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TABLE OF CONTENTS

59 CHESTER COUNTY REPORTS

In re: Petition of the Borough of Downingtown

*Orphans' court – Petition for approval of sale of property – Donated or
Dedicated Property Act – Public trust doctrine – Dedication – Acceptance –
Standard of proof – Inalienable Property Act77 (2011)*

Classified Ads

Meeting Space 11
West Chester
Shared Office Space 14
Boot Road & Paoli Pike

Legal Notices

See Table of Contents 1

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In re: Petition of the Borough of Downingtown

Orphans' court – Petition for approval of sale of property – Donated or Dedicated Property Act – Public trust doctrine – Dedication – Acceptance – Standard of proof – Inalienable Property Act

1. The Donated or Dedicated Property Act provides that property donated to a political subdivision for use as a public facility, or dedicated to the public use, shall be deemed to be held by such political subdivision for the benefit of the public.
2. Section 4 of the Donated or Dedicated Property Act permits a municipality to request permission of the Orphans' Court to sell property held in trust when the municipality determines that the original use is no longer practicable or possible or has ceased to serve the public interest.
3. The common law public trust doctrine provides that when land has been dedicated and accepted for public use, a political subdivision is estopped from interfering with or revoking the grant at least so long as the land continues to be used, in good faith, for the purpose for which it was originally dedicated.
4. Public officials entrusted with the management of land dedicated to the public must not approve uses of the land which transgress the terms or limitations of the original grant.
5. The Donated or Dedicated Property Act applies to fully-realized dedications, as well as to ones where there may be uncertainty as to the acceptance. The Act incorporates salient common-law principals under the public trust doctrine.
6. The Orphans' Court, rather than a political subdivision or municipality, has controlling discretion to determine whether the continuing use of the property is no longer practicable or possible or has ceased to serve the public interest. The Donated or Dedicated Property Act merely specifies under what circumstances the municipality, as trustee, may file an application in Orphans' Court.
7. Real property may be dedicated to public use in a variety of ways. Dedication may be express or it may be implied from the acts of the parties and it need not take a particular form. Dedication may be found in a single act, such as the giving of a deed or the recording of a plan, or it may be found from a series of acts, all consistent with and pointing to the intention to dedicate. Dedication, like a contract, requires both offer and acceptance, and once there is acceptance, in whatever form it takes, dedication is irrevocable.
8. To demonstrate implied acceptance of an offer of dedication, there must be unequivocal authoritative actions by the municipality demonstrating intention to accept.
9. It is the act of acceptance of a dedicated parcel of land which makes the dedication complete.
10. The standard of proof applicable to a petition for approval to sell real property under the Donated or Dedicated Property Act is proof by a preponderance of the evidence.

11. Under the Inalienable Property Act, the court may authorize the sale, mortgage, lease or exchange of real property where the legal title is otherwise inalienable.
12. When deciding whether the character of an immediate neighborhood has changed to warrant non-enforcement of a restriction, a court must consider adjoining tracts, as well as the restricted tract.
13. The Borough of Downingtown sought the court's approval for the sale of five parcels of real property, totaling 40.5 acres, located partly in the Borough of Downingtown and partly in East Caln Township. J. Loew & Associates, Inc, and Progressive Housing Ventures, LLC joined in the Petition requesting approval of the sale of the Property, or, in the alternative, holding that Court approval is not required to convey the Property. Respondents, Friends of Kardon Park, Ann M. Feldman, Marion Ungrich, Evelyn Hopkins, Kim Manufacturing Company and Stewart Hall, L.P., opposed the sale of the Property. The Commonwealth of Pennsylvania, Office of Attorney General, as *parens patriae*, entered an appearance but took no position on the Petition. Following several days of hearings, the Court Held that the Petition was denied.

P.McK.

C.C.P. Chester County, Orphans Court Division, No. 1509-0516; In re: Petition of the Borough of Downingtown.

Patrick C. O'Donnell, for Borough of Downingtown
Mary Ann Rossi, for Progressive Housing Ventures, LLC and J.
Loew & Associates, Inc.
H. Finton McHugh, for Kim Manufacturing Company and
Stewart Hall, L.P.
Samuel C. Stretton, for Friends of Kardon Park, Ann Feldman,
Marion Ungrich, and Evelyn Hopkins
Charles E. Donohue, for the Commonwealth of Pennsylvania,
Office of the Attorney General
Platt, J., October 7, 2010:-

[Ed. Note: The case was appealed to the Commonwealth Court on November 5, 2010 at No. 2392 CD 2010]

**IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
IN RE: PETITION OF THE BOROUGH
OF DOWNINGTOWN**

NO. 1509-0516

Patrick C. O'Donnell, Esquire, Solicitor for Borough of Downingtown
Mary Ann Rossi, Esquire, Attorney for Progressive Housing Ventures, LLC and
J. Loew & Associates, Inc.
H. Finton McHugh, Esquire, Attorney for Kim Manufacturing Company and
Stewart Hall, L.P.
Samuel C. Stretton, Esquire, Attorney for Friends of Kardon Park, et al.
Charles E. Donohue, Esquire, Senior Deputy Attorney General

OPINION

The Borough of Downingtown ("Borough") seeks this court's approval for the sale of five parcels of real property ("Property"), totaling 40.5 acres, located partly in the Borough of Downingtown and partly in East Caln Township, referred to colloquially as Kardon Park. J. Loew & Associates, Inc, and Progressive Housing Ventures, LLC join the Borough in the Petition requesting approval of the sale of the Property, or, in the alternative, holding that Court approval is not required to convey the Property.

Respondents Friends of Kardon Park, Ann M. Feldman, Marion Ungrich, Evelyn Hopkins, Kim Manufacturing Company and Stewart Hall, L.P. oppose the sale of the Property. The Commonwealth of Pennsylvania, Office of Attorney General, as *parens patriae*, has entered an appearance but takes no position on the Petition of the Borough to approve the sale of the Property.

What is at issue is whether or not the Borough should be permitted to sell this Property to Progressive Ventures for the intended development purposes, as opposed to maintaining the Property as parkland. It is not my judicial function to adjudicate the merits of the particular development plan which is proposed. My sole task is to find the facts pertinent to my review and apply the applicable law to those facts to determine if, in fact, the Borough may sell the Property.

The facts are largely undisputed. The law to be applied, however, was disputed at trial. There was no consensus among the parties as to whether governing law was common law or statutory, and even if statutory, precisely which of several statutes apply. The issue of the applicable law was recently decided by the Pennsylvania Supreme Court in *In re Erie Golf Course*, 992 A.2d 75 (Pa. 2010), dis-

cussed below.¹

For reasons set for in the discussion portion of this opinion, I have concluded that the Borough does not have the authority to sell the Property for private development.

FINDINGS OF FACT

1. Petitioner, the Borough of Downingtown, is duly organized and existing under the Pennsylvania Borough Code, 53 P.S. §§ 45101 *et seq.*

2. J. Loew & Associates, Inc. (“Loew”) is a Pennsylvania corporation with offices in Downingtown, Pennsylvania.

3. Progressive Housing Ventures, LLC (“Progressive Ventures”) is a Pennsylvania limited liability company with offices in Malvern, Pennsylvania.

4. Kim Manufacturing Company (“Kim Manufacturing”) is a Pennsylvania corporation and operates a metal fabrication business on real property that is adjacent to the Property.

5. Stewart Hall, L.P. (“Hall”) is a Pennsylvania limited partnership and the owner of the real property upon which Kim Manufacturing conducts its business.

6. Friends of Kardon Park is a Pennsylvania not-for-profit corporation with a registered address in Downingtown, Pennsylvania.

7. Ann M. Feldman, Marion Ungrich, and Evelyn Hopkins are adult individuals and residents of Downingtown. Each live in close proximity to the Property.

8. The Borough is the owner of 40.5 acres of real property (the Property) with 24.6 acres located in the Borough of Downingtown and 15.9 acres located in East Caln Township. The Property is often referred to as “Kardon Park” and sometimes as “the Ponds”.

9. The Property is bounded as follows:

- to the south, Pennsylvania Avenue
- to the west, PECO right of way in an abandoned railroad bed (adjacent to industrial users, including Respondent, Kim Manufacturing)
- to the north, a commercial property adjacent to the Route 30 Bypass
- to the east, where ponds are located, adjacent to residential properties frontage on Lake, Sunset and North Lake Drives.

10. The Property subject to this action is comprised of the following parcels:

¹Abrogating *Vutnoski v. Redevelopment Auth. of Scranton*, 941 A.2d 54 (Pa. Cmwlth. 2006), and holding that the Donated or Dedicated Property Act, 53 P.S. §§3381 – 3386, applies to fully-realized dedications, as well as to ones where there may be uncertainty as to the acceptance.

a). **UPI 11-4-23**, consisting of 7.6 acres acquired by purchase from Kathryn Meisel on November 12, 1962.

This parcel is situated partly in Downingtown Borough and partly in East Caln Township.

It contains two man-made ponds (known as Second and Third Lakes, respectively) created as an extension of the original millrace system fed from the Brandywine River and is otherwise wooded. The Borough's proposed plan would return this parcel as parkland.

b). **UPI 40-1-23.1**, situated in East Caln Township, consisting of 14.3 acres; acquired by purchase from Downingtown Paper Company for consideration of \$12,000 by deed July 25, 1968 (and subsequent deed recorded October 3, 1968, reciting the acquisition "pursuant to Act 70", "for recreation, conservation and historical purposes" Legislation is pending to release this parcel from the Project 70 deed restriction. Another man-made pond, known as Fourth Lake, is located within this parcel. The Lions Trail bisects the southern portion ending at the PECO right of way.

The Borough's proposed plan would retain a portion of this parcel for parkland and a portion would be developed.

c). **UPI 11.4-13**, consisting of 6.8 acres in Downingtown Borough; this parcel was acquired July 25, 1968 in the same manner as UPI 40-1-23.1 ([b.] above), "pursuant to Project 70 for recreation, conservation and historical purposes.

This parcel was released from the Project 70 deed restrictions by the Pennsylvania Legislature in Act 29 of 1999.

Under the Borough's proposed plan, this parcel would be developed.

d). **UPI 11-4-14.2-E**, consisting of 7.4 acres in Downingtown Borough; acquired by condemnation December 5, 1974 for park and recreation purposes".

The proposed use for this parcel is development

e). **UPI 11-4-14** (also shown as 11-4-14E) consisting of 4.3 acres in Downingtown Borough, acquired by condemnation June 30, 1977 "for park and recreation purposes".

This parcel is almost entirely wooded. The Borough's plan proposes that it would be developed.

11. Beginning in the 1930's, the parcels west of UPI 11-4-23 [the Meisel parcel], then privately owned by various title holders, was used as a quarry to remove minerals from the soil. When the quarry use ended, the exposed cavities on the parcels were filled in with industrial waste by-products, mostly from the paper industry then active in the Borough, as well as for municipal waste.

12. On October 5, 1978, members of the Borough Council, the Borough Manager and the Mayor of Downingtown participated in a ceremony to "dedicate"

12 acres of the Property (UPI Nos. 11-4-14.2 and 11-4-14) as “Kardon Park”.

13. The Borough intended for Kardon Park to serve as a passive recreation-park, rather than an active park, such as with a baseball field.

14. In 1984, a paved trail was installed immediately to the west of the ponds and is commonly known as the Lion’s Trail. The public began to use that trail for walking, jogging and biking.

15. The Property contains wooded areas, grass-covered areas, a series of ponds, a small parking area, the Lion’s Trail, and a public monument known as the Victims of Violence Memorial.

16. The ponds were used historically for ice-skating in the winter when they froze over, and fishing in the warmer months.

17. Since the erection of the Victims Memorial in 2004, a public ceremony has been held there once a year to honor victims of crimes.

18. In the early 1990’s, the Borough began planning to develop the Property. It applied to the Department of Environmental Protection (“DEP”) for clearance under Act 2 to use the Property for a passive park and for commercial development.

19. In 1999, Golder Associates, on behalf of the Borough, Sonoco Products, Inc. and Kardon Industries, conducted Site Specific Standards for the constituents of concern in the Property surface soil, subsurface soil and groundwater.

20. Golder identified the following Constituents of Potential Concern (“COPCs”) in soil on the Property: benzo(a)pyrene; arsenic; iron; lead; mercury; and vanadium.

21. Golder identified a layer of “historic fill” ranging in thickness from approximately 2 to 12 feet covering nearly the entire property to the west of the existing ponds. The volume of historic fill at the Property is estimated to be greater than 250,000 cubic yards. The historic fill is heterogeneous in composition, but it is primarily composed of iron slag, metal paper and wood products, and plastics. The historic fill is reported to have been generated by industrial facilities in close proximity to the Property.

22. The Borough never posted warning signs regarding the contaminated areas, and never recommended that any portion of the Property be closed.

23. Golder prepared a Cleanup Plan for the Property, which initially considered human health risk for only a park use, but ultimately contemplated continued use of the eastern portion of the Property for recreation with the contaminated area proposed for commercial uses.

24. The Golder Report found that the risks due to potential direct contact of both park users and park groundskeepers to contaminants in the surface soil at Kardon Park were within limits established by the Pennsylvania DEP.

25. Golder conducted testing and surveys to document the extent of the recreational use of the Property.

26. The result of the surveys taken by Downingtown Borough employees and used in the Golder report, established that 77% of the recreational use of the Property was for walking, running, jogging, biking, skating and skateboarding on

the trails. The surveys also established that the recreational use was predominantly by adults for about ten (10) minutes or less.

27. In July 2006, the Borough issued a Request for Proposal to develop the Property and a Solicitation for Property Bids seeking proposals for the purchase and redevelopment of the Property.

28. The successful respondent to the Solicitation for Property Bids is a joint venture between Loew and Progressive, who entered into an Agreement to Purchase and Sell Real Estate, dated August 17, 2007.

29. The proposed development consists of 305 residential dwelling units and an additional 40 “live over work” rental units, plus 20,000 square feet of commercial space.

30. The proposed development will relocate a walking trail to the west and expand the length of trails in areas of the Property currently not used for park purposes.

31. In conjunction with the proposed development plan, Advanced GeoServices performed a review of the original Risk Assessment contained in the Final Act 2 Report. As set forth in its March 6, 2008 report, Advanced GeoServices found that exposure to collective concentrations of arsenic, iron and mercury encountered on the Property represents an unacceptable risk to park users.

32. Integral to the proposed development, a new cleanup plan was prepared by Advanced GeoServices and approved by the Pennsylvania Department of Environmental Protection (“DEP”) on August 6, 2008.

33. The cleanup plan involves installation of a “cap” over the contaminated areas of the Property which will be developed for residences.

34. The Borough has amended its zoning ordinance and approved a conditional use application for the proposed development of the Property.

35. The Borough will receive a percentage of the sale of each dwelling units and will receive funds to provide for another public use, currently proposed to be construction of a new firehouse.

DISCUSSION

It must be stated emphatically at the outset that what is before me concerns whether or not the Borough has the legal authority to sell the Property for this private development, not an evaluation of the relative merits of open space versus residential development.²

As will be discussed more thoroughly below, at the time of trial, the most significant legal issue for my consideration was what law applies to this case. Primarily, the applicability of an interpretation of the Donated or Dedicated

² As noted, the proposed development plan also contains areas designated as public parkland.

Property Act, 53 P.S. §§3381 – 3386, was a legal focal point. The parties did not agree either as to applicability or construction of that statute, and the appellate case law was in a state of conflict. That was the context in which all parties put on their evidence and argued the law at trial.

After closing the record, however, the Pennsylvania Supreme Court issued its Opinion in *Erie Golf Course, supra*, which, at the very least, answered the question of whether or not the Donated or Dedicated Property Act applied in a situation such as here presented (it does), and left unanswered other questions.

At trial, the Borough sought approval for the sale of the Property under the Inalienable Property Act, 20 Pa. C.S.A. §§8301 – 8306³, or alternatively, the Donated or Dedicated Property Act. The Friends of Kardon Park and Kim Manufacturing averred that the common law “public trust doctrine” was applicable to the instant action and that the Borough has not met its burden.

The Donated or Dedicated Property Act (“DDPA”) provides that property donated to a political subdivision for use as a public facility, or dedicated to the public use, shall be deemed to be held by such political subdivision for the benefit of the public. 53 P.S. §3382. Section 4 of the DDPA permits a municipality to request permission of the Orphans’ Court to sell property held in trust when the municipality determines that the original use is no longer practicable or possible or has ceased to serve the public interest.

53 P.S. §3384 provides,

When, in the opinion of the political subdivision which is the trustee, the continuation of the original use of the particular property held in trust as a public facility is no longer practicable or possible and has ceased to serve the public interest, or where the political subdivision, as trustee for the benefit of the public, is in doubt as to the effectiveness or the validity of an apparent dedication because of the lack of a record of the acceptance of the dedicated land or buildings, the trustee may apply to the orphans’ court of the county in which it is located for appropriate relief. The court may permit the trustee to—

(1) Substitute other lands or property of at least equal size and value held or to be acquired by the political subdivision in exchange for the trust property in order to carry out the trust purposes.

(2) If other property is not available, sell the property and apply the proceeds to carry out the trust purposes.

³Under the Inalienable Property Act, the court may authorize the sale, mortgage, lease or exchange of real property where the legal title is otherwise inalienable.

(3) In the event the original trust purpose is no longer practicable or possible or in the public interest, apply the property or the proceeds therefrom in the case of a sale to a different public purpose.

(4) Relinquish, waive or otherwise quitclaim all right and title of the public in and to such land and buildings as have been apparently dedicated but for which no formal acceptance appears of record: Provided, only, That the court is satisfied upon hearing the evidence that there is no acceptance by implication arising out of public user or otherwise, the court shall also determine the consideration, if any, to be paid to the political subdivision.

Although the parties required five days to complete testimony, the trial was conducted in a “legal vacuum” due to the unsettled law regarding the applicability of the DDPA. A brief summary of the arguments follows:

The Borough, Lowe and Progressive Ventures argued that if the DDPA applies, then the Borough is entitled to sell the Property pursuant to Section 4 (subsection 3) of the DDPA. However, the Borough argued that the DDPA does not apply to the instant action because the parcels compromising the Property were acquired by purchase or condemnation.

Section 6 of the DDPA, **Purchased or condemned property**, states:

Nothing in this act shall be construed to limit or affect the control by a political subdivision of public lands or buildings acquired by such political subdivision by purchase or condemnation.

The Friends of Kardon Park and Kim Manufacturing agreed that because all parcels constituting the Property were acquired either by purchase or condemnation, the DDPA did not apply. However, they argued that the governing law is the “public trust doctrine”, rather than the DDPA. The common law public trust doctrine provides that when land has been dedicated and accepted for public use, a political subdivision is estopped from interfering with or revoking the grant at least so long as the land continues to be used, in good faith, for the purpose for which it was originally dedicated. *In re Estate of Ryerss*, 987 A.2d. 1231, 1237, n.8 (Pa. Cmwlth. 2009) (citing *Board of Trustees of Philadelphia Museums v. Trustees of the University of Pennsylvania*, 96 A. 123, 125-26 (Pa. 1915)). “Public officials entrusted with the management of land dedicated to the public must not approve uses of the land which transgress the terms or limitations of the original grant...the land so dedicated, therefore, may be diverted by the responsible public officials neither to private uses... nor to public uses not within those designated or specified in

the dedicatory language.” *Payne v. Kassab*, 361 A.2d 263, 268 (Pa. 1976).

The parties disputed the viability of the public trust doctrine after the enactment of the DDPA as highlighted by two decisions from the Pennsylvania Commonwealth Court.⁴ The Borough, Loew and Progressive asserted that the DDPA supersedes an action in equity under the public trust doctrine, citing *In re Erie Golf Course*, 963 A.2d 605 (Pa. Cmwlth. 2009). They argued that even if the DDPA did not supplant the public trust doctrine, it was abrogated by the *Erie Golf Course* Commonwealth Court decision. Kim Manufacturing and Friends of Kardon Park asserted that the public trust doctrine is still viable, citing *In re Estate of Ryerss*, 987 A.2d 1231 (Pa. Cmwlth. 2009).

After the record before me closed, the dispute regarding the applicable law was decided by the Pennsylvania Supreme Court in *In re Erie Golf Course*, 992 A.2d 75 (Pa. 2010). The Court held that the DDPA applies to fully-realized dedications, as well as to ones where there may be uncertainty as to the acceptance.⁵ The Court found that the DDPA incorporates “salient common-law principals” under the public trust doctrine. *Id.* at 86. “To the extent the Act modifies the public trust doctrine, the prior common-law principles are superseded.” *Id.* n.16.

In rendering its decision, the Supreme Court cited *amicus* briefs submitted by two of the parties in this case: the Borough of Downingtown, and Stewart Hall, LLP (owner of the real property upon which Kim Manufacturing conducts its business).

As stated above, Section 4 of the DDPA provides that a municipality may obtain approval to sell property held in trust when, in the opinion of the municipality, the continuation of the original use of the particular property held in trust is no longer practicable or possible or has ceased to serve the public interest. The *Erie Golf Course* Court held that the Orphans’ Court, rather than a political subdivision or municipality, has “controlling discretion” to determine whether the continuing use of the property is no longer practicable or possible or has ceased to serve the public interest. “[i]t merely specifies under what circumstances the municipality, as trustee, may file an application in an orphans’ court. The controlling discretion is squarely reposed in the court.” *Id.* at 87.

The Pennsylvania Supreme Court found that under the DDPA, the role of the Orphans’ Court is similar to the role of the court when applying the doctrine of cy

⁴ *In re Erie Golf Course*, 963 A.2d 605 (Pa. Cmwlth. 2009); *In re Estate of Ryerss*, 987 A.2d. 1231 (Pa. Cmwlth. 2009).

⁵With respect to whether the DDPA applies to property acquired by purchase or condemnation, the sale of the Property in this case falls under the statutory authority of the DDPA, pursuant to *Erie Golf Course*. Section 6 of the DDPA is “ambiguous and potentially paradoxical.” *Id.*, at 8. “At least on its face, Section 6 appears intended to protect the rights a municipality may have acquired in connection with a purchase...applying Section 6 to all property that can in any sense of the word be considered “purchased” would appear to render the section self-defeating.” *Id.*, at 86 n.15.

pres with regard to a charitable trust⁶.

Thus, I must determine (1) whether the Property was dedicated, either formally or informally, and (2) whether the original use of the Property is no longer practicable or possible or has ceased to serve the public interest. If I conclude that the Borough has not met its burden under the DDPA, I must then determine whether the Borough has relief under the Inalienable Property Act.

A. The DDPA

1. Dedication

“Real property may be dedicated to public use in a variety of ways. Dedication may be express or it may be implied from the acts of the parties, and it need not take a particular form. Dedication may be found in a single act, such as the giving of a deed or the recording of a plan, or it may be found from a series of acts, all consistent with and pointing to the intention to dedicate. Dedication, like a contract, requires both offer and acceptance, and once there is acceptance, in whatever form it takes, dedication is irrevocable. *White v. Township of Upper St. Clair*, 799 A.2d 188, 193 (Pa. Cmwlth. 2002) (citing *Borough of Ridgway v. Grant*, 425 A.2d 1168, 1170 (Pa. Cmwlth. 1981)). The Supreme Court in *Erie Golf Course* failed to define dedication.

Instantly, the deeds and declarations demonstrate that the Property was offered for the public’s use. In 1968, the Borough acquired parcels 40-1-23.1 (19.4 acres) and 11-4-13 (1.28 acres). The Deed of Confirmation, dated October 3, 1968, states that the purchase was to provide land for recreation, conservation and historical research. (Exhibit Kim-8). When the Borough acquired parcel 11-4-14.2 (7.48 acres), the Declaration of Taking, dated December 1974, states that the purpose of the condemnation is to expand and enlarge recreation places and space within the Borough limits (Kim-9, paragraph 3).

When the Borough acquired parcel 11-4-14 (4.373 acres), the Declaration of Taking, dated June 1977, states that the purpose of the condemnation is to expand and enlarge recreation places and space within the Borough limits (Kim-10, paragraph 3).

A 1978 ceremony to name a portion of the Property “Kardon Park” also shows intent to dedicate the Property. Borough Parcels 11-4-14.2 and 11-4-14, located along Pennsylvania Avenue, involved a series of legal disputes in the 1970’s between the Borough and the Kardon family companies. The Borough initially zoned these properties as “Park / Open Space.” In 1977, the lawsuits were settled under an agreement whereby the Borough would pay consideration and name the land as “Morris Kardon Park.” (Exhibit Kim-11a). On October 5, 1978, the mayor of Downingtown, the Borough Manager and members of Borough Council partici-

⁶ Adopting the reasoning set forth by the Borough in its *Amicus* Brief

pated in a ceremony to “dedicate” 12 acres of the Property. They stood before a sign reading “Kardon Park” along Pennsylvania Avenue (Kim-1)⁷.

In 1984, the Borough constructed a parking lot and paved trail and held a ceremony renaming the trail as “Lions Trail.” Thereafter, various zoning maps identified Kardon Park as part of zoning districts entitled “Public Park” (Kim12a) and “Park” (Kim-12b). Resolution 2001-3, dated April 4, 2001, refers to the parcels as “the park” and “Kardon Park” and “The Ponds.” (Kim-13). All of this evidence demonstrates the intent to offer the Property for dedication to the public.

“To demonstrate implied acceptance of an offer of dedication, there must be unequivocal authoritative actions by the municipality demonstrating intention to accept.” *Tobin v. Radnor Tp. Bd. Of Com’rs*, 597 A.2d 1258, 1265 (Pa. Cmwlth. 1991). It is the act of acceptance of a dedicated parcel of land which makes the dedication complete. *Lillo v. Moore*, 704 A.2d 149 (Pa. Super. 1997).

The evidence shows that for decades the Borough maintained the Property by mowing the grass, erecting signs, and caring for the area around the Victims Memorial and the trails. In 1999, Golder Associates prepared a Cleanup Plan for the Property. Golder conducted testing and surveys to document the extent of the recreational use of the Property. The result of the surveys, taken by Downingtown Borough employees, established that 77% of the recreational use of the Property was for walking, running, jogging, biking, skating and skateboarding on the trails. The surveys also established that the recreational use was predominantly by adults for about ten (10) minutes or less.

At trial, many residents testified that for years the public used the trails for jogging, walking, biking, skating and skateboarding, and used portions of the Property for picnics, bird watching and social gatherings. Although the Borough drew a distinction between the areas west of the Lions Trail and the areas to the east, there was testimony that the public used the areas west of the Lions Trail for biking and other activities.

I find that there is substantial evidence that the ponds, the paved trails and the area around the Victims’ Memorial were dedicated and accepted by the public for its use. There is less substantial evidence of a dedication of the areas of the Property which are not adjacent to the trails, ponds and Victims’ Memorial, particularly those areas which are contaminated. There is evidence, both demonstrative and testimonial, that members of the public do occasionally make use of those less accessible areas. The Respondents argue strenuously that the public uses those portions of the Property by deriving pleasure from the lovely view it provides.

Even the Golder Report demonstrates some use of those portions – but far less than the portions adjacent to the ponds and trails. While the separate parcels have enjoyed different degrees of public use and acceptance, I am compelled to treat them as one parcel – the Property for which development is sought. The fact that

⁷The Borough, Loew and Progressive contend that the “dedication” ceremony in 1978 was held to fulfill a contractual obligation to the Kardon family.

some areas within the greater whole are utilized less actively is not dispositive. The public has historically been given access to the entire Property, and it has therefore been dedicated to public use.

Burden of proof

The Petitioners, as the moving parties, have the burden of proof to establish their right to relief under the DDPA. However, I found no authority to guide me as to what standard of proof applies: whether evidence that the use of the property is no longer practicable or possible or has ceased to serve the public interest must be shown by clear and convincing evidence or by merely a preponderance of the evidence. The parties failed to address the standard of proof issue, and my caselaw research discloses no enunciated standard. The Friends of Kardon Park argued that the standard of reviewing the decision of the Borough to sell the property is the standard of fraud or arbitrary or capricious conduct. Loew and Progressive Housing stressed the need for deference to the municipality's opinion. However, those arguments were made before the Supreme Court ruling in *Erie Golf Course* that the Orphans' Court, rather than a political subdivision or municipality, has "controlling discretion" to determine whether the continuing use of the property is no longer practicable or possible or has ceased to serve the public interest. *In re Erie Golf Course*, 992 A.2d 75 (Pa. 2010).

In the absence of explicit mandate of the clear and convincing standard, I conclude that the Petitioners must prove by a preponderance of evidence that the original use of the Property is no longer practicable or possible or has ceased to serve the public interest.

2 . Use impracticable or impossible or no longer serving the public

The Borough, Loew and Progressive contend that they have satisfied the requirements of Section 3384 of the DDPA because the use is no longer practical and possible due to past contamination and debris in certain areas. A portion of currently used trails is to be developed for dwellings. In return, a new trail will be directed to the east opening up a large area of the Property that is not currently readily accessible to the public. Additionally, the Borough contends that it has more than enough park land so that the proceeds of the sale should, in the public interest, be applied to other public needs in the community. The Borough has identified the need for a new firehouse.

At trial, the Borough stressed the history of dumping waste on the parcels to the west of UPI 11-4-23, the Meisel parcel. Witnesses testified that it was common knowledge that portions of the Property on the west side contained industrial waste and debris, including parts of an abandoned automobile. The Borough representatives testified that when they acquired the parcels, they were unaware of the cost of the environmental hazards on portions of the property.

In 1999, Golder Associates, on behalf of the Borough, Sonoco Products, Inc.

and Kardon Industries, conducted Site Specific Standards for the constituents of concern in the Property surface soil, subsurface soil and groundwater. Golder identified the following Constituents of Potential Concern (“COPCs”) in soil on the Property: benzo(a)pyrene; arsenic; iron; lead; mercury; and vanadium.

Golder identified a layer of “historic fill” ranging in thickness from approximately 2 to 12 feet covering nearly the entire property to the west of the existing ponds. The volume of historic fill at the Property is estimated to be greater than 250,000 cubic yards. The historic fill is heterogeneous in composition, but it is primarily composed of iron slag, metal paper and wood products, and plastics. The historic fill is reported to have been generated by industrial facilities in close proximity to the Property (P-19, at 1-1).

The Final Act 2 Report concluded that contaminant concentrations in the Property soils were not leaching to groundwater at unacceptable levels, and the concentrations in groundwater or the sediment in the ponds did not represent a threat to human health or the environment (P-19).

The Golder Report found that the risks due to potential direct contact of both park users and park groundskeepers to constituents on the Property were within limits established by the Pennsylvania DEP. The risk assessment for a (post year 2000) combined park / commercial office building use of the Property resulted in estimates of excess risks well within the limits established by the Pennsylvania DEP. Golder found no significant adverse ecological risks on the Property (P-20).

In the Human Health Risk Assessment for Park Use, the Golder Report stated: “[T]he surface soil at Kardon Park does not pose a cumulative risk to park users in excess of the statutory threshold. Furthermore, the estimated carcinogenic risks are well over an order of magnitude less than the maximum carcinogenic risk level specified by PADEP for developing cleanup numbers at a Site.” (P-19A). In 1999, the Pennsylvania Department of Environmental Protection reviewed the Golder Report (Kim-21) and issued an Order under Section 512 of Act 2 stating: “A Human Health Risk Assessment for direct contact exposure to Site soils indicated that any risk to human health is within an acceptable range, as set forth in the Act 2 regulations.” (Kim-22, page 2).

Golder conducted testing and surveys to document the extent of the recreational use of the Property. The result of the surveys taken by Downingtown Borough employees in 1997 and 1998, and used in the Golder report, established that 77% of the recreational use of the Property was for walking, running, jogging, biking, skating and skateboarding on the trails. The surveys also established that the recreational use was predominantly by adults for about ten (10) minutes or less.

The Golder Report states: “Only about twenty percent (19.5%) of the documented activities include a potential for exposure to surface soil such as walking around the lake, walking a dog, biking to woods, and feeding the ducks. Given their limited duration, and non-intrusive nature, even these activities would result in soil exposure considerably less than those assumed for a 24-hour resident (residential

exposure) or a daily 8-hour worker (non-residential exposure) exposure to soil... Clearly, visitors to Kardon Park only rarely have an opportunity to come in contact with exposed soil surfaces as the large majority of park use activities are confined to paved areas.” (P-19 B, at 8, 12).

The 2008 supplemental risk assessment performed by Advanced GeoServices, found that the individual concentrations of arsenic, iron and mercury encountered on the Property are acceptable. However, when taken collectively the cumulative hazard quotient for all three compounds represents an unacceptable risk. “Based on the analysis of the systemic parameters, an unacceptable risk calculated for arsenic under a residential exposure scenario was 3.5 EE-5 which is greater than 1.0 EE-5 and, therefore, the risk for carcinogens also represents an unacceptable risk.” (P-19, Appendix B, page 3). Advanced GeoServices suggested that redevelopment of the Property for residential land use must include remedial measures and / or engineering controls capable of reducing the concentrations and / or the Exposure Frequency.

The Borough never closed any portion of the Property to the public, either before or after the release of the Golder Report, nor Advanced GeoServices supplemental assessment. There was nothing in the Golder Report that expressly stated that use of Kardon Park posed a significant risk to human health.⁸ The Borough continued to mow the lawn and maintain the Property regardless of the dumping in the wooded areas. Residents of Downingtown continued to use the park trails and other areas east of the paved trails. The purpose of the dedication, recreation and enjoyment of the walking trails, continued despite the contamination in the parcels to the west of the paved trails.

There is no significant evidence that it was impossible for the public to use any portion of the Property throughout the years. Regardless of the levels of contamination, the paved trails and the area around the Victims’ Memorial continued to serve the public interest. As stated above, the area west of the Lions Trail was also used by the public for biking and other activities.

The Borough contends that it does not have the funds to clean up the contamination that exists; thus, it is necessary to sell the Property to a developer who will install a cap over the contaminated areas of the Property intended to be used for residential purposes. This economic impracticability claim has failed to provide relief under the DDPA. *In re Estate of Ryerss*, 987 A.2d 1231 (Pa. Cmwlth. 2009) (potential negative economic consequences of cancer center’s inability to expand its campus onto real property donated to city as dedicated parkland could not be considered in determining whether city could obtain relief under the DDPA from its duty to continue holding property in trust for its originally intended use); *In re Erie*

⁸The Golder Report conclusions were based on surveys of public use of the property that found that public recreational use of the property occurred on the paved walking trails for an average of about ten minutes or less.

Golf Course, 992 A.2d 75 (Pa. 2010) (city's claim that the debt service burden of operating a municipal golf course and park rendered it economically impracticable was undermined by adversarial testing).

Thus, I find that the Borough failed to establish by a preponderance of the evidence that the original use of the property is impracticable or impossible, or has ceased to serve the public's interest pursuant to my analysis of the DDPA. The Borough does not have the authority to sell the Property for private development under the DDPA.

B. The Inalienable Property Act

The Borough contends that pursuant to the Inalienable Property Act⁹, this court may authorize the sale of the Property where the legal title is otherwise inalienable. The Borough asserts that to the extent that the Property is subject to use limitations as a result of statements contained in deeds or in condemnation proceedings, the title is otherwise inalienable.¹⁰ The statements in the deeds regarding the purpose of the acquisition of the parcels are as follows:

UPI 40-1-23.1, situated in East Caln Township, consisting of 14.3 acres; acquired by purchase from Downingtown Paper Company (and subsequent deed) reciting the acquisition "pursuant to Act 70";

UPI 11-4-13 acquired in the same manner as UPI 40-1-23.1, "pursuant to Project 70 for recreation, conservation and historical purposes";

UPI 11-4-14.2-E acquired by condemnation "for park and recreation purposes";

UPI 11-4-14 (also known as 11-4-14E) acquired by condemna-

⁹ The Inalienable Property Act replaced the revised Price Act.

¹⁰ The Borough also argues that legal title to the Property is inalienable due to the cloud raised by the possibility that the Property is subject to procedures under the DDPA or the public trust doctrine.

I note that Judge Moran of the Northampton County Court of Common Pleas found that a restriction on use of dedicated property created by a municipality is not an issue of alienability. *In re Conveyance of 1.2 Acres of Bangor Memorial Park*, 4 Pa. D & C 4th 343 (Northampton County, 1988) ("The Borough of Bangor and the Bangor Area School District also aver that the proposed conveyance is governed by 20 Pa.C.S. §8301 et seq., which replaced the repealed Revised Price Act. However, the court disagrees...The issue before the court involves a restriction on use created by the Borough of Bangor's dedication of the subject land as a park. It is not an issue of alienability").

tion “for park and recreation use.”

The purpose of the acquisition of the parcels was used “for park and recreation purposes”. Where a conveyance is made for a specified purpose “and no other,” the property reverts to the grantor or his heirs upon the cessation of the use for the designated purpose. *Slegel v. Herbine*, 23 A. 996 (Pa. 1892). The absence of a specific reverter clause is not determinative of the effect of the words if the intent to limit the fee is otherwise clear. In such instances there is an implied reverter to the grantor. *Peters v. East Penn Tp. School Dist.*, 126 A.2d 802 (Pa. Super. 1957) (reference in deed to holding and warranting the property ‘as long as’ used for school purposes created a determinable fee, with reverter to grantor upon discontinuance of use for school purposes).

Here, the grant of the Property contained no restrictive covenants. Any restrictions on the sale of the property were placed by the Borough, not the respective grantors. The Borough contends that the designated purpose of the conveyance (park use and recreation) has ceased due to the contamination. The evidence shows that the public has continued to use the trails for walking, biking and hiking throughout the years. Although the knowledge about the chemical contamination has changed the Borough’s intentions regarding the Property since the 1970’s when the Borough acquired most of the parcels, that conceptual change did not prohibit the public from using the property as intended in the original respective conveyances.

When deciding whether the character of an immediate neighborhood has changed to warrant non-enforcement of a restriction, a court must consider adjoining tracts, as well as the restricted tract. *Vernon Tp. Volunteer Fire Dept., Inc. v. Connor*, 855 A.2d 873 (Pa. 2004)¹¹(changed circumstances in neighborhood surrounding restricted tract of land did not warrant invalidation of covenant prohibiting the sale of alcohol on the property). See *Daniels v. Notor*, 133 A.2d 520 (Pa. 1957) (where altered conditions in a neighborhood render strict adherence to the terms of a restrictive covenant useless, the covenant will not be enforced).

I find no evidence that the undesirable condition of certain areas of the Property changed overtime, rather the Borough changed how it intended to deal with it. But at no time did the Borough prevent the public from using Kardon Park for recreation and park use, which use has been consistent. Borough representatives testified that they were aware of the contamination for years, yet they never officially closed any portion of the Property to the public. There was no cessation of the use for the designated purpose, and the title to the Property is not inalienable. Thus, the Borough has not met its burden justifying the sale of the Property under the Inalienable Property Act.

Based on the foregoing, the following Order is hereby entered.

¹¹*Vernon Tp.* was an action to quiet title. The petitioners did not seek relief under the DDPA or the Inalienable Property Act.

**IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
IN RE: PETITION OF THE BOROUGH
OF DOWNINGTOWN**

NO. 1509-0516

Patrick C. O'Donnell, Esquire, Solicitor for Borough of Downingtown
Mary Ann Rossi, Esquire, Attorney for Progressive Housing Ventures, LLC and J.
Loew & Associates, Inc.
H. Finton McHugh, Esquire, Attorney for Kim Manufacturing Company and
Stewart Hall, L.P.
Samuel C. Stretton, Esquire, Attorney for Friends of Kardon Park, et al.
Charles E. Donohue, Esquire, Senior Deputy Attorney General

ORDER

AND NOW, this 7th day of October, 2010, upon consideration of the Petition of the Borough of Downingtown for Approval of the Sale of Real Property, the response thereto and after hearings in September, 2009 and November 2009, it is hereby Ordered that the Petition is DENIED.

BY THE COURT:

/s/ Katherine B. L. Platt, J.

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TABLE OF CONTENTS
LEGAL NOTICES

Audit List. 2

Certificate of Authority 4

Change of Name Notice 4

Corporation Notice 4

Dissolution Notice 5

Estate Notices **1st Publication** 5

Estate Notices **2nd Publication** 7

Estate Notices **3rd Publication** 9

Fictitious Name 11

Limited Liability Company 11

Notice of Sheriff’s Sale of Real Property 12

Notice of Action in a Mortgage Foreclosure. 13

Notice of Suspension. 14

Trust Notice 14

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**CLERK OF THE ORPHANS' COURT
DIVISION OF THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA**

NOTICE OF FILING ACCOUNTS

**ACCOUNTS LISTED FOR AUDIT ON
WEDNESDAY, APRIL 6, 2011**

Courtroom 16 at 9:00 A.M. PREVAILING TIME**THE HONORABLE KATHERINE B. L. PLATT**

Notice is hereby given to all parties interested, that accounts in the following matters have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas of Chester County, Pennsylvania for AUDIT, CONFIRMATION AND DISTRIBUTION at the above date, time and place. At that time and place interested parties, claimants and objectors to the same will be heard.

ESTATE OF WILLARD THOMPSON HINE SR, DECEASED **1508-1620**

FIRST AND INTERMEDIATE ACCOUNT

OF: WILLARD THOMPSON HINE JR, EXECUTOR

ATTORNEY(S):

JOHN B. WHALEN JR, ESQUIRE

ESTATE OF JOHN L. FROST, DECEASED **1508-1594**

A/K/A JOHN FROST

A/K/A JACK FROST

FIRST AND FINAL ACCOUNT

OF: ROBERT M. SEGAL, EXECUTOR

ATTORNEY(S):

DAVID R. GLYN, ESQUIRE

ESTATE OF FRANCES C. GLOVER, DECEASED **1591-0686**

FIRST AND FINAL ACCOUNT

OF: WILMINGTON TRUST COMPANY, ADMINISTRATOR

KEVIN HOLLERAN, ADMINISTRATOR

ATTORNEY(S):

KEVIN HOLLERAN, ESQUIRE

IN RE: JOHN C. MCAVOY, TRUST **1597-0401**

FIRST AND FINAL ACCOUNT

OF: PNC BANK, NATIONAL ASSOCIATION, TRUSTEE

JACQUELINE M. HALLADAY, TRUSTEE

JEAN W. MCAVOY, TRUSTEE

PATRICIA SAYRE, TRUSTEE

ATTORNEY(S):

KEVIN PATRICK GILBOY, ESQUIRE

LICIA M. ANO MARRONE, ESQUIRE

ESTATE OF RALPH N. WILLIAMS, DECEASED	1510-0716
FIRST ACCOUNT	
OF: SHEILA SEENEY, EXECUTOR	
SHARON K. SEENEY, EXECUTOR	

IN RE: AMERICAN LEGION POST 134, TRUST	1510-0626
FIRST ACCOUNT	
OF: ERICK C. ROSENBERG, TRUSTEE	
ATTORNEY(S):	
JOHN FRANCIS MCKENNA, ESQUIRE	

GUARDIANSHIP OF MORRIS RESNICK	1505-1048
FIRST AND PARTIAL ACCOUNT	
OF: HERMAN CHIDEKEL, GUARDIAN	
MIRIAM CHIDEKEL, GUARDIAN	
ATTORNEY(S):	
LINDA M. ANDERSON, ESQUIRE	

ESTATE OF ALAN R. ROBSON III, DECEASED	1506-1544
FIRST AND FINAL ACCOUNTING	
OF:	
ANTHONY MORRIS, EXECUTOR	
JESSICA FOWLER, EXECUTOR	
ATTORNEY(S):	
ANTHONY MORRIS, ESQUIRE	

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CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an application was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, PA by Idonea Solutions, Inc., a foreign corporation formed under the laws of the State of Minnesota, where its principal office is located at 3161 Fernbrook Lane, Plymouth, MN 55447 for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Corporation Law of 1988.

The registered office in Pennsylvania shall be located at 1 Magnolia Way, Chadds Ford, PA 19317.

DAVID B. MYERS, Solicitor
Larmore Scarlett, LLP
P.O. Box 384
Kennett Square, PA 19348

**CHANGE OF NAME NOTICE
IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
NO. 11-02448**

NOTICE IS HEREBY GIVEN that the name change petition of Christopher Logan on behalf of son Landon Purcell was filed in the above-named court and will be heard on April 11, 2011, at 9:30 AM, in Courtroom 15 at the Chester County Justice Center, 201 West Market Street, West Chester, Pennsylvania.

Date of filing the Petition: March 4, 2011

Name to be changed from: Landon Purcell to:
Landon Logan

Any person interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

Joshua A. Janis, Attorney for Petitioner
135 East State Street
Kennett Square, PA 19348

**CHANGE OF NAME NOTICE
IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
NO. 11-02391**

NOTICE IS HEREBY GIVEN that the name change petition of Kaitlyn Wirth Detweiler was filed in the above-named court and will be heard on June 6, 2011, at 9:30 AM, in Courtroom 3 at the Chester County Justice Center, 201 West Market Street, West Chester, Pennsylvania.

Date of filing the Petition: March 3, 2011

Name to be changed from: Kaitlyn Wirth Detweiler to: Ryan Thomas Gellert

Any person interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

CORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania for Fitz Fast Freight, Inc., in accordance with the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

JESSICA A. MILLER, Solicitor
Siana, Bellwoar & McAndrew, LLP
941 Pottstown Pike
Suite 200
Chester Springs, PA 19425

CORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania for ONE OLD PROCESS GUY, LTD, in accordance with the provisions of the Pennsylvania Business Corporation Law of 1988.

SUZANNE BENDER, Solicitor
216 Bridge Street
Phoenixville, PA 19460

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN THAT the shareholder of Anita C. Huntsman, Inc., a Pennsylvania corporation, with an address of 4397 Conestoga Road, Elverson, PA 19520, has approved a proposal that the corporation voluntarily dissolve, and that the shareholder is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

DAVID A. MEGAY, Esquire, Solicitor
O'Donnell, Weiss & Mattei, P.C.
347 Bridge Street, Suite 200
Phoenixville, PA 19460

DISSOLUTION NOTICE

NOTICE is hereby given to all creditors and claimants of BRANDYWINE BUILDERS OF KENNETT SQUARE, INC., a Pennsylvania corporation, that the shareholders and directors have approved a proposal that the corporation dissolve voluntarily and the Board of Directors is now engaged in winding up and settling the affairs of the corporation so that its corporate existence will end, pursuant to the filing of Articles of Dissolution with the Pennsylvania Corporation Bureau pursuant to 15 Pa. C.S.A. Section 1977.

EDWARD M. FOLEY, Esq.
Brutscher, Foley, Milliner & Land, LLP
213 E. State St.
Kennett Square, PA 19348

ESTATE NOTICES

Letters Testamentary or of Administration having been granted in the following Estates, all persons having claims or demands against the estate of the said decedents are requested to make known the same and all persons indebted to the said decedents are requested to make payment without delay to the respective executors, administrators, or counsel.

1st Publication

AGNEW, Robert H., late of Easttown Township. Margaret Alzamora, care of DANIEL R. ROSS, Esquire, 7169 Germantown Avenue, 2nd Floor, Philadelphia, PA 19119, Executrix. DANIEL R. ROSS, Esquire, Ross & McCrea LLP, 7169 Germantown Avenue, 2nd Floor, Philadelphia, PA 19119, atty.

ECKFELDT, Catharine T., late of Kennett Square. L. PETER TEMPLE, Esquire, P.O. Box 384, Kennett Square, PA 19348, Executor. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P.O. Box 384, Kennett Square, PA 19348, atty.

ELDTRETH, Carl E., late of Nottingham. David C. Eldreth, Stephen J. Eldreth and Gloria E. Masciantonio, care of R. SAMUEL MCMICHAEL, Esquire, P.O. Box 296, Oxford, PA 19363, Executors. R. SAMUEL MCMICHAEL, Esquire, P.O. Box 296, Oxford, PA 19363, atty.

FALK, Lucy, a/k/a Lucy Catalli, late of Borough of Phoenixville. STEPHEN I. BAER, Esquire, 1288 Valley Forge Road, Suite 63, P.O. Box 952, Valley Forge, PA 19482-0952, Executor. STEPHEN I. BAER, Esquire, Baer Romain, LLP, 1288 Valley Forge Road, Suite 63, P.O. Box 952, Valley Forge, PA 19482-0952, atty.

GOEBEL, Catherine, late of Borough of Phoenixville. Richard P. Goebel, care of TIMOTHY G. DALY, Esquire, 121 Ivy Lane, King of Prussia, PA 19406, Executor. TIMOTHY G. DALY, Esquire, Robert P. Snyder & Associates, 121 Ivy Lane, King of Prussia, PA 19406, atty.

GRAZIANO, Mary A., late of New Garden Township. Carol G. Hackman, care of WILLIAM D. KRAUT, Esquire, 903 Shady Grove Way, West Chester, PA 19382, Executrix. WILLIAM D. KRAUT, Esquire, Kraut and Kraut, P.C., 903 Shady Grove Way, West Chester, PA 19382, atty.

HANSEN, Marjorie Kelly, late of East Pikeland Township. Kristen M. Hansen, 707 E. Oregon Street, Urbana, IL 61801 and Richard A. Hansen II, 2309 Old Towne Road, Nazareth, PA 18064, Executors.

HARDEEN, Sandra Jean, late of Wilmington, New Castle County, Delaware. Ashley A. Peterson, 2341 South Pittsburg Street, Spokane, WA 99203, Administratrix. W. DONALD SPARKS, II, Esquire, Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, DE 19801, atty.

HEMLER, Paul M., late of Chester County. Mary H. Garbarino, 2908 Walnut Ridge Estates, Pottstown, PA 19464, Executrix. ELYSE E. ROGERS, Esquire, Saidis, Sullivan & Rogers, 635 North 12th Street, Suite 400, Lemoyne, PA 17043, atty.

HUFF, Erma J., late of West Brandywine Township. William R. Taylor, care of KEVIN HOLLERAN, Esquire, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562, Executor. KEVIN HOLLERAN, Esquire, Gawthrop Greenwood, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562, atty.

JOHNSON, Lizzie A., late of East Coventry Township. Ronald R. Johnson, 228 W. Spring Street, Bechtelsville, PA 19505 and Doris M. Moser, 31 Martin Avenue, Gilbertsville, PA 19525, Executors. DENNIS L. O'CONNELL, Esquire, P.O. Box 303, Gilbertsville, PA 19525, atty.

JORDAN, Carla N., late of East Marlborough Township. Kristen J. Ladow, care of L. PETER TEMPLE, Esquire, P.O. Box 384, Kennett Square, PA 19348, Executrix. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P.O. Box 384, Kennett Square, PA 19348, atty.

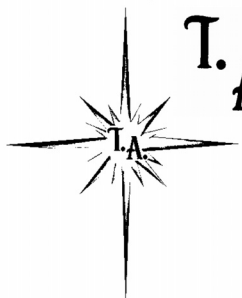
LORD, Patrice M., late of North Coventry Township. Ronald Magee, care of LISA COMBER HALL, Esquire, A Professional Corporation, 27 S. Darlington Street, West Chester, PA 19382, Executor. LISA COMBER HALL, Esquire, Hall Law Offices, A Professional Corporation, 27 S. Darlington Street, West Chester, PA 19382, atty.

LUDOLPH, Warren, Jr., late of Chester County. Southeastern Veterans' Center, care of STEPHEN J. BUSHINSKI, Esquire, Building 7-36, Fort Indiantown Gap, Annville, PA 17003-5002, Administrator. STEPHEN J. BUSHINSKI, Esquire, Office of Chief Counsel, Department of Military and Veterans Affairs, Building 7-36, Fort Indiantown Gap, Annville, PA 17003-5002, atty.

MCNALLY, Hope B., late of North Coventry Township. Kenton E. Quint, Jr., 134 W. Sixth Street, Pottstown, PA 19464, Executor. DAVID A. MEGAY, Esquire, O'Donnell, Weiss & Mattei, P.C., 41 East High Street, Pottstown, PA 19464-5426, atty.

MORELLI, Thomas W., Sr., late of Willistown Township. Edna E. Morelli and Thomas W. Morelli, Jr., care of MICHAEL C. MC BRATNIE, Esquire, P.O. Box 673, Exton, PA 19341-0673, Executors. MICHAEL C. MC BRATNIE, Esquire, Fox Rothschild LLP, P.O. Box 673, Exton, PA 19341-0673, atty.

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MOYER, William Robert, late of East Coventry Township. Debra J. Gera, 36 Natalie Road, Thornton, PA 19373, Administratrix. ELIZABETH T. STEFANIDE, Esquire, 280 N. Providence Road, Suite 4, Media, PA 19063, atty.

SHEPHERD, Louise M., late of West Nantmeal Township. William Shepherd, care of KENNETH R. WERNER, Esquire, 203 West Miner Street, West Chester, PA 19382-2924, Executor. KENNETH R. WERNER, Esquire, Werner & Wood, 203 West Miner Street, West Chester, PA 19382-2924, atty.

SIMMERS, Barbara J., late of Valley Township. Kimberly A. Winski, 1881 Valley Road, Coatesville, PA 19320, Executrix. HARRY B. YOST, Esquire, Appel & Yost, LLP, 39 East Main Street, Strasburg, PA 17579, atty.

WILSON, James B., a/k/a James Burnett Wilson, late of Pennsbury Township. Susan W. Fowler, Matthew R. Wilson and George H. Wilson, care of JILL R. FOWLER, Esquire, 100 Four Falls, Suite 300, West Conshohocken, PA 19428, Executors. JILL R. FOWLER, Esquire, Heckscher, Teillon, Terrill & Sager, P.C., 100 Four Falls, Suite 300, West Conshohocken, PA 19428, atty

WALSH, Joan M. Kevin Walsh, care of JOHN J. RENDEMONTI, Esquire, 14 Regency Plaza, Glen Mills, PA 19342, personal representative. JOHN J. RENDEMONTI, Esquire, 14 Regency Plaza, Glen Mills, PA 19342, atty

2nd Publication

BENDER, Harry J., a/k/a Harry Bender, late of North Coventry Township. Louise Blackburn, care of MICHAEL J. LYONS, Esquire, 6 Ponds Edge Drive, Suite 1, Chadds Ford, PA 19317, Executor. MICHAEL J. LYONS, Esquire, Lyons, Dougherty, LLC, 6 Ponds Edge Drive, Suite 1, Chadds Ford, PA 19317, atty.

BOORSE, Harry C., late of Chester County. Southeastern Veterans' Center, care of STEPHEN J. BUSHINSKI, Esquire, Building 7-36, Fort Indiantown Gap, Annville, PA 17003-5002, Administrator. STEPHEN J. BUSHINSKI, Esquire, Office of Chief Counsel, Department of Military and Veterans Affairs, Building 7-36, Fort Indiantown Gap, Annville, PA 17003-5002, atty.

CHARLES T. DeTULLEO

Attorney at Law
134 North Church St.
West Chester, PA 19380
610-436-5766

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***Referral fees paid when permitted by the Rules of Professional Conduct. Fax and email available to referring attorneys.**

BRIGHAM, Margaret Hoover, late of West Chester. Richard T. Brigham, care of MARY R. LASOTA, Esquire, 218 West Miner Street, West Chester, PA 19382, Executor. MARY R. LASOTA, Esquire, Klein, Head & Head, LLP, 218 West Miner Street, West Chester, PA 19382, atty.

CASTELLI, Joseph J., late of Honeybrook Township. Pauline Mikolajczyk, care of JOHN A. WETZEL, Esquire, One South Church Street, Ste. 400, West Chester, PA 19382, Executrix. JOHN A. WETZEL, Esquire, Swartz Campbell LLC, One South Church Street, Ste. 400, West Chester, PA 19382, atty.

CONNOR, John E., late of Tredyffrin Township. Garth N. Connor, care of ROGER M. WHITEMAN, Esquire, 325 Chestnut Street, Ste. 1300, Philadelphia, PA 19106, Executor. ROGER M. WHITEMAN, Esquire, 325 Chestnut Street, Ste. 1300, Philadelphia, PA 19106, atty.

FAGAN, Mary K., late of East Goshen Township. Thomas L. Fagan, Jr., care of DAVID W. WOOD, JR., Esquire, 203 West Miner Street, West Chester, PA 19382-2924, Executor. DAVID W. WOOD, JR., Esquire, Werner & Wood, 203 West Miner Street, West Chester, PA 19382-2924, atty.

GORDON, Laurie L., late of Borough of West Chester. Alice W. Gordon-Hardy, care of W. PETER BARNES, Esquire, 126 West Miner Street, West Chester, PA 19382, Executor. W. PETER BARNES, Esquire, Parke, Barnes, Spangler, Oeste & Wood, 126 West Miner Street, West Chester, PA 19382, atty.

HANNUM, Gertrude A., late of Valley Township. Gary C. Hannum, care of WAYNE C. BUCKWALTER, Esquire, 30 South 17th Street, 19th Fl., Philadelphia, PA 19103, Executor. WAYNE C. BUCKWALTER, Esquire, Cohen Seglias Pallas Greenhall & Furman, PC, 30 South 17th Street, 19th Fl., Philadelphia, PA 19103, atty.

JOHNSON, Beryl C., a/k/a Beryl Eloise Johnson, late of West Goshen Township. Edgar L. Johnson, Jr. and Kathleen A. Farrell, care of KATHLEEN A. FARRELL, Esquire, 216 South Orange Street, Media, PA 19063, Executors. KATHLEEN A. FARRELL, Esquire, 216 South Orange Street, Media, PA 19063, atty.

MALANY, Carolyn, late of Caln Township. Jeffrey R. Malany, care of DAVID M. FREES, III, Esquire, 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, Executors. DAVID M. FREES, III, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, atty.

SACH, Esther L., late of Uwchlan Township. Marianne Sach Blum and Leslie Nuss Bamesberger, care of DAWN GETTY SUTPHIN, Esquire, 852 11th Avenue, Prospect Park, PA 19076, Executors. DAWN GETTY SUTPHIN, Esquire, 852 11th Avenue, Prospect Park, PA 19076, atty.

SCHULTZ, Victoria C., late of North Coventry Township. Randall E. Schultz, 112 Sunrise Lane, Pottstown, PA 19464, Executor. GREGORY W. PHILIPS, Esquire, Yergey. Daylor.Allebach.Scheffey.Picardi, 1129 High Street, P.O. Box 776, Pottstown, PA 19464, atty.

SELLERS, Stacey A., a/k/a Stacey A. Petit, late of East Marlborough Township. Cynthia Emlet, care of WILLIAM B. COOPER, III, Esquire, 747 Constitution Drive, Suite 100, Exton, PA 19341, Executrix. WILLIAM B. COOPER, III, Esquire, Fox Rothschild LLP, 747 Constitution Drive, Suite 100, P.O. Box 673, Exton, PA 19341, atty.

SHANNON, Michael Lynn, late of Uwchlan Township. Michael Sean Shannon, care of DAVID W. WOOD, JR., Esquire, 203 West Miner Street, West Chester, PA 19382-2924, Administrator. DAVID W. WOOD, JR., Esquire, Werner & Wood, 203 West Miner Street, West Chester, PA 19382-2924, atty.

SHORT, David G. R., late of New Garden Township. Jeanne C. Haley, care of LOUIS N. TETI, Esquire, 17 West Miner Street, P.O. Box 660, West Chester, PA 19381-0660, Executrix. LOUIS N. TETI, Esquire, MacElree Harvey, Ltd., 17 West Miner Street, P.O. Box 660, West Chester, PA 19381-0660, atty.

SMITH, Anne P., a/k/a Anne Pedatella Smith, late of Coatesville. Joanne Smith, care of JAMES B. GRIFFIN, Esquire, 623 North Pottstown Pike, Exton, PA 19341, Executrix. JAMES B. GRIFFIN, Esquire, James B. Griffin, P.C., 623 North Pottstown Pike, Exton, PA 19341, atty.

STAUFFER, Ada K., late of East Coventry Township. Kaaren L. Steiner, 829 Worth Boulevard, Pottstown, PA 19464, Executrix. ADAM SAGER, Esquire, Sager & Sager Associates, 43 High Street, Pottstown, PA 19464, atty.

STROUD, Donald A., late of Willistown Township. Carol M. Samuelson, care of DAVID W. WOOD, JR., Esquire, 203 West Miner Street, West Chester, PA 19382-2924, Executrix. DAVID W. WOOD, JR., Esquire, Werner & Wood, 203 West Miner Street, West Chester, PA 19382-2924, atty.

TALINO, Lucille, late of West Nottingham Township. Frank A. Talino, care of GEORGE G. HEINEY, II, Esquire, P.O. Box 80, Oxford, PA 19363, Executor. GEORGE G. HEINEY, II, Esquire, P.O. Box 80, Oxford, PA 19363, atty.

TAYLOR, Patricia L., late of Pennsbury Township. Samuel O. Taylor, 10 Beatty Road, Media, PA 19063, Executor. EDMUND JONES, Esquire, Jones, Strohm & Guthrie, 10 Beatty Road, Media, PA 19063, atty.

WEAVER, Jane C., late of East Nottingham Township. Robert W. Weaver and Ellen R. Whittesell, care of HARRY W. FARMER, JR., Esquire, P.O. Box 118, Oxford, PA 19363, Executors. HARRY W. FARMER, JR., Esquire, P.O. Box 118, Oxford, PA 19363, atty.

WILSON, Anna Y., late of Kimberton. John W. Yeager, 1117 Western Road, Phoenixville, PA 19460, Executor. BRIAN R. OTT, Esquire, Barley Snyder LLC, 50 N. Fifth St., P.O. Box 942, Reading, PA 19603-0942, atty.

ZIEMAK, Henry F., late of Caln Township. Judith G. Benne, 217 Vincent Drive, Honey Brook, PA 19344, Executrix. ALAN J. JARVIS, Esquire, Highlands Corporate Center, 495 Highlands Boulevard, Suite 109, Coatesville, PA 19320, atty.

3rd Publication

ANGSTADT, Violet M., a/k/a Violet Marie Angstadt, late of West Whiteland Township. Karen L. Burkart, 120 Slater Drive, Wernersville, PA 19565, Executrix. ROBERT R. KREITZ, Esquire, Roland Stock, LLC, 627 North Fourth Street, P.O. Box 902, Reading, PA 19603, atty.

BAUGHMAN, Robert B., late of Penn Township. Robert T. Baughman, care of DONALD B. LYNN, JR., Esquire, P.O. Box 384, Kennett Square, PA 19348, Executor. DONALD B. LYNN, JR., Esquire, Larmore Scarlett LLP, P.O. Box 384, Kennett Square, PA 19348, atty.

COLLINS, James Joseph, late of Coatesville. Brian S. Collins, 2517 Brookdale Avenue, Abington, PA 19001, Administrator.

CRESSMAN, Caleb N., late of Pennsbury Township. Caleb Cressman and Tessa Cressman, care of TIMOTHY B. BARNARD, Esquire, 218 West Front Street, P.O. Box 289, Media, PA 19063, Administrators. TIMOTHY B. BARNARD, Esquire, 218 West Front Street, P.O. Box 289, Media, PA 19063, atty.

FINLEY, Justine S., late of East Goshen Township. Catherine F. Hoffmann, care of LEONARD OLSEN, Esquire, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562, Executor. LEONARD OLSEN, Esquire, Gawthrop Greenwood, PC, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562, atty.

FOX, Kay A., late of East Vincent Township. Kimberly A. Wheeler, care of DOUGLAS L. KAUNE, Esquire, 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, Executor. DOUGLAS L. KAUNE, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, atty.

KISIEL, Gloria Ann, a/k/a Gloria Ann Burkhart, late of East Vincent Township. Kymberly Ruth Kisiel, care of RICHARD C. OSTERHOUT, Esquire, 1744 Bridgetown Pike, Feasterville, PA 19053, Executrix. RICHARD C. OSTERHOUT, Esquire, 1744 Bridgetown Pike, Feasterville, PA 19053, atty.

MARINAKIS, Argero, late of Kennett Square. Karen Schillinger, care of GEORGE S. DONZE, Esquire, 696 Unionville Road, Suite 6, Kennett Square, PA 19348, Administratrix. GEORGE S. DONZE, Esquire, Donze & Donze, 696 Unionville Road, Suite 6, Kennett Square, PA 19348, atty.

MARVIN, Theodore H., late of East Marlborough Township. Anne F. Marvin, care of JOSEPH G. RIPER, Esquire, 312 West State Street, 2nd Floor, Kennett Square, PA 19348, Executrix. JOSEPH G. RIPER, Esquire, Riley Riper Hollin & Colagrecio, 312 West State Street, 2nd Floor, Kennett Square, PA 19348, atty.

MCGINTY, Marguerite M., late of East Brandywine Township. MARITA M. HUTCHINSON, Esquire, 1197 Wilmington Pike, West Chester, PA 19382, Executrix. MARITA M. HUTCHINSON, Esquire, 1197 Wilmington Pike, West Chester, PA 19382, atty.

MORRIS, Patricia Lucke, late of West Grove. Mary E. Coldren, care of JANIS M. SMITH, Esquire, 428 West First Avenue, Suite C, Parkesburg, PA 19365, Executrix. JANIS M. SMITH, Esquire, 428 West First Avenue, Suite C, Parkesburg, PA 19365, atty.

ORSELET, Nancy R., late of East Goshen Township. Debra O. Marsteller, care of DAVID M. FREES, III, Esquire, 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, Executrix. DAVID M. FREES, III, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, atty.

PRITCHARD, Katherine P., late of Devon. Kathy P. Culp, 5064 Lakewood Drive, Mohnton, PA 19540 and Elizabeth Jane Clark, 206 Briarwood Drive, Douglassville, PA 19518, Executors. TIMOTHY B. BITLER, Esquire, 3115 S. Main Street, Birdsboro, PA 19508, atty.

REEVES, David, late of Tredyffrin Township. Annis Lee Reeves, 1506 Maple Avenue, Paoli, PA 19301, Executor. JOHN R. KELL, Esquire, 221 N. Olive Street, Media, PA 19063, atty.

ROBINSON, Betty S., a/k/a Betty Robinson, late of East Coventry Twp. John F. Robinson, Sr., P.O. Box 163, Zieglerville, PA 19492, Executor. LAURALEE F. DAMBRINK, Esquire, 110 Ellis Woods Road, Pottstown, PA 19465, atty.

SCHUL, Godfrey E., a/k/a Godfrey Edwin Schul, late of Tredyffrin Township. Valerie Anne Hoch and Godfrey Richard Schul, care of JOHN F. MC KENNA, Esquire, 17 West Miner Street, P.O. Box 660, West Chester, PA 19381-0660, Executors. JOHN F. MC KENNA, Esquire, MacElree Harvey Ltd., 17 West Miner Street, P.O. Box 660, West Chester, PA 19381-0660, atty.

SHEPSKO, Mary, late of Phoenixville. Mary Elaine Menkins, care of DAVID M. FREES, III, Esquire, 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, Executor. DAVID M. FREES, III, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P.O. Box 289, Phoenixville, PA 19460, atty.

SPITTLER, Kelly M., a/k/a Kelly Ann Muir Spittler, late of Borough of West Chester. Michael L. Haas, care of WILLIAM J. LUTTRELL, III, Esquire, 11 S. Olive Street, Media, PA 19063, Executor. WILLIAM J. LUTTRELL, III, Esquire, 11 S. Olive Street, Media, PA 19063, atty.

STOUDT, Curtis Richard, late of Exton. Linda L. Warren, care of MARY R. LASOTA, Esquire, 218 West Miner Street, West Chester, PA 19382-2925, Executor. MARY R. LASOTA, Esquire, Klein, Head & Head, LLP, 218 West Miner Street, West Chester, PA 19382-2925, atty.

TAYLOR, Patricia L., late of Pennsbury Township. Samuel O. Taylor, 10 Beatty Road, Media, PA 19063, Executor. EDMUND JONES, Esquire, Jones, Strohm & Guthrie, 10 Beatty Road, Media, PA 19063, atty.

TAYLOR, Thomas O., late of Pennsbury Township. Samuel O. Taylor, 10 Beatty Road, Media, PA 19063, Executor. EDMUND JONES, Esquire, Jones, Strohm & Guthrie, 10 Beatty Road, Media, PA 19063, atty.

UMBLE, Leon H., late of Honey Brook Township. Lawrence H. Uumble and Dale L. Uumble, care of J. ELVIN KRAYBILL, Esquire, 41 East Orange Street, Lancaster, PA 17602, Executors. J. ELVIN KRAYBILL, Esquire, Gibbel Kraybill & Hess LLP, 41 East Orange Street, Lancaster, PA 17602, atty.

WHITING, Richard A., Sr., late of West Chester. Richard A. Whiting, Jr. and Timothy Whiting, care of KEVIN J. RYAN, Esquire, 220 W. Gay Street, West Chester, PA 19380-2917, Executors. KEVIN J. RYAN, Esquire, Ryan, Morton & Imms LLC, 220 W. Gay Street, West Chester, PA 19380-2917, atty.

WORTHINGTON, Margaret Ann, a/k/a Margaret R. Worthington, late of Uwchlan Township. Robert M. Worthington, Jr., care of DUKE SCHNEIDER, Esquire, 17 West Miner Street, P.O. Box 660, West Chester, PA 19381-0660, Executor. DUKE SCHNEIDER, Esquire, MacElree Harvey Ltd., 17 West Miner Street, P.O. Box 660, West Chester, PA 19381-0660, atty.

FICTITIOUS NAME

NOTICE is hereby given, pursuant to Fictitious Names Act of 1982, 54 Pa.C.S. Section 301 et seq., which repealed prior laws on the subject, any entity or entities (including individuals, corporations, partnership or other groups, which conduct any business in Pennsylvania under an assumed or fictitious name shall register such name by filing an application for registration of fictitious name with the Department of State for the conduct of a business in Chester County, Pennsylvania under the assumed or fictitious name, style or designation of

HTSA, with its principal place of business at 501 East Uwchlan Avenue, Chester Springs, PA 19425.

The application has been (or will be) filed on: February 24, 2011.

The name(s) and address(es) of the individual(s) or entity(ies) owning or interested in said business: Home Theater Specialists of America, Inc., 501 East Uwchlan Avenue, Chester Springs, PA 19425.

DAVID E. ROBBINS, Solicitor
1001 Sussex Boulevard
Broomall, PA 19008

Home Technology Specialists of America, with its principal place of business at 501 East Uwchlan Avenue, Chester Springs, PA 19425.

The application has been (or will be) filed on: February 24, 2011.

The name(s) and address(es) of the individual(s) or entity(ies) owning or interested in said business: Home Theater Specialists of America, Inc., 501 East Uwchlan Avenue, Chester Springs, PA 19425.

DAVID E. ROBBINS, Solicitor
1001 Sussex Boulevard
Broomall, PA 19008

GreenAirSystems, with its principal place of business at 412 Lee Avenue, Spring City, PA 19475.

The application has been (or will be) filed on: February 14, 2011.

The name(s) and address(es) of the individual(s) or entity(ies) owning or interested in said business: Howard Lunn, 412 Lee Avenue, Spring City, PA 19475.

CORPORATION NOTICE LIMITED LIABILITY COMPANY

NOTICE IS HEREBY GIVEN that on January 11, 2011, a Certificate of Organization for a Domestic Limited Liability Company and Docketing Statement have been filed in the Pennsylvania Department of State at Harrisburg, PA for the purpose forming a Limited Liability Company pursuant to the provisions of the Business Corporation Law of 1988, 15 Pa. C.S. Section 8913. The name of the company is Parme & Sons Containers, LLC.

The company shall have unlimited power to engage in and to do any lawful act concerning any or all lawful business for which Limited Liability Companies may be organized under the Pennsylvania Business Corporation Law of 1988 as amended and supplemented and to do all things and exercise all powers, rights, and privileges which a Limited Liability Company may now or hereafter be organized and authorized to do or to exercise under the said Business Corporation Law of Pennsylvania.

THOMAS A. PITT, III, Solicitor
214 S. New Street
West Chester, PA 19382

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1st Publication

IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 08-10-102

WELLS FARGO NATIONAL BANK, N.A. as Trustee, PLAINTIFF vs. WAYLAND WASHINGTON
and DAVIDA WASHINGTON, DEFENDANT(S)

NOTICE OF SALE OF REAL PROPERTY

TO: WAYLAND WASHINGTON, Defendant, 367 South First Avenue, Coatesville, PA 19320.

Your house (real estate) at 367 South First Avenue, Coatesville, PA 19320 is scheduled to be sold at the Sheriff's Sale on , June 16, 2011 at 11:00 am in the Chester County Justice Center, 201 West Market Street, West Chester, PA to enforce the Court Judgment of \$78,411.16, obtained by Plaintiff above (the mortgagee) against you. If the sale is postponed, the property will be relisted for the Next Available Sale.

ALL THAT CERTAIN TRACT OF LAND, TOGETHER WITH THE BRICK DWELLING THEREON ERECTED, SITUATED IN THE CITY OF COATESVILLE, COUNTY OF CHESTER AND STATE OF PENNSYLVANIA, KNOWN AS NO. 367 SOUTH FIRST AVENUE, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF SOUTH FIRST AVENUE, DISTANT 556.59 FEET SOUTHWARDLY ALONG THE CENTER LINE OF SOUTH FIRST AVENUE FROM ITS INTERSECTION WITH THE CENTER LINE OF OAK STREET, BEING ALSO IN THE EXTENDED CENTER LINE OF A DIVIDING PARTITION WALL SEPARATING THE 33RD AND 34TH DWELLINGS, NUMBERED FROM THE NORTHERLY END OF A ROW OF 36 DWELLINGS, AND KNOWN A NOS. 365 AND 367 SOUTH FIRST AVENUE RESPECTIVELY; THENCE ALONG THE CENTER LINE EXTENDED OF THE SAID DIVIDING PARTITION WALL AND THROUGH SAID WALL, BEING THE LINE OF LAND NOW OR LATE OF ANTHONY FORESE AND GEORGE THOMAS FORESE, SOUTH 70 DEGREES 12 MINUTES EAST, 125.37 FEET TO A POINT AT OR NEAR THE FACE OF A STONE RETAINING WALL; THENCE ALONG THE LINE OF REMAINING LAND OF MARK SUGARMAN AND ADA SUGARMAN, HIS WIFE, AND PARALLELING THE FACE OF SAID WALL SOUTH 19 DEGREES 46 MINUTES WEST, 16 FEET TO A CORNER OF LAND NOW OR LATE OF ANTONIO FORESE, BEING IN THE CENTER LINE EXTENDED OF THE DIVIDING PARTITION WALL BETWEEN DWELLINGS KNOWN AS NOS. 367 AND 369 SOUTH FIRST AVENUE; THENCE ALONG THE CENTER LINE EXTENDED OF THE SAID ANTONIO FORESE AND THOMAS FORESE NORTH 70 DEGREES 12 MINUTES WEST, 125.38 FEET TO A POINT IN THE CENTER LINE OF SOUTH FIRST AVENUE; THENCE ALONG THE SAME NORTH 19 DEGREES 48 MINUTES EAST, 16 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,206 SQUARE FEET OF LAND, BE THE SAME MORE OR LESS

BEING THE SAME PREMISES WHICH THE TAX CLAIM BUREAU OF CHESTER COUNTY, BY DEED DATED APRIL 4, 1989 AND RECORDED IN CHESTER COUNTY IN RECORD BOOK 1701 PAGE 365. GRANTED UNTO CITY OF COATESVILLE, IN FEE.

BEING KNOWN AS: 367 South First Avenue, Coatesville, PA 19320.

PROPERTY ID NO.: 16-10-113.

TITLE TO SAID PREMISES IS VESTED IN WAYLAND WASHINGTON AND DAVIDA WASHINGTON, HUSBAND AND WIFE, AS TENANTS BY THE ENTIRETIES BY DEED FROM HABITAT FOR HUMANITY OF CHESTER COUNTY, INC. DATED 07/01/1992 RECORDED 08.21/1992 IN DEED BOOK 3154 PAGE 555.

UDREN LAW OFFICES, P.C.

Daniel S. Siedman

Attorney for Plaintiff

111 Woodcrest Road, Suite 200

Cherry Hill, NJ 08003-3620

856-669-5400

NOTICE**NOTICE OF ACTION IN MORTGAGE FORECLOSURE
IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW**

US BANK NATIONAL ASSOCIATION AS TRUSTEE
Vs.

JAMES BIVENS
CHRISTINE BIVENS

COURT OF COMMON PLEAS

CIVIL DIVISION

CHESTER COUNTY

NO. 09-12280

NOTICE

TO JAMES BIVENS:

You are hereby notified that on OCTOBER 29, 2010, Plaintiff, US BANK NATIONAL ASSOCIATION AS TRUSTEE, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of CHESTER County Pennsylvania, docketed to No. 09-12280. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 116 QUAIL DRIVE, LINCOLN UNIVERSITY, PA 19352 whereupon your property would be sold by the Sheriff of CHESTER County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CHESTER COUNTY
LAWYER REFERRAL SERVICE
CHESTER COUNTY BAR ASSOCIATION
15 W. GAY STREET
WEST CHESTER, PA 19380
(610) 429-1500

NOTICE OF SUSPENSION

Notice is hereby given that on March 11, 2011, pursuant to Rule 214, Pa.R.D.E., the Supreme Court of Pennsylvania ordered that Marc D. Manoff be placed on Temporary Suspension from the practice of law until further definitive action by the Court, to be effective April 10, 2011.

Elaine M. Bixler

Secretary of the Board

The Disciplinary Board of the

Supreme Court of Pennsylvania

3rd Publication**NOTICE OF TRUST**

DOROTHY KAHL TRUST U/A dated
12/19/1997, as amended

DOROTHY KAHL, Deceased

Late of the Township of Tredyffrin, Chester
County, PA

All persons having claims or demands against the DOROTHY KAHL TRUST U/A dated 12/19/1997, as amended, deceased, to make known the same and all persons indebted to the decedent to make payment without delay to GEORGE KAHL and VERONICA GABRIEL, Trustees, c/o EDWARD M. WATTERS, III, Esquire, 899 Cassatt Road, Berwyn, PA 19312-1183,

Or to their Attorney:

EDWARD M. WATTERS, III
Pepper Hamilton LLP
899 Cassatt Road
Berwyn, PA 19312-1183

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The Official Legal Publication for Chester County

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