nine-tenths (20.9) perches to the point and place of BEGINNING. CONTAINING on (1) acre and forty-two (42) perches of land neat measure.

Being known as 890 Irishtown Road.

Tax I.D. No. J13-27

SEIZED and taken into execution as the property of Steven A. Neiderer and to be sold by me

Raymond W. Newman Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-416 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 situated, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 65 in section RC, bounded and described as follows:

BEGINNING at a point in the center of Tom's Creek Trail at Lot No. 66; thence by said lot South 42 degrees 56 minutes East, 225 feet to Lot No. 80; thence by said lot South 47 degrees 4 minutes West 100 feet to Lot No. 64; thence by said lot North 42 degrees 56 minutes West, 225 feet to a point in the center of said Tom's Creek Trail; thence in said Tom's Creek Trail, North 47 degrees 4 minutes East, 100 feet to point and place of BEGINNING.

The above description was taken from a plan of lots labeled "Section RC of Charnita, Inc.," dated October 1, 1968, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at Page 35.

BEING the same premises which Kevin N. Finneyrock, by Deed dated June 28, 1996 and recorded in the Office of the Recorder of Deeds of Adams County on July 2, 1996, in Deed Book Volume 1220, Page 241, granted and conveyed unto Brian D. Valentine and Glenda M. Valentine.

Parcel No. 46-24

SEIZED and taken into execution as the property of Brian D. Valentine & Glenda M. Valentine and to be sold by me

Raymond W. Newman Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a

schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for ARENTZ HAY & GRAIN, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on July 25, 2000, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Guthrie & Yingst Solicitor

8/11

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 19, 2000, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is KRISTEN'S, INC.

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

John C. Zepp, III P.O. Box 204 York Springs, PA 17372

8/11

COMMONWEALTH VS. MYERS

1. It would appear that this judge may overrule another judge's adjudication if intervening changes in facts or law clearly warrant a new look at the question involved. The analysis to be employed is: First, was there a mistake made that was either factual, legal or discretionary in nature, and second, if so, was the mistake sufficient to warrant the granting of a new trial.

2. Generally, "the failure to raise a suppression issue prior to trial precludes its litigation for the first time at trial, in post-trial motions or on appeal." However, a judge has discretion to hear a suppression request during trial in the exercise of an extreme sense of caution or in the interest of justice.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal. No. CC-328-98. COMMONWEALTH OF PENNSYLVANIA VS. MATTHEW JOSEPH MYERS.

Christina Simpson, Esq., for Commonwealth
Jeffery M. Cook, Esq., for Defendant
Spicer, P.J., March 24, 1999.

OPINION ON POST SENTENCE MOTIONS

Officer Robert E. Funt, of the Littlestown Borough Police Department, filed a complaint March 23, 1998 charging defendant with possession of drug paraphernalia. Charges resulted from an incident that occurred in the early morning hours of March 13, 1998. At that time the officer saw defendant, who was born August 23, 1977 but has the misfortune of appearing no older than sixteen, was seen pumping gas at a convenience store. When defendant drove away the officer, believing he was witnessing a violation of defendant's Cinderella license, followed and stopped him. Defendant remembered and gave the number of his operator's license to the officer, but could not produce the actual card. Defendant appeared glassy eyed, confused and disheveled and was asked to exit the car. Officer Funt informed defendant that he intended to conduct a pat down and asked if there was anything in defendant's pockets that would hurt the officer. Defendant produced a needle and syringe. The pat down produced a spoon. Defendant explained that he was a diabetic.

Field tests were performed and passed. After a computer check revealed that defendant was of legal age to drive at that time of morning, Officer Funt gave him a card directing him to produce his license and started to walk away. However, the policeman stopped,

turned around and said, "By the way, could I search the car."¹ Defendant verbally consented, and later signed a formal consent. More syringes were discovered in the trunk.

Defendant was asked to report to the police station March 18, 1998 for an interview. At that time, he admitted that he was not diabetic and was, in fact, addicted to heroin. Charges followed.

Defendant filed an omnibus motion to suppress on October 19, 1998. The motion contained, inter alia:

6. Patrolman Funt effected a vehicle stop, searched the defendant's person and vehicle and seized evidence which forms the basis of the instant prosecution.

7. Defendant contends that the vehicle stop was made without probable cause, inasmuch as a computer check would have revealed the defendant was in excess of eighteen (18) years of age.

8. The vehicle stop effected by Patrolman Funt was in violation of the defendant's right guaranteed by the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution.

9. All items seized from the defendant's person and vehicle are "fruits of the poisonous tree" and are tainted; accordingly, all seized evidence should be suppressed.

Other than ¶ 9, the motion did not challenge defendant's production of evidence after the officer's question, the pat down or consensual search of the vehicle.

On November 24, 1998, The Honorable Robert G. Bigham conducted a suppression hearing and entered his adjudication December 14, 1998. Judge Bigham observed, as did the undersigned, that defendant appeared under the age of 18 and determined that the traffic stop was legal because the officer had no way of determining the identity of the driver before making the stop.²

¹ Notes of testimony from the bench trial have not been filed of record. The court relies on its trial notes and the quote is as noted, but may not be one hundred percent accurate. The transcript of the suppression hearing before Judge Robert G. Bigham has the officer saying, "Asked if --- started to turn, stop and said could I check your car to see if there's anything else in the car. He said sure, he had no problem with that." Page 10. The suppression transcript further indicates that Funt previously asked defendant if there was anything else in the car, to which defendant answered no. Page 9.

² Defense counsel argued that a computer check of the tag number would have indicated that the owner was an adult.

Defendant waived his right to a jury trial January 4, 1999. A bench trial occurred January 28, 1999, resulting in a verdict of guilty. Sentence was immediately imposed with the consent of defendant.

Defendant attempts to re-litigate the suppression issue through his post sentence motions. Since the effort involves a judge different from the one entering the suppression adjudication, this is unusual, although not entirely lacking in precedent. It would appear that this judge may overrule another judge's adjudication if intervening changes in facts or law clearly warrant a new look at the question involved. The analysis to be employed is: First, was there a mistake made that was either factual, legal or discretionary in nature, and second, if so, was the mistake sufficient to warrant the granting of a new trial. *Riccio v. American Republic Insurance Co.*, 550 Pa. 254, 705 A.2d 422 (1997).

During informal discussion with counsel, the undersigned mentioned having read a digest of *Commonwealth v. Sierra*, Pa. , 723 A.2d 644 (1999) in the Pennsylvania Law Weekly. This led to unearthing the opinion, although it had not then appeared in advance sheets. Defendant argued that the case, despite emanating from an equally divided court, was powerful authority for the grant of a new trial and a revisit to the suppression matter. Commonwealth reluctantly responded, while pointing out that defendant's omnibus pre-trial motion was confined to challenging the legality of the traffic stop.

Generally, "the failure to raise a suppression issue prior to trial precludes its litigation for the first time at trial, in post-trial motions or on appeal." *Commonwealth v. Collazo*, 440 Pa. Super. 13, 17, 654 A.2d 1174, 1176 (1995)." *Commonwealth v. Douglass*, Pa. Super., 701 A.2d 1376, 1378 (1997). However, a judge has discretion to hear a suppression request during trial in the exercise of an extreme sense of caution or in the interest of justice. *Commonwealth v. Cox*, 546 Pa. 515, 686 A.2d 1279 (1996); reargument denied February 18, 1997, cert. dn. by *Cox v. Pennsylvania*, 118 S. Ct. 567, 139 L. Ed. 2d 407, 66 USLW 3386.

The problem with defendant's position is that there was no attempt to re-open suppression issues during the bench trial, merely a later attempt to expand the scope of argument. While evidence raises some interesting questions about what occurred after the vehi-

cle stop³, those issues were neither considered nor addressed by Judge Bigham. No evidence was specifically directed toward those issues during the bench trial. It would be grossly unfair to the Commonwealth to expand suppression issues in post-sentence proceedings.

As to the narrow issue presented to and decided by Judge Bigham, we find neither grounds nor justification for disagreement with his adjudication.

Accordingly, we dismiss defendant's post-sentence motions.

ORDER

AND NOW, this 24th day of March, 1999, defendant's post sentence motions are dismissed.

Defendant is notified that he has the right to appeal to Superior Court within thirty days of this order. He has the right to proceed in forma pauperis, if indigent. He has the right to proceed with assigned counsel. He has the right to request that bail be set and that he be considered for bail pending the outcome of his appeal.

³ One example concerns the officer's question whether defendant possessed anything that might harm the officer prior to the pat down. Arguably, production of the needle and syringe was testimonial and should have been preceded by Miranda warnings. See: *Commonwealth v. Rishel*, 399 Pa. Super. 413, 582 A.2d 662 (1990), which discusses roadside questioning that can be expected to result in incriminatory responses in DUI situations. While the officer gave no indication of having Mirandized defendant, the issue was never raised. Another example, subject to the same comment, concerns the applicability of *Commonwealth v. Sierra*, supra. Although there were indications that another officer arrived on the scene after the vehicle stop, that officer's participation and positioning during the pat down and moment of consent was never described. Furthermore, even if the fruits of the vehicle search were excluded, the prelude to the pat down, coupled with defendant's later admissions, were sufficient for a conviction. We have heard neither argument nor testimony about whether the initial production and seizure of a needle and syringe was a coercive factor in defendant's consent. We point this out only to emphasize that defendant's efforts to expand consideration of suppression leads to a quagmire of undeveloped factual issues.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-364 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 15th day of September, 2000, 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 Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on the property line of Pine Lane at corner of Lot No. 86 on the hereinafter referred to plan of lots; thence along Lot No. 86, South forty-three (43) degrees fifty-six (56) minutes fifty-one (51) seconds West, one hundred fourteen and sixty hundredths (114.60) feet to a point where the corners of Lots Nos. 86, 69, 70 and 85 intersect; thence along Lot No. 70; North forty-two (42) degrees fifty-seven (57) minutes thirty (30) seconds West, seventy-eight (78) feet to a point on the property line of Walnut Lane; thence along said Walnut Lane by a curve to the left, the radius of which is eight hundred forty-seven and seven hundred twelve thousandths (847.712) feet, an arc length of ninety-five and thirteen hundredths (95.13) feet, and having a long chord bearing and distance of North forty-three (43) degrees twenty (20) minutes seven (7) seconds East, ninety-five and eight hundredths (95.08) feet to a point; thence by a curve to the right, the radius of which is fifteen (15) feet, an arc length of twenty-two and eighty-seven hundredths (22.87) feet and having a long chord bearing and distance of North eighty-six (86) degrees seven (7) minutes forty-six (46) seconds East, twenty and seventy-two hundredths (20.72) feet to a point on the property line of Pine Lane, aforesaid; thence along said Pine Lane by a curve to the right, the radius of which is one thousand five hundred seventy and two hundred fifty-five thousandths (1,570.255) feet, an arc length of sixty-five (65) feet and having a long chord bearing and distance of South forty-six (46) degrees zero (0) minutes fifty-seven (57) seconds East, sixty-four and ninety-nine hundredths (64.99) feet to a point at Lot No. 86, the point and place of BEGINNING. (CONTAINING 8,712.039 square feet or 0.200 acres). (Being Lot No. 85 on a plan of lots of Oxford Estates dated January, 1983, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 37, at page 122.)

Tax Parcel # 9-39

TITLE TO SAID PREMISES IS VESTED IN William E. Earle and Lisa Rae Earle, his wife by Deed from Oxford Estates, a General Partnership dated 8/21/84, recorded 8/9/84, in Deed Book 384, Page 381.

SEIZED and taken into execution as the property of **William E. Earle & Lisa Rae Earle** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 9, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/28, 8/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-431 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 lot or piece of ground, with the buildings and improvements thereon erected, situate in Reading Township, Adams County and State of Pennsylvania, being in the Plan of Lake Meade Subdivision, as recorded in Plat Book 1, page 1, more specifically bounded and described, as follows:

BEGINNING at a point on the western line of Wadsworth Avenue, said point being on the dividing point between Lots Nos. 132 and 133, aforesaid Plan of Lots; thence North 66 degrees 53' 06" East, a distance of 200 feet to a point; thence North 23 degrees 06' 54" West, a distance of 75 feet to a point; thence South 66 degrees 53' 06" West, a distance of 200 feet to a point; on western line of Wadsworth Avenue; thence along the western line of Wadsworth Avenue, South 23 degrees 06' 54" East, a distance of 75 feet to a point the place of BEGINNING.

HAVING thereon erected a ranch type dwelling house.

UNDER AND SUBJECT to easements and restrictions, as contained in prior deeds and Plans of record.

BEING Tax Parcel #11-21A.

SEIZED and taken into execution as the property of **Barry A. Price & Sandra E. Price** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/28, 8/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-397 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 THOSE CERTAIN (3) tracts of land, together with the improvements thereon erected, Situate, lying and being in Reading Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows:

TRACT NO. 1:

BEGINNING at a point on the Northwest bank of the Conewago Creek at the Southwest corner of Lot No. 21 on the plan hereinafter referred to: thence along said Lot No. 21, North 41 degrees West 258 feet to a point at a 20 feet wide driveway, thence along the South side of said last mentioned driveway, South 57-1/2 degrees West, 50 feet to a point at Lot No. 19; thence along said Lot No. 19, South 33 degrees East, 280 feet to a point on the Northwest bank of said Conewago Creek; thence along the Northwest bank of said Conewago Creek, North 40 degrees East, 87 feet to a point at Lot No. 21, the place of BEGINNING. (Being known as Lot No. 20, Block 3, on a plot or plan as per survey of Charles E. Hoke, Registered Surveyor, on August 6, 1946).

TRACT NO. 2:

BEGINNING at a point on the West bank of Conewago Creek at the Southwestern corner of Lot No. 22 on the plan hereinafter referred to and being lands now or formerly of William E. Stock; thence along said lands now or formerly of William E. Stock, North 50-1/2 degrees West, 237 feet to a point at a 20 feet wide driveway; thence along the Southern side of said driveway, South 57-1/2 degrees West, 50 feet to a point at Lot No. 20 on said plan; thence along said Lot No. 20, South 41 degrees East, 258 feet to a point on the West bank of the Conewago Creek; thence along the West bank of said Conewago Creek, North 40 degrees East, 87 feet to a point at Lot No. 22 of said plan, the place of BEGINNING. (Being known as Lot No. 21, Block 3, on a plot or plan as per survey of Charles E. Hoke, Registered Surveyor, on August 6, 1946).

TRACT NO. 3:

BEGINNING at a point at the Southeast corner of Lot No. 21 on the plan hereinafter referred to and being lands now or formerly of William E. Stock; thence along said lands now or formerly of William E. Stock, North 50-1/2 degrees West, 237 feet to a point at a 20 feet wide driveway; thence along the Southern side of said driveway, North 57 degrees 30 minutes East, 50 feet to a

point at a 20 feet wide private driveway; thence along said last mentioned private driveway, South 56 degrees East, 221.26 feet to a point at Conewago Creek; thence along said Conewago Creek, South 40 degrees West, 67 feet to a point at Lot No. 21, the place of BEGINNING. (Being known as the major portion of Lot No. 22 on a plot or plan of a series of lots laid out by Harry A. Lauchman and Gertle R. Lauchman, his wife, as per survey of Charles E. Hoke, Registered Surveyor, and as revised by J.R. Fleming).

TOGETHER with the free ingress, egress and regress to and for the said Grantees, their heirs and assigns, their tenants and under-tenants, occupiers and possessors of the above land, in along, upon and out of a 20 feet wide driveway running along the front of the above mentioned lots, in common with the owners, their heirs and assigns, their tenants and under-tenants, occupiers and possessors of adjoining lands thereto.

Tax Parcel # L8-49

SEIZED and taken into execution as the property of **Randy L. Stevens & Betsy Ritter Stevens** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

7/28, 8/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-365 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 ground, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Stayman Way at corner of

Lot No. 64 on subdivision plan hereinafter referred to; thence along the right-of-way line of Stayman Way, by a curve to the left, having a radius of two hundred fifty (250.00) feet, an arc length of fifty-one (51.00) feet, and a long chord bearing and distance of South twenty-eight (28) degrees fifty-seven (57) minutes fifty-six (56) seconds West, fifty and ninety-one hundredths (50.91) feet to a point at corner of Lot No. 66 on subdivision plan hereinafter referred to; thence along Lot No. 66, North sixty-six (66) degrees fifty-two (52) minutes forty-three (43) seconds West, one hundred ten (110.00) feet to a point along Lot No. 472 on subdivision plan hereinafter referred to; thence along Lot No. 472, North thirty-four (34) degrees forty-eight (48) minutes thirty-five (35) seconds East, seventy-two and ninety-three hundredths (72.93) feet to a point at corner of Lot No. 64 aforesaid; thence along Lot No. 64, South fifty-five (55) degrees eleven (11) minutes twenty-five (25) seconds East, one hundred two and fifty-four hundredths (102.54) feet to a point along the right-of-way line of Stayman Way, the point and place of BEGINNING.

CONTAINING 6,480 square feet and being designated as Lot No. 65 on subdivision plan of Apler Development prepared by Group Hanover, Inc., dated 7/15/94, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, page 89.

TITLE TO SAID PREMISES IS VESTED IN Steve A. Miller and Tina M. Miller, husband and wife by Deed from S & A Custom Built Homes, Inc., A Pennsylvania Corporation dated 5/3/96, recorded 5/10/96, in Record Book 1191, Page 196.

SEIZED and taken into execution as the property of **Steve A. Miller & Tina M. Miller** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/4, 11 & 18

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 GOLDA H. COLLINS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: J. Barclay Collins, II, 1185 Avenue of the Americas, 40th Floor, New York, NY 10036-8577

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SAMUEL E. WOLF, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Co-Executors: Laverne E. Wolf and Linda E. Rinehart, 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

SECOND PUBLICATION

ESTATE OF MARY JANE CABLE, DEC'D

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

Brenda C. Petersen, 111 Massbury Street, Gaithersburg, MD 20878

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF ALAN G. GENTLE, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Administrator: Bernard A. Yannetti, Jr., 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOHNNIE M. JOHNSTON, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Richard I. DeGroft, Sr., 31 Bonneau Heights, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF JOHN H. SHANK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Ray S. Shank, 1317 Red Hill Rd., New Oxford, PA 17350; Lewis J. Shank, 80 Becker Road, New Oxford, PA 17350

Attorney: Larry W. Wolf, Esq., 215 Broadway, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF BLANCHE A. BARNHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: James W. Barnhart, 531 Locust Street, Hanover, PA 17331

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

ESTATE OF R. KENNETH FOUST, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Gary E. Hartman, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF KATHERINE A. FUHRMAN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrices: Loretta M. Harrison, 3523 Meadowdale Drive, Baltimore, MD 21244; Barbara E. Louser, 532 Sabal Lake Dr., #112, Longwood, FL 32779

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

ESTATE OF RUELLE W. WOLFE, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Sally Ann Kemp a/k/a Sally W. Kemp, 6909 Deloache Avenue, Dallas, TX 75225

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-385 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 lot or tract of land situate on the southerly right of way line of Abbott's Drive in the Borough of Abbottstown County of Adams and State of Pennsylvania known and numbered as Lot No. 23 on a plan of lots for Abbott's Manor Phase II recorded in the office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plot 73, page 43, more fully bounded and described as follows to wit:

BEGINNING at a point on the southerly right of way line at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line of Abbott's Drive north thirty (30) degrees, fifty-seven (57) minutes, thirty-three seconds East, eighty-six and forty-three one-hundredths (86.43) feet to a point; thence continuing along the said right of way line of Abbott's Drive on a line curving to the right leaving a radius of two hundred seventy-five (275) feet an arc distance of sixty-three and ninety-nine one hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East, sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on said plan South twelve (12) degrees three (03) minutes, thirty-three seconds one hundred seventy-seven and fifteen one hundredths (177.15) feet East to a point; thence south sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24, North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one-hundred two and eighty-eight one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 Sq. Ft.

UNDER AND SUBJECT TO part of a 50 foot wide gas transmission right of way crossing the subject premises as shown on said plan.

TOGETHER, with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property, possession, claim, and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

TO HAVE AND TO HOLD the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

AND THE SAID Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

UNDER AND SUBJECT, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

IT BEING THE SAME PREMISES which Hadley Holdings Corporation, by their deed dated May 30, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in record book 1218, page 136, granted and conveyed unto Garland Construction, Inc., Grantors herein.

Premises being known as 158 Abbott's Drive, Abbottstown, PA 17301.

SEIZED and taken into execution as the property of **Chad M. Surdich** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/4, 11 & 18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-4 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 Carroll Valley Borough (formerly Liberty Township), Adams County, Pennsylvania, being Lot No. 23 in Section A; bounded and described as follows:

BEGINNING at a point in the center of Fawn Trail; thence in the center of said Fawn Trail, North 88 degrees 26 minutes 40 seconds East, 202.34 feet to a point in the center of intersection of said Fawn Trail with Spring Trail; thence in said Spring Trail, South 7 degrees 10 minutes West, 117.34 feet to a point in the center of said Spring Trail at Lot No. 22; thence by said lot, South 88 degrees 26 minutes 40 seconds West, 202.34 feet to other land now or formerly of Charnita, Inc.; thence by said land, North 7 degrees 10 minutes East, 117.34 feet to the place of BEGINNING.

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

Together with the rights and Subject to the reservations, easements, restrictions and covenants as contained in Adams County Deed Book 165 at Page 92.

TAX ID # 23-104

Being known as 40 Spring Trail Road.

SEIZED and taken into execution as the property of **Casie L. Wills & Chad E. Wills** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

Adams County **Legal Journal**

Vol. 42

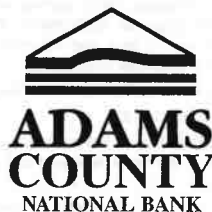
August 18, 2000

No. 12, pp. 60-65

IN THIS ISSUE

DEATRICK VS. BROWN

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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.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

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

Periodicals postage paid at Gettysburg, PA 17325.

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*The Pennsylvania Prudent Investor Act &
Power of Attorney Act*

November 22, 2000 – 9:00 a.m. - 2:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Civil Practice Before District Justices

November 30, 2000 – 9:00 a.m. - 2:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

4th Annual Family Law Update

December 12, 2000 – 9:00 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

New Issues in Matrimonial Appellate Practice

January 30, 2001 – 9:00 a.m. - 12:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3, Ethics – 0

REGISTRATION THROUGH P.B.I. 800-247-4724

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-402 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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, with the appurtenances belonging thereto, situate, lying and being in the village of Irishtown in Oxford Township, Adams County, Pennsylvania, bounded by lands now or formerly of John L. Jenkins, William S. Jenkins, Edgar L. Jenkins and the public road running through Irishtown, as follows:

BEGINNING at a stone for a corner on said public road; thence with the same North, twelve and one-fourth (12-1/4) degrees East, ten and six-tenths (10.6)

perches to a corner of land now or formerly of John L. Jenkins; thence with the same North seventy-four and one-half (74-1/2) degrees West, seventeen and seven-tenths (17.7) perches to a corner of lands now or formerly of W. S. Jenkins; thence with the same South twenty-nine and one-half (29-1/2) degrees West, ten and seven-tenths (10.7) perches to a corner of lands now or formerly of Edgar L. Jenkins; thence with the same South seventy-three and one-half (73-1/2) degrees East, twenty and nine-tenths (20.9) perches to the point and place of BEGINNING. CONTAINING on (1) acre and forty-two (42) perches of land neat measure.

Being known as 890 Irishtown Road.

Tax I.D. No. J13-27

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

DEATRICK VS. BROWN

1. Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.
2. The basic tenet of statutory construction requires the Court to construe words of a statute according to their plain meaning.
3. Pennsylvania case law has recognized a distinction between the conversion of trees and damages to land by the removal of trees. "Whether a tree is to be treated as a mere commodity, the value of which may be definitely estimated, or is to be considered as giving a value to the land upon which it grows depends entirely upon circumstances."
4. The measure of damages for injury to property, where the injury is deemed to be permanent, is the decrease in the fair market value of the property.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 98-S-1031. ROBERT DEATRICK VS. SHAWN BROWN.

Mark D. Beauchat, Esq., for Plaintiff

Timothy J. McMahon, Esq., for Defendant

Bigham, J., April 15, 1999.

OPINION ON PLAINTIFF'S NEW MATTER AND DEFENDANT'S PRELIMINARY OBJECTION

On December 3, 1998, Defendant Shawn Brown filed a Preliminary Objection to Plaintiff Robert Deatricks ("Landowner") Complaint at law. Landowner filed New Matter challenging the propriety of Defendant's Preliminary Objection at this stage of proceedings. Both Landowner and Defendant have filed timely briefs regarding the Preliminary Objection, and the Objection, New Matter, and briefs are now before the Court for disposition.

STATEMENT OF FACTS

This case stems from Defendant's appeal from the judgment entered by a District Justice on October 2, 1998, for Landowner, in the amount of \$6,094.00. Defendant filed his appeal and Praecepto to Enter Rule to File Complaint on October 19, 1998, and on November 10, 1998, Landowner filed his Complaint. The Complaint alleges that Defendant trespassed by unlawfully entered on Landowner's one-acre undeveloped, wooded lot ("lot") in a subdivision and removed approximately 13 mature trees, without Landowner's permission or consent. As a result, Landowner argues, the lot was devalued and damaged. Landowner's Complaint also alleges that Defendant's failure to determine who owned the lot was negligent

and that the Defendant's entry onto the lot constituted trespass resulting in damages. Landowner prayed for relief in the amount of \$6,000.00 for diminution in the lot's value and \$94.00 for magistrate's costs (Complaint Paragraph 7), as well as costs and fees associated with the action. (Generally, Complaint Paragraph 9).

On December 3, 1998, Defendant filed a Preliminary Objection to Landowner's Complaint, challenging the damages available for the alleged offense. Defendant asks that the Preliminary Objection be sustained and that paragraphs 7 and 9, and their subparts, of Landowner's Complaint be stricken with prejudice. Landowner filed an Answer to the Preliminary Objection and also New Matter¹, arguing that Defendant's Preliminary Objection is not properly before this Court as required by Pa.R.C.P. 1028. Landowner asks that Defendant's Preliminary Objection be dismissed.

LEGAL DISCUSSION

Initially, the Court is unpersuaded by Landowner's argument that Defendant's Preliminary Objection is not properly before this Court. Pennsylvania Rule of Civil Procedure 1028 states the grounds upon which a preliminary objection may be raised, including (a)(4), the legal insufficiency, or demurrer, of a pleading. Pa.R.C.P. §1028(a)(4). In *Gurnick v. Government Employees Ins. Co.*, 278 Pa.Super. 437 (1980), *overruled on other grounds in Toll v. Toll*, 293 Pa.Super. 549 (1981), the parties did not object to and the Superior Court made no mention of the fact that the trial court decided preliminary objections raised as a demurrer to the plaintiff's count seeking punitive damages, where the objection asserted that punitive damages were unavailable and that legislation provided the exclusive remedy. This Court is persuaded that its consideration of Defendant's Preliminary Objection is appropriate.

Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt. *League of Women Voters of PA v. Commonwealth*, _ Pa. Cmwlth _, 692 A.2d 263, 267 (Apr. 1, 1997).

¹ The Court considers this New Matter, despite the fact that "[t]he proper method for challenging the propriety of a preliminary objection is by a preliminary objection to a preliminary objection." *Chester Upland School Dist. v. Yesavage*, 653 A.2d 1319, 324, (Pa. Cmwlth. 1994), *Goodrich-Amram* 2d S 1017(a):13, 243 (1991).

Defendant argues that 42 Pa.C.S. §8311 provides the exclusive remedy for the unconsented removal of timber in a civil action, and does not allow recovery of damages for the diminution of land value, court costs or costs of action, attorney's fees or any other relief. Defendant argues that this statute provides the sole remedy for Landowner, which is the market value of the converted timber. Defendant claims that he was directed to remove the trees by Landowner's neighboring property owner, and had a reasonable basis for believing that the land on which the trees stood was owned by that third-party neighbor, such that Defendant's actions were, at best, negligent and merit only those damages provided for in §8311(A)(iii). Section 8311 provides as follows:

8311. Damages in actions for conversion of timber

(a) General rule.—In lieu of all other damages or civil remedies provided by law, a person who cuts or removes the timber of another person without the consent of that person shall be liable to that person in a civil action for an amount of damages equal to:

(1) the usual and customary costs of establishing the value of the timber cut or removed and of complying with the erosion and sedimentation control regulations contained in 25 Pa. Code Ch. 102 (relating to erosion control); and

(2) one of the following:

(i) three times the market value of the timber cut or removed if the act is determined to have been deliberate;

(ii) two times the market value of the timber cut or removed if the act is determined to have been negligent;
or

(iii) the market value of the timber cut or removed if the defendant is determined to have had a reasonable basis for believing that the land on which the act was committed was his or that of the person in whose service or by whose direction the act was done.

(b) Restitution.—Any damages awarded under this section shall be reduced by any restitution which is made

under 18 Pa.C.S. S 1107 (relating to restitution for theft of timber).

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Timber.” Standing trees, logs or parts of trees that are commonly merchandised as wood products.

“Market value.” The value of the standing timber at local market prices for the species and quality of timber cut or removed at the time it was cut or removed.

42 Pa.C.S. §8311, Feb. 17, 1994. Although ‘timber’ is defined, exactly what is meant by ‘timber’ is unclear. Additionally, as of the date of this Opinion and after thorough research by both the parties and the Court, this Court is unaware of any cases directly construing §8311 or the word “timber,” or of any other statutes containing the phrase “in lieu of all other damages,” as used in §8311. Therefore, we begin this analysis by looking to the rules of statutory construction. 1 Pa. C.S.A. §§1901-1991.

The basic tenet of statutory construction requires the Court to construe words of a statute according to their plain meaning. *Grom v. Burgoon*, 448 Pa. Super. 616, 619-620 (1996). The American Heritage Dictionary defines “timber” as “1. Trees or wooded land considered as a source of wood. 2. A. Wood as a building material; lumber. B. A dressed piece of wood, esp. a beam in a structure. C. A rib in a ship’s frame. 3. Material.” AMERICAN HERITAGE DICTIONARY 1270 (2nd ed. 1991). Black’s Law Dictionary does not define ‘timber,’ but does define “timber lease” as a “lease of real property which contemplates that the lessee will cut timber on the demised premises” and “timberlode” as a “service by which tenants were bound to carry timber felled from the woods to the lord’s house,” and, last, “timber rights” as a “profit a prendre, the owner of which is entitled to cut and remove timber from the real property described therein.” BLACK’S LAW DICTIONARY 1483 (6th ed. 1990). All of these definitions imply that ‘timber’ is the tree as a resource or a product, and not, as in the case at bar, trees as part of a wooded lot in a subdivision.

Additionally, §8311 specifically states that it provides the remedy for the conversion of timber; Landowner's Complaint, however, seeks damages for the devaluation of his lot. Pennsylvania case law has recognized a distinction between the conversion of trees and damages to land by the removal of trees. "Whether a tree is to be treated as a mere commodity, the value of which may be definitely estimated, or is to be considered as giving a value to the land upon which it grows depends entirely upon circumstances." *Bell v. Shelstrom*, 214 Pa.Super. 309, 312 (1969), quoting *Norris v. Philadelphia*, 49 Pa.Super. 641, 646 (1912). In *Richards v. Sun Pipe Line Co.*, 431 Pa.Super. 429 (1994), the Court reversed a jury verdict for the landowner where the trial court instructed the jury that, in determining damages, it could consider both the value of the land before and after the removal of ornamental or fruit bearing trees and the value of trees themselves. "Contrary to the instructions set forth..., the measure of damages for injury to property, where the injury is deemed to be permanent, is the decrease in the fair market value of the property." *Richards* at 433. More recently, in *Matakitis v. Woodmansee*, 446 Pa.Super. 433 (1995), *app. den'd* 545 Pa. 680 (1996), the Court reaffirmed this calculation of damages to property where a residential neighbor removed trees from the adjoining neighbor's property to maintain a right-of-way. Despite the fact that these cases were pending during the time that §8311 was being passed, none of the courts addressing these cases made mention of this then-pending legislation. In contrast, in *Underhill Coal Min. Co. v. Hixon*, 438 Pa.Super. 214, 220 (1995), *app. den'd*, 541 Pa. 642 (1995), the property was described as "timbered" and the action brought for the conversion of timber, unlike the facts presented in *Richards* and *Matakitis*. There, the Superior Court noted the recent amendment of §8311, but said that the court need not determine if §8311 was applicable because it was not effective until after the proceedings were initiated. *Underhill* at 224.

Applying the analysis from *Bell*, namely "whether a tree is to be treated as a mere commodity, the value of which may be definitely estimated, or is to be considered as giving a value to the land upon which it grows depends entirely upon circumstances," *Bell* at 312, this Court is persuaded that the definition of timber, as stated in §8311, does not apply to the kinds of trees on this building lot. What

was the purpose of these trees on this lot? Were the trees of the type and at a location to be considered “timber” as defined by the statute? Was the only value or best value of the trees in the form of “timber,” i.e. to be part of a merchandised wood product or did they serve some other purpose such as shade trees or as an aesthetic enhancement to the building lot of landowner? Based on information contained in the parties’ briefs, it appears that the land in question was a subdivided building lot, and not a tract of timberland. Given that, Landowner may choose to bring suit for the value of the trees as timber, per §8311, but the owner of a building lot with shade trees or trees for aesthetic enhancement is not confined to the remedy provided in §8311. That landowner can rely on the cases cited herein and bring suit for the diminution of land value.

Finally, research into the legislative history of §8311 has been uninformative. Senate Bill 1384 of 1993 was eventually passed into law as 42 Pa.C.S. §8311; House Bill 651 of 1993, similar to SB 1384, was not enacted. Defendant is correct in pointing out that HB 651 contains language that would speak to this case directly: HB 651 provides that “ a person who cuts or removes the timber of another person without the consent of that person shall, in addition to all other damages or other civil remedies provided by law, be liable to that person in a civil action for an additional amount of damages equal to the value of the timber cut or removed.” The fact that this bill was not enacted does not convince this Court that the legislature’s intent was to exclude the remedy sought by Landowner in the case at bar.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 15th day of April, 1999, Plaintiff’s objection, in the form of New Matter, to Defendant’s Preliminary Objection is overruled, and Defendant’s Preliminary Objection is overruled. Defendant has twenty (20) days from the date of this Order to file a responsive pleading.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-416 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 situated, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 65 in section RC, bounded and described as follows:

BEGINNING at a point in the center of Tom's Creek Trail at Lot No. 66; thence by said lot South 42 degrees 56 minutes East, 225 feet to Lot No. 80; thence by said lot South 47 degrees 4 minutes West 100 feet to Lot No. 64; thence by said lot North 42 degrees 56 minutes West, 225 feet to a point in the center of said Tom's Creek Trail; thence in said Tom's Creek Trail, North 47 degrees 4 minutes East, 100 feet to point and place of BEGINNING.

The above description was taken from a plan of lots labeled "Section RC of Charnita, Inc.," dated October 1, 1968, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at Page 35.

BEING the same premises which Kevin N. Finneyrock, by Deed dated June 28, 1996 and recorded in the Office of the Recorder of Deeds of Adams County on July 2, 1996, in Deed Book Volume 1220, Page 241, granted and conveyed unto Brian D. Valentine and Glenda M. Valentine.

Parcel No. 46-24

SEIZED and taken into execution as the property of **Brian D. Valentine & Glenda M. Valentine** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-365 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 ground, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point along the right-of-way line of Stayman Way at corner of Lot No. 64 on subdivision plan hereinafter referred to; thence along the right-of-way line of Stayman Way, by a curve to the left, having a radius of two hundred fifty (250.00) feet, an arc length of fifty-one (51.00) feet, and a long chord bearing and distance of South twenty-eight (28) degrees fifty-seven (57) minutes fifty-six (56) seconds West, fifty and ninety-one hundredths (50.91) feet to a point at corner of Lot No. 66 on subdivision plan hereinafter referred to; thence along Lot No. 66, North sixty-six (66) degrees fifty-two (52) minutes forty-three (43) seconds West, one hundred ten (110.00) feet to a point along Lot No. 472 on subdivision plan hereinafter referred to; thence along Lot No. 472, North thirty-four (34) degrees forty-eight (48) minutes thirty-five (35) seconds East, seventy-two and ninety-three hundredths (72.93) feet to a point at corner of Lot No. 64 aforesaid; thence along Lot No. 64, South fifty-five (55) degrees eleven (11) minutes twenty-five (25) seconds East, one hundred two and fifty-four hundredths (102.54) feet to a point along the right-of-way line of Stayman Way, the point and place of BEGINNING.

CONTAINING 6,480 square feet and being designated as Lot No. 65 on subdivision plan of Appler Development prepared by Group Hanover, Inc., dated 7/15/94, as revised, Project No. 921060, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 65, page 89.

TITLE TO SAID PREMISES IS VESTED IN Steve A. Miller and Tina M. Miller, husband and wife by Deed from S & A Custom Built Homes, Inc., A Pennsylvania Corporation dated 5/3/96, recorded 5/10/96, in Record Book 1191, Page 196.

SEIZED and taken into execution as the property of **Steve A. Miller & Tina M. Miller** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a

schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/4, 11 & 18

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended. The name of the corporation is SACHS FARM, INC.

8/18

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about June 2, 2000, for the purposes of obtaining a Certificate of Incorporation of a Pennsylvania non-profit corporation to be organized under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988.

The name of the corporation is TICKED OFF & FED UP. The purpose of the corporation is to conduct educational activities to raise public awareness of Lyme disease, to provide financial assistance to victims of Lyme disease, to provide financial assistance for research into the causes and treatment of Lyme disease, and for other lawful purposes.

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

8/18

LEGAL NOTICE

NOTICE IN THE COURT OF
COMMON PLEAS OF ADAMS
COUNTY IN AND FOR THE
COMMONWEALTH OF
PENNSYLVANIA

CIVIL

- IN RE: Dismissal of Action for Failure to Proceed Under Pa. R.J.A. 1901(c) and Local Rule of Court No. 10(e)
- Pursuant to the provisions of Pa. R.J.A. 1901(c) and Local Rule of Court No. 10(e) notice is given hereby that the following cases will be listed by the Adams County Prothonotary for general call before the Adams County Court on Tuesday, September 19, 2000 at 9:00 a.m. to request the Court to dismiss for failure to proceed unless good cause for continuing the proceedings shall be given on or before that date.
- Randy J. and Janis A. Miller, individually and as natural parents and guardians of Timothy Ryan Miller vs. Syntex Laboratories, Inc.—85-S-708
- David Nocket vs. Ski Liberty and Ski Liberty Operating Corp.—93-S-73
- George A. Puciato v. Shannon Colleen Puciato—93-S-1069
- The Gettysburg Hospital vs. Stephen A. Hill and Patricia M. Hill—94-S-10
- Raymond W. Kline vs. Steven R. Wolf, t/a Herr's Tavern vs. Margaret T. Hays, Administratrix of the Estate of Michelle L. Hays, deceased and Ruth L. Breighner—94-S-181
- Ruth N. Malone vs. James E. Malone—94-S-1078
- Gettysburg Hospital vs. John Lance and Christina Lance—95-S-13
- Gregory G. Harmon and Karen M. Harmon, husband and wife, and Gregory G. Harmon and Karen M. Harmon as parents and natural guardians of Ryan P. Harmon vs. Barry and Karen Smith—95-S-306
- Ivy D. Griffie vs. and Larry W. Griffie—95-S-370
- Jeffrey A. Wilbur, Inc. vs. J.D. Williams & Associates, Inc.—95-S-569
- Gettysburg Hospital vs. Vianna Forsythe—95-S-646
- Ramona Rivera and Miguel Rivera vs. Keystone Insurance Company—95-S-883
- Oak Lawn Memorial Gardens, Inc. vs. Southland Mausoleum Construction, Professional Cemetery Consultants, Heyward H. Cook, III and Anna Cook—95-S-976
- Lewis W. Bodkins and Cheryl D. Bodkins vs. Rodney E. Heagey, individually and Rodney E. Heagey, General Contractor—95-S-1046
- Dusan Bratic vs. Paul Hook and Marcia Hook—95-S-1172
- John D. Topper vs. Bradley Rohrbaugh—95-S-1173
- Alice M. Phiel vs. Larry E. Steinour and Trudy M. Steinour—96-S-153
- William C. Rogers, Jr. t/d/b/a R & D Steel Company vs. Marjorie Cooper—96-S-218
- Daniel L. Fetterolf vs. William and Elaine Jones, husband and wife, Sites Realty, Inc., David Sites, Liz Unger—96-S-256
- Duane E. Hawbaker vs. Diane Louise Hawbaker—96-S-304
- Eric Zimmer vs. Tracy L. (Weaver) Zimmer—96-S-345
- Thomas Michael Wood vs. Karen Lynn Pennington—96-S-349
- Bruce Wiese vs. David Lease—96-S-390
- Myrtle LeCrone vs. David Lease—96-S-558
- Brian Burkholder and Melinda Burkholder, husband and wife vs. Mervin K. Myers, husband and wife—96-S-564
- Clarence A. Williams, Jr., individually and trading as Williams Trucking and Rosemary Williams vs. Robert O. Hinton and George Transfer, Inc.—96-S-638
- Laura J. Dague vs. William Edward Dague—96-S-777
- Juan Romero vs. Robin Romero—96-S-780
- Mervin K. Myers and Mary C. Myers, husband and wife vs. Joseph G. Miller and Esmeralda Miller, husband and wife—96-S-786
- J & J Recycling of PA, Inc. vs. Zoning Hearing Board of Union Township—96-S-888
- Ford Motor Credit Company vs. Debra A. Vanmeter—96-S-952
- Harvey W. Ritter and Laura J. Ritter vs. Michael P. Hartman t/d/b/a Hartco Building and Remodeling—96-S-967
- Jacqueline Lee Hoff vs. Andrew Kenneth Hoff, Sr.—96-S-1003
- Michael Investments vs. Nathan Tyler and Fay Charlton—97-S-16
- Thomas Shorb, Jr. vs. Jolene Shorb—97-S-38
- Norwest Mortgage Inc. vs. Scott F. Bowman and Sandra L. Bowman, his wife—97-S-53
- Cynthia J. Dixon vs. Douglas L. Dixon—97-S-91
- Donald D. Hostetter vs. Simone Hostetter—97-S-118
- Melissa Mae Carter vs. William P. Hawk—97-S-137
- Scott W. Rice vs. Colleen A. Wright—97-S-156
- James Edward Haines, Jr. vs. Sandy Marie Haines—97-S-197
- Thomas L. Shurock vs. Louise M. Shurock—97-S-213
- In Re: Kayla R. Stoner and Cody T. Stoner—97-S-215
- Rodney & Judy Rudisill vs. Henry Stewart—97-S-220
- Federal National Mortgage Association, assignee of Accubanc Mortgage Corporation vs. Larry Herren—97-S-255
- Sandra E. and Ronald L. Fair vs. Teresa Mills—97-S-272
- Commonwealth of Pennsylvania Department of Transportation vs. Kenneth M. Ebert—97-S-291
- Eastern Mortgage Services, Inc. vs. Bradley D. Snouffer, t/d/b/a Bradley D. Snouffer and Associates, David P. Wolfe, James R. Ekdahl, Sites Realty, Steven Johnson and Homechek—97-S-292
- Joan & Robert Lash vs. Norma & Hipolita Estrada—97-S-299
- McDermitt, Inc. vs. Seabrook Homes—97-S-310
- Ford Consumer Discount Company vs. Kevin G. Wantz and Susan L. Wantz—97-S-318
- Paul L. Ensor vs. Lori A. Ensor—97-S-328
- Gettysburg Times vs. Seabrook Homes—97-S-339
- Bank of America vs. Creed F. White—97-S-366
- Anker Johannessen vs. John Bozman—97-S-381
- Adams County Interfaith Housing Corporation vs. Daisy L. Bruno and Adolfo E. Rodriguez—97-S-384
- Peoples State Bank vs. William E. Colson and Susan E. Colson—97-S-385
- American Business Credit, Inc. vs. Jacqueline M. Bynaker, t/a Jackie's & RD's Sub & Pizza—97-S-444
- HomeAmerican Credit, Inc. vs. Jacqueline M. Bynaker, t/a Jackie's & RD's Sub & Pizza—97-S-445
- HomeAmerican Credit, Inc. d/b/a Upland Mortgage vs. Jacqueline M. Bynaker, t/a Jackie's & RD's Sub & Pizza—97-S-455
- American Business Credit, Inc. vs. Jacqueline M. Bynaker, t/a Jackie's & RD's Sub & Pizza—97-S-456
- William J. Strasbaugh, Jr. vs. Motorists Mutual Insurance Co.—97-S-462
- Linda S. Brady vs. Tammy Jo Black—97-S-477
- In Re: Sara Hermelinda Ramirez, Adrianna Rosa Ramirez and Nathalie Marie Ramirez—97-S-480
- Teresa Reyes Lua vs. Minori Van Echteld—97-S-496
- Robert M. Kennedy and Rosella M. Kennedy vs. Lisa J. Smith and Chad M. Cool—97-S-539
- Mary M. Redding vs. Ceola J. King and Aaron Devon Howard—97-S-554
- Household Realty Corporation d/b/a Household Finance Company vs. Mary Ramsey Miles, Cost Control Marketing and Management, Inc. Charles W. Lloyd and Billie Jo Lloyd f/k/a Billie J. Tonkinson—97-S-566
- Thomas E. Oberlander and Tracey L. Oberlander vs. Tony Miller and Donna Chronister, individually and t/d/b/a House 4 U Real Estate—97-S-592
- L.H. vs. Adams County Children and Youth—97-S-593
- Sherri Herd vs. John P. Herd—97-S-605
- Judith F. Bortner vs. Steven G. Bortner—97-S-647

(continued)

James Erickson vs. Karyl Speelman—
97-S-711

John Andrew David Tarbet and Laura Kay Tarbet vs. James A. Ford and Judy Ford d/b/a Mount View Construction Company and Mount View Construction Company—97-S-741

Moses Stoltzfus vs. Motorists Mutual Insurance Company—97-S-756

Martina R. Yingling vs. James M. Yingling—97-S-767

Jay L. Garrett, Jr. vs. Danielle K. Garrett—97-S-769

Beverly D. Bayer vs. John F. Bayer—97-S-804

Jeffrey L. Loncar and Barbara K. Loncar vs. Abdeltif Bentajjar and Nadia Es-Saohi—97-S-828

David A. Weaver vs. Tammy M. Lauer—97-S-866

Homeside Lending, Inc. vs. Douglas Ream a/k/a Douglas R. Ream and Suzette R. Ream a/k/a Suzette Renee Ream—97-S-870

Joan M. Reese and David T. Reese vs. Debra A. Reese—97-S-922

Angela S. Faisal vs. Fitzroy Faisal—97-S-948

Nathan Cheek vs. Angela M. Glatfelter—97-S-982

York Federal Savings and Loan vs. Nancy L. Stottlemeyer a/k/a Nancy L. Stottlemeyer—97-S-1033

Wanda K. Warrenfeltz vs. Barry W. Warrenfeltz—97-S-1045

Breckenridge Village vs. Tami L. Haller—97-S-1084

First Deposit National Bank vs. Linda R. Howard—97-S-1145

Albert E. Pate vs. Joy E. Hepfer—97-S-1179

Donna Derhammer vs. Gina M. Wills—97-S-1211

8/18

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 144, No. 177, as amended. The name of the corporation is T & T PROFESSIONAL SERVICES, INC.

8/18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-385 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 lot or tract of land situate on the southerly right of way line of Abbott's Drive in the Borough of Abbottstown County of Adams and State of Pennsylvania known and numbered as Lot No. 23 on a plan of lots for Abbott's Manor Phase II recorded in the office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plot 73, page 43, more fully bounded and described as follows to wit;

BEGINNING at a point on the southerly right of way line at a corner of Lot No. 24 on said plan; thence extending along the said southerly right of way line of Abbott's Drive north thirty (30) degrees, fifty-seven (57) minutes, thirty-three seconds East, eighty-six and forty-three one-hundredths (86.43) feet to a point; thence continuing along the said right of way line of Abbott's Drive on a line curving to the right leaving a radius of two hundred seventy-five (275) feet an arc distance of sixty-three and ninety-nine one hundredths (63.99) feet with a chord bearing North thirty-seven (37) degrees thirty-seven (37) minutes thirty (30) seconds East, sixty-three and eighty-four one hundredths (63.84) feet to a point, at a corner of Lot No. 22 on said plan; thence extending along the said Lot No. 22 on said plan South twelve (12) degrees three (03) minutes, thirty-three seconds one hundred seventy-seven and fifteen one hundredths (177.15) feet East to a point; thence south sixty-four (64) degrees thirty (30) minutes zero (00) seconds West fifty (50) feet to a point, at a corner of Lot No. 24 on said plan; thence extending along the said Lot No. 24, North forty-seven (47) degrees three (03) minutes forty-five (45) seconds West one-hundred two and eighty-eight one-hundredths (102.88) feet to the point and place of BEGINNING. CONTAINING 12,326 Sq. Ft.

UNDER AND SUBJECT TO part of a 50 foot wide gas transmission right of way crossing the subject premises as shown on said plan.

TOGETHER, with all buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or any wise appertaining, and any reversions, remainders, rents, issues and profits thereof, and of every part and parcel thereof, including any interests specifically set forth, if any. And also, all the estate, right, title, interest, property,

possession, claim, and demand whatsoever, both in law and equity, of the Grantor of, in and to the same.

TO HAVE AND TO HOLD the same premises, and the appurtenances, hereby granted to Grantee and Grantee's heirs, successors and assigns forever, under and subject to the conditions set forth, if any.

AND THE SAID Grantor hereby covenants and agrees that Grantor will warrant specially the property hereby conveyed.

UNDER AND SUBJECT, nevertheless to the same condition, restrictions, exceptions and reservations as exist by virtue of prior recorded instruments, deeds and conveyances.

IT BEING THE SAME PREMISES which Hadley Holdings Corporation, by their deed dated May 30, 1996, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in record book 1218, page 136, granted and conveyed unto Garland Construction, Inc., Grantors herein.

Premises being known as 158 Abbott's Drive, Abbottstown, PA 17301.

SEIZED and taken into execution as the property of **Chad M. Surdich** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/4, 11 & 18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-414 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 THOSE TWO tracts of land Situate, lying and being in Butler Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point in a state highway between Mummasburg and Golden's Station at a point where said state highway is intersected by a public road; thence in said state highway, North 86 degrees 20 minutes East, 1,212 feet to a point in said state highway; thence by land now or formerly of Clarence M. Swartz, South 10 degrees 55 minutes East, 226.8 feet to a point at land now or formerly of Marlin H. VanDyke; thence by said land of Marlin H. VanDyke, South 86 degrees 20 minutes West, 1,203.6 feet to a point in the aforesaid public road; thence in said public road, North 13 degrees West, 228.1 feet to the place of BEGINNING. CONTAINING 6 acres and 38 perches.

TRACT NO. 2:

BEGINNING at an iron pin in a public road South 13 degrees East, 228.1 feet from the intersection of said public road with the state highway leading from Mummasburg to Golden's Station; thence along land now or formerly of Francis Wenschof, Tract No. 1 herein, North 86 degrees 20 minutes East, 1,203.6 feet to an iron pin; thence along land now or formerly of Clarence M. Swartz, South 10 degrees 55 minutes East, 452.7 feet to an iron pin; thence along land now or formerly of Claire W. Guise, South 85 degrees 42 minutes West, 1,182 feet to an iron pin in the first mentioned public road; thence in said public road, North 13 degrees West, 467.5 feet to an iron pin, the place of BEGINNING.

CONTAINING 12 acres and 73 perches.

THE above two tracts of land are less, however, the following:

(1) A tract of land containing 1 acre which Francis Wenschof and Sara Wenschof, husband and wife, by Deed dated August 1, 1968 and recorded in Deed Book 268, page 727, sold and conveyed to Harry Robert Galloway.

(2) A tract of land containing 128 perches which Francis Wenschof and Sara Wenschof, husband and wife, by Deed dated September 13, 1969 and recorded in Deed Book 277, page 443, sold and conveyed to Gary L. Dick and Linda J. Dick, husband and wife,

EXCEPTING THEREOUT AND THEREFROM all that tract of land, Situate, lying and being in Butler Township, Adams County, Pennsylvania and designated as Lot No. 2 on a Plan of Lots prepared by Adams County Surveyors, dated November 26, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 59 at page 100, more particularly bounded and described as follows:

BEGINNING at a cotton gin spindle set in the center line of Goldenville Road (T-501) and at corner of land now or formerly of Gary Dick, thence along and through the center line of said Goldenville Road, North 86 degrees 20 minutes 00 seconds East 220.00 feet to a cotton gin spindle located in said road and at corner of land of Rodney J. Miller; thence by same and through an existing references steel rod set back 30.00 feet from the beginning of this course and through an existing 8 inch cherry tree set back 72.0 feet from the terminus of this course, South 6 degrees 36 minutes 55 seconds East 682.58 feet to a steel rod at land now or formerly of Ulala Guise; thence by lands of Ulala Guise and McKnight Guise and through an existing steel rod set back 58.61 feet from the beginning of this course, and through an existing referenced steel rod set back 18.0 feet from the terminus of this course, South 85 degrees 46 minutes 40 seconds West, 376.61 feet to a point in the center line of Russell Tavern Road (T-340); thence along and through said road North 12 degrees 51 minutes 55 seconds West, 254.59 feet to a cotton gin spindle in Russell Tavern Road (T-340) and corner of land now or formerly of Gary Beamer; thence by same, North 86 degrees 20 minutes 00 seconds East 62.00 feet to an existing steel rod at corner of lands of Gary Beamer; thence by same North 03 degrees 38 minutes 35 seconds West 84.02 feet to a steel rod at corner of land of Gary Dick; thence by same, North 86 degrees 20 minutes 00 seconds East 100.15 feet to a steel rod; thence by same, and through an existing referenced steel rod set back 21.91 feet from the terminus of this course, North 03 degrees 40 minutes 00 seconds West 350.00 feet to a cotton gin spindle set in the center line of Goldenville Road, the point and place of BEGINNING.

CONTAINING 4.735 acres.

Tax Parcel # F10-28

TITLE TO SAID PREMISES IS VESTED IN Rodney J. Miller, single by Deed from The Gettysburg National Bank dated 12/2/91, recorded 12/20/91, in Record Book 609 page 139.

SEIZED and taken into execution as the property of **Rodney J. Miller** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/18, 25 & 9/1

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 Thursday, August 31, 2000, at 9:00 o'clock a.m.

THORNE—Orphans' Court Action Number OC-73-00. The First and Final Account of Geraldine Ann Swift Raub, Executrix of the Last Will and Testament of Francene Swift Thorne a/k/a Francene Elizabeth Thorne, deceased, late of Menallen Township, Adams County, Pennsylvania.

BITTNER—Orphans' Court Action Number OC-75-00. The First and Final Account of Claire P. Stegmann, Executrix of the Last Will and Testament of Victoria Bittner, deceased, late of Straban Township, Adams County, Pennsylvania.

SCHULTZ—Orphans' Court Action Number OC-77-00. The First and Final Account of Chester Gitt Schultz and Granville Radcliffe Schultz, Jr., Executor of the Last Will and Testament of Kathryn Gitt Schultz, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

8/18 & 25

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 BERNARD F. HAHN, DEC'D
Late of Oxford Township, Adams County, Pennsylvania

Executor: Thomas F. Hahn, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF JOHN E. MURRAY, DEC'D
Late of Cumberland Township, Adams County, Pennsylvania

Executor: Lawrence F. Murray, 151 Pine Ridge Lane, Fayetteville, PA 17222

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

ESTATE OF RUTH H. SCHROM, DEC'D
Late of Straban Township, Adams County, Pennsylvania

Executrix: Roberta R. Schmidt, 6205 Lone Oak Drive, Bethesda, MD 20817-1743

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

ESTATE OF PATRICIA M. SMITH a/k/a MARY PATRICIA SMITH, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Rita P. Smith, Agnes L. Bevenour, William F. Smith, Samuel K. Smith or Mary Jane Smith, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF ROBERT EARL THOMPSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Linda A. Coulston, 814 E. 18th Street, Chester, PA 19013

SECOND PUBLICATION

ESTATE OF GOLDA H. COLLINS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: J. Barclay Collins, II, 1185 Avenue of the Americas, 40th Floor, New York, NY 10036-8577

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SAMUEL E. WOLF, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Co-Executors: Laverne E. Wolf and Linda E. Rinehart, 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

THIRD PUBLICATION

ESTATE OF MARY JANE CABLE, DEC'D

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

Brenda C. Petersen, 111 Massbury Street, Gaithersburg, MD 20878

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF ALAN G. GENTLE, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Administrator: Bernard A. Yannetti, Jr., 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOHNNIE M. JOHNSTON, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Richard I. DeGroft, Sr., 31 Bonneau Heights, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF JOHN H. SHANK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Ray S. Shank, 1317 Red Hill Rd., New Oxford, PA 17350; Lewis J. Shank, 80 Becker Road, New Oxford, PA 17350

Attorney: Larry W. Wolf, Esq., 215 Broadway, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-15 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 Franklin Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point in or near the centerline of Pine Valley Road (T-644) on line of land of Lot No. 2 as shown on the hereinafter draft of survey and at corner of land now or formerly of Ray A. Grimes, et ux.; thence by land of Ray A. Grimes, et ux., North 88 degrees 01 minute 28 seconds West, through an existing steel pin 30 feet back from the beginning of this course, 701.69 feet to an existing post; thence North 06 degrees 06 minutes 58 seconds East, 1,196.64 feet to an existing steel pin on line of land now or formerly of Gary W. Sterner, et ux.; thence by same, South 52 degrees 02 minutes 29 seconds East, 391.38 feet to an existing steel pin; thence South 40 degrees 56 minutes 08 seconds East, 223.27 feet to an existing steel pin; thence South 47 degrees 06 minutes 28 seconds East, 242.91 feet to an existing steel pin; thence South 37 degrees 27 minutes 48 seconds East, 289.65 feet to a point in or near the centerline of Pine Valley Road (T-644) at corner of Lot No. 2, as shown on the hereinafter identified draft of survey; thence by same, South 24 degrees 46 minutes 43 seconds West, 65.33 feet to a railroad spike set near the centerline of said road; thence South 46 degrees 48 minutes 54 seconds West, 249.29 feet to a railroad spike set in said road; thence South 24 degrees 47 minutes 59 seconds West, 87.75 feet to a railroad spike set in said road; thence South 06 degrees 07 minutes 44 seconds East, 100.37 feet to a point in or near the centerline of Pine Valley Road (T-644) on line of land of Lot No. 2 as shown on the hereinafter draft of survey and at corner of land now or formerly of Ray A. Grimes, et ux., the point and place of BEGINNING. CONTAINING 15.971 acres, more or less.

The above description was taken from a draft of survey prepared by Boyer Surveys for Regina H. Orndorff, dated August 29, 1990, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 57 at page 22, designating the above as Lot No. 1 thereon.

Being the same which Regina H. Orndorff, widow, by deed dated September 17, 1996, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record book 1260 at page 102, sold and conveyed unto Steven H. Siegel and Linda S. Siegel, husband and wife.

SEIZED and taken into execution as the property of **Steven H. Siegel & Linda S. Siegel a/k/a Linda Sue Morino** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/18, 25 & 9/1

IN THE COURT OF COMMON
PLEAS OF ADAMS COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

In re: First and Final Account for the Trust Established Under Trust Indenture of M. C. Jones, Donor, Dated December 29, 1948 - Adams County Orphans' Court No. OC-12-82.

TO ALL PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Final Account of Adams County National Bank, Trustee of the above captioned Trust, has been filed in the Office of the Clerk of the Orphans' Court and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on September 19, 2000, at 9:00 a.m., prevailing time.

This Account will be available for inspection and review at the Clerk of Courts' Office, Adams County Courthouse, or at the Adams County National Bank Trust Department, Lincoln Square, Gettysburg, PA, or at the office of John W. Phillips, Esq., Gettysburg, PA. Objections thereto can be raised by filing same with the said Clerk of Courts or by stating same in Court, at the time of confirmation.

Peggy J. Breighner, Clerk
John W. Phillips, Esq.,
Attorney for Trustee

8/18, 25 & 9/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-4 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 Carroll Valley Borough (formerly Liberty Township), Adams County, Pennsylvania, being Lot No. 23 in Section A; bounded and described as follows:

BEGINNING at a point in the center of Fawn Trail; thence in the center of said Fawn Trail, North 88 degrees 26 minutes 40 seconds East, 202.34 feet to a point in the center of intersection of said Fawn Trail with Spring Trail; thence in said Spring Trail, South 7 degrees 10 minutes West, 117.34 feet to a point in the center of said Spring Trail at Lot No. 22; thence by said lot, South 88 degrees 26 minutes 40 seconds West, 202.34 feet to other land now or formerly of Charnita, Inc.; thence by said land, North 7 degrees 10 minutes East, 117.34 feet to the place of BEGINNING.

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

Together with the rights and Subject to the reservations, easements, restrictions and covenants as contained in Adams County Deed Book 165 at Page 92.

TAX ID #23-104

Being known as 40 Spring Trail Road.

SEIZED and taken into execution as the property of **Casie L. Wills & Chad E. Wills** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

Adams County **Legal Journal**

Vol. 42

August 25, 2000

No. 13, pp. 66-72

IN THIS ISSUE

SMITH-MYERS VS.
CONEWAGO TWP. ZONING HEARING BOARD

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



Member FDIC

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.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

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

Periodicals postage paid at Gettysburg, PA 17325.

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The Pennsylvania Prudent Investor Act & Power of Attorney Act

November 22, 2000 – 9:00 a.m. - 2:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

Civil Practice Before District Justices

November 30, 2000 – 9:00 a.m. - 2:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

4th Annual Family Law Update

December 12, 2000 – 9:00 a.m. - 1:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 4, Ethics – 0

New Issues in Matrimonial Appellate Practice

January 30, 2001 – 9:00 a.m. - 12:00 p.m.

Room 307, Adams County Courthouse

Credits: Substantive Law – 3, Ethics – 0

REGISTRATION THROUGH P.B.I. 800-247-4724

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-402 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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, with the appurtenances belonging thereto, situate, lying and being in the village of Irishtown in Oxford Township, Adams County, Pennsylvania, bounded by lands now or formerly of John L. Jenkins, William S. Jenkins, Edgar L. Jenkins and the public road running through Irishtown, as follows:

BEGINNING at a stone for a corner on said public road; thence with the same North, twelve and one-fourth (12-1/4) degrees East, ten and six-tenths (10.6)

perches to a corner of land now or formerly of John L. Jenkins; thence with the same North seventy-four and one-half (74-1/2) degrees West, seventeen and seven-tenths (17.7) perches to a corner of lands now or formerly of W. S. Jenkins; thence with the same South twenty-nine and one-half (29-1/2) degrees West, ten and seven-tenths (10.7) perches to a corner of lands now or formerly of Edgar L. Jenkins; thence with the same South seventy-three and one-half (73-1/2) degrees East, twenty and nine-tenths (20.9) perches to the point and place of BEGINNING. CONTAINING on (1) acre and forty-two (42) perches of land neat measure.

Being known as 890 Irishtown Road.

Tax I.D. No. J13-27

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

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

SMITH-MYERS VS. CONEWAGO TWP. ZONING HEARING BOARD

1. In zoning case where, as here, the trial court did not receive any additional evidence, the scope of review is limited to determining whether the zoning hearing board committed an error of law or a manifest abuse of discretion.
2. An abuse of discretion occurs only if the board's findings of fact are not supported by substantial evidence.
3. Evidence is substantial when a reasonable mind could accept it as adequate to support a conclusion.
4. The doctrine of merger of estate is, however, inapplicable to zoning laws where, as here, the term "merger" is used to describe the effect of a zoning ordinance on the adjoining lots held in common ownership.
5. Where a landowner or one of his predecessors-in-title has brought into common ownership two adjoining parcels of land *prior* to the enactment of a zoning ordinance which makes the parcel(s) nonconforming, the landowner bears the burden of proving that he or his predecessors intended to keep the parcels 'separate and distinct' and not make them part of one integrated tract.
6. This Court is persuaded that, because the Tinicum suit was filed by the municipality and in equity, the Tinicum case is the exception to the general rule set out in Middletown: a landowner seeking nonconforming use status must prove non-integration where the common ownership of adjoining lots occurred prior to the enactment of an ordinance making at least one lot undersized.
7. The proof required by the landowner(s) to show that he, or they, intended to keep the parcels separate and distinct from one another must be grounded upon some overt, unequivocal, physical manifestation of this intent, and not be based solely on the landowner's subjective statements regarding intent. Further, each case must be determined on its own facts and circumstances.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 98-S-1067. RUBY P. SMITH-MYERS VS. CONEWAGO
TOWNSHIP ZONING HEARING BOARD.

Gary E. Hartman, Esq., for Appellant Ruby P. Smith-Myers
Harold Eastman, Esq., for Appellee Conewago Township Zoning
Hearing Board
Clayton R. Wilcox, Esq., for Intervenor Conewago Township
Bigham, J., April 15, 1999.

OPINION ON APPEAL FROM ZONING BOARD DECISION

Appellant Ruby P. Smith-Myers (“Landowner”) appeals from the decision of Appellee Conewago Township Zoning Hearing Board (“Board”), which affirmed the Conewago Township (“Township”) Zoning Officer’s denial of Landowner’s building permits for two lots. Landowner’s Appeal and Brief, along with the Township’s Brief and joined by the Board, are now before this Court for disposition.

STATEMENT OF FACTS

On May 20, 1966, Landowner and her now-deceased husband took title to three adjacent tracts of land in Conewago Township, Adams County by a single deed from James and Delma Rynard. At the time of the transfer to Landowner, the center tract was improved with a two-story house; the side lots were unimproved. Also at that time, the lot lines between the tracts were marked with one tree and two shrubs (Finding of Fact No. 5). Landowner and her husband purchased the property as an investment, and at no time did they reside there.

No fences or other structures have ever been erected by Landowner or her predecessors in title along the lot lines. No perimeter fences or barriers have been erected by Landowner or her predecessor in title that would suggest that the lots were being used as a single, integrated property. In the late 1960’s, Landowner and her husband installed curbs and a sidewalk at the property, and installed curb cuts that would allow for the installation of a driveway on each of the side lots (Finding of Fact No. 9). Each of the side lots has been maintained as open lawn area by Landowner since its purchase in 1966 (Finding of Fact No. 10).

On June 8, 1983, a Zoning Ordinance was enacted. In 1997, Landowner sold the middle lot as improved, and listed the two side lots for sale. In October of 1997, Landowner entered into Agreements for the sale of the side lots to Boxwood Construction, contingent upon Boxwood’s ability to obtain building permits for a minimum 26-foot by 40-foot, single-story dwelling on each side lot. Each of the side lots is 6,750 square feet; per the 1983 Ordinance, the side lots fail to meet the minimum area and bulk regulation

¹ Conewago Township intervened in this action on November 12, 1998.

requirements. These building permits were denied due to non-conformity of the side lots relative to the minimum area requirements.

On July 23, 1998, Landowner filed an Application with the Board, appealing the Zoning Officer's denial of the building permits and claiming entitlement to the permits per §10.5 of the Ordinance as Non-Conforming Lots of Record. Section 10.5 provides as follows:

In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of This [sic] Ordinance irrespective of its area or width or depth, providing the necessary approvals have been obtained for water supply, sewage disposal and driveway connection to a public road.

On September 2, 1998, the Board held a hearing and made Findings of Fact which the Court has summarized here, and which Landowner incorporated by reference into her Brief. On October 7, 1998, the Board issued its decision affirming the denial of the building permits. In its Conclusions of Law, the Board found that a property owner seeking non-conforming lot status for adjoining undersized lots must prove that, when the Ordinance was adopted, it was her intent to keep the lots "separate and distinct," and not to integrate the lots. Such intent must be evidenced by some overt, unequivocal, physical manifestation of intent, and not simply on the property owner's statement of her intent. *Middletown Tp. v. Zoning Hearing Bd.*, 120 Pa. Cmwlth. 238 (1988), *app. den'd* 522 Pa. 599 (1989). The Board also stated that, if the property owner meets this initial burden, the burden shifts to any objector to show subsequent integration of the lots into a larger parcel, also evidenced by some overt, unequivocal, physical manifestation of intent. *In re Appeal of Gregor*, 156 Pa. Cmwlth. 418 (1993). The Board concluded that Landowner failed to meet her burden of proof that it was her intent to keep the lots separate and distinct. Specifically, the Board found insufficient evidence of an overt, unequivocal, physical manifestation of her intent to keep the lots separate and distinct. The Board did not reach the question of any subsequent integration by an overt, unequivocal, physical act, but did note that the property's appearance has remained unchanged since the adoption of the Ordinance.

On October 28, 1998, Landowner filed her Notice of Appeal. First, Landowner argues that the Board's decision is defective where it found that Landowner had a burden to prove an overt, unequivocal, physical manifestation of Landowner's intent to own the lots separately and distinctly. Second, if the Court finds that Landowner does have such a burden, Landowner argues that the decision is defective where it found that Findings of Fact Nos. 5, 9, and 10 did not demonstrate an overt, unequivocal, physical manifestation of Landowner's intent to own the lots separately and distinctly. Landowner requests that the Court overrule the Board's decision and order the building permits to be granted, or in the alternative, that the Court remand for another hearing with curative instructions which place the burden of proof on the Township, either because Landowner has no such burden or because she met such burden, shifting the responsive burden onto the Township.

LEGAL DISCUSSION

In zoning cases where, as here, the trial court did not receive any additional evidence, the scope of review is limited to determining whether the zoning hearing board committed an error of law or a manifest abuse of discretion. *Dieterly v. Zoning Board of Cheltenham*, 166 Pa. Cmwlth. 370 (1994). An abuse of discretion occurs only if the board's findings of fact are not supported by substantial evidence. 53 P.S. §11005-A, *Sweeney v. Zoning Hearing Board*, 543 Pa. 202 (1993). Evidence is substantial when a reasonable mind could accept it as adequate to support a conclusion. Sweeney, supra.

Landowner raises the following issues in her Notice of Appeal:

1. Is the decision of the Board defective in its finding that Landowner bears the burden of proof to establish, at the threshold, that there was some overt, unequivocal, physical manifestation of her intent to own the lots separately and distinctly?
2. If the Board's decision regarding the burden of proof, supra, is not defective, is the decision defective because Findings of Fact 5, 9, and 10 clearly demonstrate an overt, unequivocal, physical manifestation of Landowner's intent to own the lots separately and distinctly?

Landowner first challenges the Board's allocation of the burden of proof. Under the doctrine of merger of estate in land, a lesser estate is merged into a greater estate whenever the two estates meet in the same person. *Griffith v. McKeever*, 259 Pa. 605 (1918). The doctrine of merger of estate is, however, inapplicable to zoning laws where, as here, the term "merger" is used to describe the effect of a zoning ordinance on the adjoining lots held in common ownership. *West Goshen Township v. Crater*, 114 Pa. Cmwlth. 245 (1988). In *Parkside Assoc. v. Zoning Hearing Bd.*, 110 Pa. Cmwlth. 157 (1987), the Court stated that mere common ownership of adjoining lots does not automatically establish a physical merger of those lots for the purposes of determining whether those lots comply with the zoning requirements. "Thus, unless it is shown that an owner of the two adjoining lots which were undersized by the subsequently enacted zoning requirement did not intend to keep the lots separate and distinct, they may be developed as separate lots." *Tinicum Tp. v. Jones*, __ Pa. Cmwlth. __, 723 A.2d 1068, 1071 (1998).

In Middletown, the Commonwealth Court stated "... where a landowner or one of his predecessors-in-title has brought into common ownership two adjoining parcels of land *prior* to the enactment of a zoning ordinance which makes the parcel(s) nonconforming, the landowner bears the burden of proving that he or his predecessors intended to keep the parcels 'separate and distinct' and not make them part of one integrated tract." Middletown at 245, *emphasis added*. The Middletown court also stated that where "a landowner has acquired two adjoining lots after the passage of a zoning ordinance which rendered one or both of the lots undersized may *use* both lots in such a manner so as to integrate both lots into one large tract..." Middletown at 245, *emphasis in original*. In that situation, "[t]he municipality bears the burden of showing that the landowner has integrated the lots into one large parcel." Middletown at 245. Likewise, in Gregor, the landowner owned one lot when the ordinance was enacted, and purchased the adjoining lot after the ordinance was enacted, such that common ownership did not occur until after the ordinance was enacted, and the burden to prove integration was placed on the objecting township. Gregor at 421.

In the case at bar, Landowner correctly quotes the Commonwealth Court from Tinicum. There, the Court stated that the language from

Middletown, placing the burden on the landowner to prove non-integration where common ownership of two lots occurred prior to an ordinance making one lot nonconforming, was “merely a dictum which was unnecessary in disposing the issue raised in [Middletown].” Tinicum at 723. In Tinicum, although the lots were commonly owned prior to the ordinance², the Court placed the burden to prove integration on the municipality. Although the Tinicum court did not further explain, it can be inferred that the reason why the Middletown ‘rule’ was dictum in Middletown itself is because the lots there were only held in common ownership *after* the enactment of an ordinance making one lot nonconforming. Middletown at 240. The Court stated that the Middletown ‘rule’ does not mean that owners of adjoining lots, which are now undersized, “must *always* disprove a physical merger in *all* proceedings.” Tinicum at 1072, *emphasis added*. Further, the Court focused on the fact that this suit was filed in equity, by the municipality, and that “placing the burden of proof on the [o]wners would result in requiring the defendants in this action in equity to disprove the [municipality’s] allegation of a physical merger set forth in the complaint.” Tinicum at 1072. This Court is persuaded that, because the Tinicum suit was filed by the municipality and in equity, the Tinicum case is the exception to the general rule set out in Middletown: a landowner seeking nonconforming use status must prove non-integration where the common ownership of adjoining lots occurred prior to the enactment of an ordinance making at least one lot undersized. As such, this Court is persuaded that the Board did not make an error of law in concluding that Landowner had the burden of proof.

Second, Landowner challenges the Board’s determination that she did not meet her burden of proof. In Middletown, the Commonwealth Court stated “[t]he proof required by the landowner(s) to show that he, or they, intended to keep the parcels separate and distinct from one another must be grounded upon some overt,

² In Tinicum, the landowner acquired lot A, and an ordinance was later enacted which made lot A undersized. The landowner then acquired an adjoining lot, lot B, which was not undersized. The landowner then conveyed a portion of lot B to a neighbor, such that lot B was still not undersized. After this transfer, ordinance was amended which made both lot A and the remainder of B undersized. The Township began its suit in equity when the executor of the landowner’s estate entered into an agreement to sell the remainder of lot B.

unequivocal, physical manifestation of this intent, and not be based solely on the landowner's subjective statements regarding intent." Middletown at 245. Further, each case must be determined on its own facts and circumstances. Middletown at 245. Landowner points to the two curb cuts installed, in addition to one on the improved lot, as evidence of her intent to keep the lots separate and distinct; Landowner also points to the fact that she maintained the side lots herself since the transfer of the center lot, and to the presence of one tree and two shrubs on each lot line. In Crater, the Commonwealth Court agreed that where, at the time of an ordinance's enactment, an adjoining lot appears to be a side yard and is indistinguishable from the rest of the commonly-owned lots and a single tree marks the boundary line, the zoning board was correct in finding no single or separate ownership, and in denying the special exception. In Tinicum, the Commonwealth Court found no integration where the lot on which the landowner resided was developed with a single-family home and covered with lawn, including a front split-rail fence; that fence only extended three-posts length into the adjoining, undeveloped and wooded lot. Additionally, a line of trees separated the two lots. The landowner placed a picnic table and swing set on the adjoining lot, and once a year, used the undeveloped adjoining lot for a picnic. The facts in the case at bar resemble those presented to the Crater court, and as such, this Court is persuaded that the Board did not abuse its discretion in concluding that Landowner did not sustain her burden of proof.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 13th day of April, 1999, Appellant's appeal from the Conewago Township Zoning Hearing Board's decision is denied, and the Board's decision denying Appellant's request for building permits is affirmed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-330 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 the following described tract of land situate, lying and being in Berwick Township, Adams County, Pennsylvania, further bounded and limited as follows, to-wit:

BEGINNING for a corner at an existing steel pin on the southerly edge of Applewood Drive at previously approved Lot No. 3 as shown on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 3, the following two (2) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West three hundred twenty-six and twenty-three hundredths (326.23) feet to an existing steel pin; 2) South seventy-two (72) degrees seven (07) minutes three (03) seconds West three hundred eighty-six and twenty-seven hundredths (386.27) feet to an existing steel pin at lands now or formerly of Charles R. Chubb as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Charles R. Chubb, South eighty-five (85) degrees five (05) minutes twenty (20) seconds West two hundred fifty-five and eighty hundredths (255.80) feet to a steel pin (set) at lands now or formerly of Warren T. Becker as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Warren T. Becker, North thirty-two (32) degrees fifty-one (51) minutes thirty (30) seconds West, one thousand four hundred twenty-six and thirty-seven hundredths (1,426.37) feet to an existing stone at lands now or formerly of Raymond G. Burkett and Martha E. Fisher as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Raymond G. Burkett and Martha E. Fisher and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North twenty-six (26) degrees no (00) minutes no (00) seconds East eight hundred forty-five and twenty-eight hundredths (845.28) feet to a steel pin (set) at lands now or formerly of Donald J. Sneeringer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Donald J. Sneeringer and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North eighty-eight (88) degrees fifty-two (52) minutes ten (10)

seconds, East seven hundred thirty-five and ninety hundredths (735.90) feet to an existing steel pin at lands now or formerly of Elmer H. Miller, Jr. as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Elmer H. Miller, Jr., South thirteen (13) degrees forty-eight (48) minutes thirty (30) seconds East three hundred eighteen and forty-two hundredths (318.42) feet to a point at lands now or formerly of Mitchell O. Diviney as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Mitchell O. Diviney, South thirteen (13) degrees twenty-one (21) minutes ten (10) seconds East two hundred sixty-six and forty-one hundredths (266.41) feet to a steel pin (set) at lands now or formerly of John C. Leese as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of John C. Leese, South seventy-eight (78) degrees fifty-nine (59) minutes twenty-two (22) seconds West one hundred fifty-eight and thirty-seven hundredths (158.37) feet to an existing steel pin at previously approved Lot No. 5 on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 5, the following two (2) courses and distances: 1) South forty-nine (49) degrees fifty-nine (59) minutes twenty-four (24) seconds West one hundred eighty-eight and twenty-five hundredths (188.25) feet to an existing steel pin; 2) South forty (40) degrees no (00) minutes thirty-six (36) seconds East, seven hundred twenty-seven and thirty-five hundredths (727.35) feet to an existing steel pin at lands now or formerly of Robert E. Lawyer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Robert E. Lawyer, the following three (3) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West one hundred seventy and two hundredths (170.02) feet to an existing steel pin; 2) South seventy-eight (78) degrees one (01) minute fifty-three (53) seconds East four hundred forty-two and sixty-three hundredths (442.63) feet to a point; 3) by a curve to the right having a radius of two hundred eighty (280.00) feet, the long chord of which is South sixty-six (66) degrees forty-nine (49) minutes one (01) second East one hundred eight and ninety-one hundredths (108.91) feet for an arc distance of one hundred nine and sixty-one hundredths (109.61) feet to a point on the northerly edge of Applewood Drive aforesaid, where it intersects with Township Road (T-706) as shown on the hereinafter referred to Subdivision Plan; thence in and along Township Road (T-306), South twenty-eight (28) degrees fifty-three (53) minutes fifty-three (53) seconds East one hundred sixty-two and forty-one hun-

dredths (162.41) feet to a point in the centerline of SR-0194 (Abbottstown Pike) as shown on the hereinafter referred to Subdivision Plan; thence crossing said SR-0194 (Abbottstown Pike) North seventy-eight (78) degrees six (06) minutes twelve (12) seconds West twenty-seven and fifty-nine hundredths (27.59) feet to a point on the aforesaid southerly edge of Applewood Drive; thence in and along the southerly edge of Applewood Drive, the following three (3) courses and distances: 1) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North thirty-two (32) degrees twelve (12) minutes one (01) second West sixty-three and forty-seven hundredths (63.47) feet for an arc distance of sixty-three and sixty-seven hundredths (63.67) feet to an existing steel pin; 2) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North fifty-nine (59) degrees forty (40) minutes fifty-two (52) seconds West one hundred forty-nine and thirty-eight hundredths (149.38) feet for an arc distance of one hundred fifty-two and fourteen hundredths (152.14) feet to a point; 3) North seventy-eight (78) degrees one (01) minute fifty-three (53) seconds West three hundred forty-two and sixty-three hundredths (342.63) feet to the point and place of BEGINNING. CONTAINING 42.276 acres.

The above description was taken from a Survey prepared by Mort, Brown and Assoc. for TRIPLO, INC., dated April 3, 1989, bearing File No. E-496.

SEIZED and taken into execution as the property of **Joseph A. Lawrence & Wanda J. Lawrence** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/25, 9/1 & 8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-414 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 22nd day of September, 2000, 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 THOSE TWO tracts of land Situate, lying and being in Butler Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point in a state highway between Mummasburg and Golden's Station at a point where said state highway is intersected by a public road; thence in said state highway, North 86 degrees 20 minutes East, 1,212 feet to a point in said state highway; thence by land now or formerly of Clarence M. Swartz, South 10 degrees 55 minutes East, 226.8 feet to a point at land now or formerly of Marlin H. VanDyke; thence by said land of Marlin H. VanDyke, South 86 degrees 20 minutes West, 1,203.6 feet to a point in the aforesaid public road; thence in said public road, North 13 degrees West, 228.1 feet to the place of BEGINNING. CONTAINING 6 acres and 38 perches.

TRACT NO. 2:

BEGINNING at an iron pin in a public road South 13 degrees East, 228.1 feet from the intersection of said public road with the state highway leading from Mummasburg to Golden's Station; thence along land now or formerly of Francis Wenschof, Tract No. 1 herein, North 86 degrees 20 minutes East, 1,203.6 feet to an iron pin; thence along land now or formerly of Clarence M. Swartz, South 10 degrees 55 minutes East, 452.7 feet to an iron pin; thence along land now or formerly of Claire W. Guise, South 85 degrees 42 minutes West, 1,182 feet to an iron pin in the first mentioned public road; thence in said public road, North 13 degrees West, 467.5 feet to an iron pin, the place of BEGINNING.

CONTAINING 12 acres and 73 perches.

THE above two tracts of land are less, however, the following:

(1) A tract of land containing 1 acre which Francis Wenschof and Sara Wenschof, husband and wife, by Deed dated August 1, 1968 and recorded in Deed Book 268, page 727, sold and conveyed to Harry Robert Galloway.

(2) A tract of land containing 128 perches which Francis Wenschof and Sara Wenschof, husband and wife, by Deed dated September 13, 1969 and recorded in Deed Book 277, page 443, sold and conveyed to Gary L. Dick and Linda J. Dick, husband and wife.

EXCEPTING THEREOUT AND

THEREFROM all that tract of land, Situate, lying and being in Butler Township, Adams County, Pennsylvania and designated as Lot No. 2 on a Plan of Lots prepared by Adams County Surveyors, dated November 26, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 59 at page 100, more particularly bounded and described as follows:

BEGINNING at a cotton gin spindle set in the center line of Goldenville Road (T-501) and at corner of land now or formerly of Gary Dick, thence along and through the center line of said Goldenville Road, North 86 degrees 20 minutes 00 seconds East 220.00 feet to a cotton gin spindle located in said road and at corner of land of Rodney J. Miller; thence by same and through an existing references steel rod set back 30.00 feet from the beginning of this course and through an existing 8 inch cherry tree set back 72.0 feet from the terminus of this course, South 6 degrees 36 minutes 55 seconds East 682.58 feet to a steel rod at land now or formerly of Ulala Guise; thence by lands of Ulala Guise and McKnight Guise and through an existing steel rod set back 58.61 feet from the beginning of this course, and through an existing referenced steel rod set back 18.0 feet from the terminus of this course, South 85 degrees 46 minutes 40 seconds West, 376.61 feet to a point in the center line of Russell Tavern Road (T-340); thence along and through said road North 12 degrees 51 minutes 55 seconds West, 254.59 feet to a cotton gin spindle in Russell Tavern Road (T-340) and corner of land now or formerly of Gary Beamer; thence by same, North 86 degrees 20 minutes 00 seconds East 62.00 feet to an existing steel rod at corner of lands of Gary Beamer; thence by same North 03 degrees 38 minutes 35 seconds West 84.02 feet to a steel rod at corner of land of Gary Dick; thence by same, North 86 degrees 20 minutes 00 seconds East 100.15 feet to a steel rod; thence by same, and through an existing referenced steel rod set back 21.91 feet from the terminus of this course, North 03 degrees 40 minutes 00 seconds West 350.00 feet to a cotton gin spindle set in the center line of Goldenville Road, the point and place of BEGINNING.

CONTAINING 4.735 acres.

Tax Parcel # F10-28

TITLE TO SAID PREMISES IS VESTED IN Rodney J. Miller, single by Deed from The Gettysburg National Bank dated 12/2/91, recorded 12/20/91, in Record Book 609 page 139.

SEIZED and taken into execution as the property of **Rodney J. Miller** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 16, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/18, 25 & 9/1

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 Thursday, August 31, 2000, at 9:00 o'clock a.m.

THORNE—Orphans' Court Action Number OC-73-00. The First and Final Account of Geraldine Ann Swift Raub, Executrix of the Last Will and Testament of Francene Swift Thorne a/k/a Francene Elizabeth Thorne, deceased, late of Menallen Township, Adams County, Pennsylvania.

BITTNER—Orphans' Court Action Number OC-75-00. The First and Final Account of Claire P. Stegmann, Executrix of the Last Will and Testament of Victoria Bittner, deceased, late of Straban Township, Adams County, Pennsylvania.

SCHULTZ—Orphans' Court Action Number OC-77-00. The First and Final Account of Chester Gitt Schultz and Granville Radcliffe Schultz, Jr., Executor of the Last Will and Testament of Kathryn Gitt Schultz, deceased, late of Straban Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

8/18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-15 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 Franklin Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point in or near the centerline of Pine Valley Road (T-644) on line of land of Lot No. 2 as shown on the hereinafter draft of survey and at corner of land now or formerly of Ray A. Grimes, et ux.; thence by land of Ray A. Grimes, et ux., North 88 degrees 01 minute 28 seconds West, through an existing steel pin 30 feet back from the beginning of this course, 701.69 feet to an existing post; thence North 06 degrees 06 minutes 58 seconds East, 1,196.64 feet to an existing steel pin on line of land now or formerly of Gary W. Sterner, et ux.; thence by same, South 52 degrees 02 minutes 29 seconds East, 391.38 feet to an existing steel pin; thence South 40 degrees 56 minutes 08 seconds East, 223.27 feet to an existing steel pin; thence South 47 degrees 06 minutes 28 seconds East, 242.91 feet to an existing steel pin; thence South 37 degrees 27 minutes 48 seconds East, 289.65 feet to a point in or near the centerline of Pine Valley Road (T-644) at corner of Lot No. 2, as shown on the hereinafter identified draft of survey; thence by same, South 24 degrees 46 minutes 43 seconds West, 65.33 feet to a railroad spike set near the centerline of said road; thence South 46 degrees 48 minutes 54 seconds West, 249.29 feet to a railroad spike set in said road; thence South 24 degrees 47 minutes 59 seconds West, 87.75 feet to a railroad spike set in said road; thence South 06 degrees 07 minutes 44 seconds East, 100.37 feet to a point in or near the centerline of Pine Valley Road (T-644) on line of land of Lot No. 2 as shown on the hereinafter draft of survey and at corner of land now or formerly of Ray A. Grimes, et ux., the point and place of BEGINNING. CONTAINING 15.971 acres, more or less.

The above description was taken from a draft of survey prepared by Boyer Surveys for Regina H. Orndorff, dated August 29, 1990, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 57 at page 22, designating the above as Lot No. 1 thereon.

Being the same which Regina H. Orndorff, widow, by deed dated September 17, 1996, and recorded in the Office of the Recorder of Deeds of

Adams County, Pennsylvania, in Record Book 1260 at page 102, sold and conveyed unto Steven H. Siegel and Linda S. Siegel, husband and wife.

SEIZED and taken into execution as the property of **Steven H. Siegel & Linda S. Siegel a/k/a Linda Sue Morino** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/18, 25 & 9/1

IN THE COURT OF COMMON
PLEAS OF ADAMS COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

In re: First and Final Account for the Trust Established Under Trust Indenture of M. C. Jones, Donor, Dated December 29, 1948 - Adams County Orphans' Court No. OC-12-82.

TO ALL PERSONS CONCERNED:

NOTICE IS HEREBY GIVEN that the First and Final Account of Adams County National Bank, Trustee of the above captioned Trust, has been filed in the Office of the Clerk of the Orphans' Court and will be presented to the Court of Common Pleas of Adams County, Pennsylvania, at Gettysburg, Pennsylvania, for confirmation and approval on September 19, 2000, at 9:00 a.m., prevailing time.

This Account will be available for inspection and review at the Clerk of Courts' Office, Adams County Courthouse, or at the Adams County National Bank Trust Department, Lincoln Square, Gettysburg, PA, or at the office of John W. Phillips, Esq., Gettysburg, PA. Objections thereto can be raised by filing same with the said Clerk of Courts or by stating same in Court, at the time of confirmation.

Peggy J. Breighner, Clerk
John W. Phillips, Esq.,
Attorney for Trustee

8/18, 25 & 9/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-4 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 Carroll Valley Borough (formerly Liberty Township), Adams County, Pennsylvania, being Lot No. 23 in Section A; bounded and described as follows:

BEGINNING at a point in the center of Fawn Trail; thence in the center of said Fawn Trail, North 88 degrees 26 minutes 40 seconds East, 202.34 feet to a point in the center of intersection of said Fawn Trail with Spring Trail; thence in said Spring Trail, South 7 degrees 10 minutes West, 117.34 feet to a point in the center of said Spring Trail at Lot No. 22; thence by said lot, South 88 degrees 26 minutes 40 seconds West, 202.34 feet to other land now or formerly of Charnita, Inc.; thence by said land, North 7 degrees 10 minutes East, 117.34 feet to the place of BEGINNING.

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

Together with the rights and Subject to the reservations, easements, restrictions and covenants as contained in Adams County Deed Book 165 at Page 92.

TAX ID # 23-104

Being known as 40 Spring Trail Road.

SEIZED and taken into execution as the property of **Casie L. Wills & Chad E. Wills** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

NOTICE

TO: David J. Smith and Marian M. Smith, Defendants in civil action No. 00-S-572; RE: Cabrico Enterprises vs. David J. Smith and Marian M. Smith.

TAKE NOTICE that on June 7, 2000, Plaintiff filed its Complaint in Mortgage Foreclosure against the above-named Defendants, David J. Smith and Marian M. Smith, No. 00-S-572.

On August 10, 2000, the Court of Common Pleas of Adams County, entered an Order permitting service of the Complaint upon you by publication, which will be effected by publishing this notice one time in the Gettysburg Times and one time in the Adams County Legal Journal.

Said Complaint requests that the Court of Common Pleas of Adams County, Pennsylvania, Civil Division, enter a judgment in favor of the Plaintiff and against the Defendants in the amount of \$109,137.26, together with accumulating interest at a per diem rate of \$26.72 to the date of judgment, and other costs and charges collectible under the Mortgage and for the foreclosure and sale of the mortgaged property.

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
111-117 Baltimore Street
Gettysburg, PA 17325
Telephone (717) 337-9846
or
1-888-337-9846

8/25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-416 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of September, 2000, 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 situated, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being Lot No. 65 in section RC, bounded and described as follows:

BEGINNING at a point in the center of Tom's Creek Trail at Lot No. 66; thence by said lot South 42 degrees 56 minutes East, 225 feet to Lot No. 80; thence by said lot South 47 degrees 4 minutes West 100 feet to Lot No. 64; thence by said lot North 42 degrees 56 minutes West, 225 feet to a point in the center of said Tom's Creek Trail; thence in said Tom's Creek Trail, North 47 degrees 4 minutes East, 100 feet to point and place of BEGINNING.

The above description was taken from a plan of lots labeled "Section RC of Charnita, Inc.," dated October 1, 1968, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at Page 35.

BEING the same premises which Kevin N. Finneyrock, by Deed dated June 28, 1996 and recorded in the Office of the Recorder of Deeds of Adams County on July 2, 1996, in Deed Book Volume 1220, Page 241, granted and conveyed unto Brian D. Valentine and Glenda M. Valentine.

Parcel No. 46-24

SEIZED and taken into execution as the property of **Brian D. Valentine & Glenda M. Valentine** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 23, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-468 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of October, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

MAP 7 PARCEL 61

ALL that certain lot of ground situate in Mt. Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 861 on a plan of lots of Lake Heritage Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Miscellaneous Docket 4 at page 778, and subject to all legal highways, easements, rights of way and restrictions of record.

BEING the same lot of ground which Wilmer L. Dutterer and Shirley Dutterer, by deed dated January 18, 1983 and recorded in the office of the Recorder of Deeds for Adams County, Pennsylvania in Deed Book 368 Page 753 conveyed unto Loy L. King and Julia C. King.

SEIZED and taken into execution as the property of **Loy L. King & Julia C. King** and to be sold by me

Raymond W. Newman
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on October 30, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

8/25, 9/1 & 8

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 VIOLA E. ADAIR, DEC'D**

Late of Mt. Joy Township, Adams County, Pennsylvania

Executors: Mary L. Redding, 776 Good Intent Road, Gettysburg, PA 17325; Michael P. Adair, 350 Mountainview Road, Reading, PA 19607; James G. Adair, 2335 Baltimore Pike, Gettysburg, PA 17325; Thomas E. Adair, 184 Hoffman Road, Gettysburg, PA 17325

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

ESTATE OF MARY M. SHAFER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Janet McLaughlin, c/o Mark R. Parthemer, Esq., McNeese, Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

Attorney: Mark R. Parthemer, Esq., McNeese, Wallace & Nurick, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108

ESTATE OF JOSEPH B. YOHE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Linda Smith, 445 Prince Street, Littlestown, PA 17340

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

SECOND PUBLICATION**ESTATE OF BERNARD F. HAHN, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Thomas F. Hahn, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF JOHN E. MURRAY, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Lawrence F. Murray, 151 Pine Ridge Lane, Fayetteville, PA 17222

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

ESTATE OF RUTH H. SCHROM, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Roberta R. Schmidt, 6205 Lone Oak Drive, Bethesda, MD 20817-1743

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

ESTATE OF PATRICIA M. SMITH a/k/a MARY PATRICIA SMITH, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Rita P. Smith, Agnes L. Bevenour, William F. Smith, Samuel K. Smith or Mary Jane Smith, c/o Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF ROBERT EARL THOMPSON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Linda A. Coulston, 814 E. 18th Street, Chester, PA 19013

THIRD PUBLICATION**ESTATE OF GOLDA H. COLLINS, DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: J. Barclay Collins, II, 1185 Avenue of the Americas, 40th Floor, New York, NY 10036-8577

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF SAMUEL E. WOLF, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

Co-Executors: Laverne E. Wolf and Linda E. Rinehart, 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., Countess Gilbert Andrews

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on July 21, 2000, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is LATIMORE VALLEY FARMS, INC.

The purpose for which the corporation has been organized is: The corporation shall have unlimited power to engage in and do any law act concerning any or all lawful business for which corporations may be organized under the Pennsylvania Business Corporation Law.

Latimore Valley Farms, Inc.
10 Latimore Valley Road
York Springs, PA 17372

8/25

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application has been filed under the Fictitious Names Act, 54 Pa. C.S.A. §§ 301 et seq., as amended, with the Secretary of the Commonwealth, in Harrisburg, Pennsylvania, on July 31, 2000, for conducting business under the assumed or fictitious name of GETTYSBURG VIDEO ZONE. The address of the principal office or place of business to be carried on under or through the fictitious name is: 627 York Street, Gettysburg, Pennsylvania 17325. The name and address of the only person who is a party to the registration is: Susan C. Hardman, 424 McLaughlin Road, Gettysburg, PA 17325.

John W. Phillips, Esq.
Attorney

8/25

