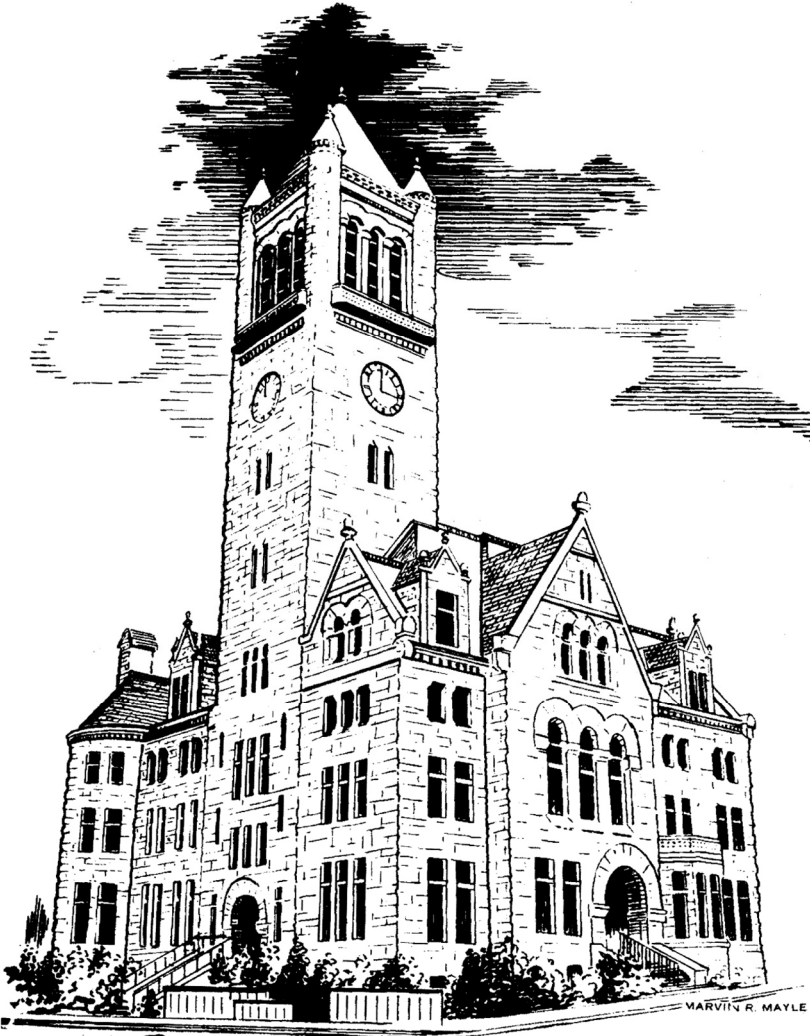


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

MELVIN EARL ANSELL, a/k/a M. EARL ANSELL, a/k/a EARL ANSELL, late of Upper Tyrone Township, Fayette County, PA (3)

Executor: Ronald Ray Ansell
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P.O. Box 799
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KEVIN EUGENE BITTNER, a/k/a KEVIN BITTNER, late of Springhill Township, Fayette County, PA (3)

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c/o 9 Court Street
Uniontown, PA 15401
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MILDRED A. DEHAINAUT, late of Connellsville, Fayette County, PA (3)

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720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

HERBERT DRINKWATER, late of Washington Township, Fayette County, PA (3)

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1711 Grand boulevard
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JOSEPH EDWARD KOPACKO, a/k/a JOSEPH E. KOPACKO, late of Menallen Township, Fayette County, PA (3)

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Uniontown, PA 15401
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MARGIE LEE NICHOLAS, a/k/a MARGIE L. NICHOLAS, late of Springhill Township, Fayette County, PA (3)

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107 East Main Street
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THELMA I. SARVER, late of Henry Clay Township, Fayette County, PA (3)

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c/o Higinbotham Law Offices
68 South Beeson Boulevard
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Second Publication

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KATHERINE IRENE CIARAMELLA, late
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Co-Executors: Cynthia Lee Ciaramella and
Joshua Cree-Ciaramella
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First Publication

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PATRICIA CROWLEY, late of Uniontown,
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Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

ELAINE C. MASCIOLI, late of Dunbar
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Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

GERALD EUGENE PETCHENY, late of
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Administrator: David Wingard
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Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

**MARCELLA S. SCHWENK, a/k/a
MARCELLA SCHWENK, a/k/a MARCELA
SCHENK**, late of Perryopolis, Fayette County,
PA (1)

Personal Representatives: Sharon Kitta and
Robert D. Schwenk
P.O. Box 712
Perryopolis, PA 15473
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

LEGAL NOTICES**NOTICE**

Notice is hereby given that a Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on March 7, 2022, for a Limited Liability Company known as McConnell Fencing and Recycling, LLC.

Said Limited Liability Company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the Limited Liability Company is to engage in the acquisition and selling of fencing and fencing material, scrap, recycling and disposition of scrap material, excavating related activity and for any and all other lawful purpose for which the Company may be organized under the Business Corporation Law of the Commonwealth of Pennsylvania.

GEORGE & GEORGE

By: Joseph M. George, Esquire
92 East Main Street
Uniontown, PA 15401

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

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MEMORIAL SERVICE

The Fayette County Bar Association will hold a memorial service before the Court for Davina D. Burd, Esquire at the Fayette County Courthouse in Courtroom No. 1 on Monday, May 23, 2022, at noon.

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

RICHARD E. FRAME AND	:	
VIOLA FRAME,	:	
Plaintiffs,	:	
v.	:	
	:	
COUNTY OF FAYETTE OFFICE OF	:	
PLANNING, ZONING & COMMUNITY	:	
DEVELOPMENT, et al,	:	No. 588 of 2020
Defendants.	:	Honorable Steve P. Leskinen

OPINION AND ORDER

Leskinen, J.

April 6, 2022

The Plaintiffs seek a Declaratory Judgment that the Fayette County Zoning Ordinance is unconstitutional. The Plaintiffs also seek a Writ Of Mandamus that the Defendants approve and adopt the Plaintiffs' Proposed Curative Amendment to the Fayette County Zoning Ordinance and/or grant them site specific relief in the form of an exception from the current Fayette County Zoning Ordinance. After careful review of the record and applicable case law, the Court hereby issues the following Opinion and Order:

Factual Background

The Plaintiffs reside at 41 Highland Street, Smithfield, PA 15478: a single family home in an R-2 High Density Residential District.* The Plaintiffs were issued Enforcement Notices on August 30th, 2017 and October 3rd, 2017. The bases of the Enforcement Notices were: two (2) or more unregistered, inoperable motor vehicles outdoors. The Enforcement Action is docketed at 88 - 2019.

The Plaintiffs sought a curative amendment on February 22nd, 2019 and were denied on November 21st, 2019. The instant suit alleging unconstitutionality was filed on March 6th, 2020. An Argument was held in this matter on April 20th, 2021.

Legal Standard

53 P.S. § 11002-A states:

- (a) All appeals from all land use decisions rendered pursuant to Article IX shall be taken to the court of common pleas of the judicial district wherein the land is located and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S. § 5572 (relating to time of entry of order) or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in section 908(9) of this act. It is the express intent of the General Assembly that, except in cases in which an unconstitutional deprivation of due process would result from its application, the 30-day limitation in this section should be applied in all appeals from decisions. (emphasis added).

*The Court confirmed with the Office Of Planning, Zoning & Community Development that this tract is located in an R-2 High Density Residential District.

Section §1000-108 of The Fayette County Zoning Ordinance defines the two following separate Uses:

JUNK STORAGE AND SALES (SALVAGE OPERATION):

Any lot, building or structure or part thereof used for the storage, collection, recycling, resource recovery, salvage, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery, vehicular parts, or two (2) or more unregistered, inoperable motor vehicles or other types of junk. In no district shall this use be considered to be accessory or incidental to another use.

SALVAGE OPERATION:

A commercial establishment where the salvaging, scavenging, storing, or recycling of any goods such as motor vehicles or motor vehicle parts, appliances, batteries, tires, or general recycling of items such as aluminum cans, paper, or glass and plastic bottles is conducted.

Discussion

The Plaintiffs argue that the Fayette County Zoning Ordinance is unconstitutional because the 'converse' definitions of "JUNK STORAGE AND SALES" and "SALVAGE OPERATION" allow the Office Of Planning, Zoning & Community Development to 'falsely accuse' citizens of 'conducting junk storage, sales, and salvage operations when no evidence of a commercial enterprise is present.' The Plaintiffs argue that the Defendants should be required to establish a "nuisance in fact." The Plaintiffs further seek a Writ Of Mandamus that the Defendants approve and adopt the Plaintiffs' Proposed Curative Amendment to the Fayette County Zoning Ordinance and/or grant them site specific relief in the form of an exception from the current Fayette County Zoning Ordinance.

The Court begins by reiterating that "JUNK STORAGE AND SALES" is a Use. "SALVAGE OPERATION" is another Use. The definitions of "JUNK STORAGE AND SALES" and "SALVAGE OPERATION" share some attributes and do not share others. In this case, the Plaintiffs' usage falls within the definition of "JUNK STORAGE AND SALES."

The Court finds that the Plaintiffs have not met their burden of establishing the unconstitutionality of the Fayette Zoning Ordinance. Surely, the Plaintiffs allege unconstitutionality because unconstitutionality is the only basis for Common Pleas Court review that is not time barred by 53 P.S. § 11002-A.

The Court is unpersuaded that the Defendants 'falsely accused' the Plaintiffs of anything, let alone that a false accusation of 'conducting junk storage, sales, and salvage operations' constitutes a constitutional violation, not to mention a Due Process violation.

WHEREFORE, the Court issues the following Order:

AND NOW this 6th day of April, 2022, the Plaintiffs' MOTION FOR PEREMP-TORY (SUMMARY) JUDGMENT is hereby DENIED.

BY THE COURT:
STEVE P. LESKINEN, JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, May 25th from 12:00 p.m. to 1:30 p.m.**
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **On Cross-Examination**
- Presenter: **Samuel J. Davis, Esquire, Melinda K. Dellarose, Esquire, and Brent Eric Peck, Esquire**

CLE Credit

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

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- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2017

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****
A light lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, May 23rd.

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