

Adams County Legal Journal

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IN THIS ISSUE

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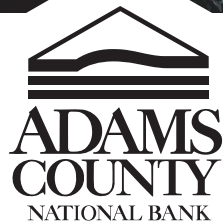
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 008-S-1812 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of July, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Liberty Township, Adams County, Pennsylvania, being Lot No. 81 in Section O, more particularly bounded and described as follows:

BEGINNING at a point in the center of Apache Trail at Lot No. 82; thence by said lot, North 25 degrees 27 minutes 06 seconds East, 225 feet to Lot No. 75; thence by said lot, South 64 degrees 32 minutes 54 seconds East, 100 feet to Lot No. 80; thence by said lot, South 25 degrees 27 minutes 06 seconds West, 225 feet to the point in the center of said Apache Trail; thence in said Apache Trail, North 64 degrees 32 minutes 54 seconds West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled 'Section O, Charnita, Inc.' dated October 1, 1968, prepared by Evans, Hagan & Holdefer, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 1 at page 49.

BEING the same which Terry L. Stem and Rachel E. Stem, by her Attorney-in-Fact, Terry L. Stem, specially authorized by Power of Attorney recorded in Record Book 791 at page 52, husband and wife, by deed dated August 22, 2003 and recorded September 2, 2003 in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 3277 at page 38, sold and conveyed unto Rodney Hutzell and Nicole Hutzell, husband and wife, the Grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Rodney Hutzell, by Deed from Rodney Hutzell and Nicole Hutzell, dated 05/02/2007, recorded 05/07/2007 in Book 4828, Page 112.

Tax Parcel: (26) 0081

Premises Being: 225 North Apache Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Rodnay Hutzell a/k/a Rodney Gene Hutzell** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 7, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/19, 26 & 7/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1434 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of July, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an existing iron pin at the western edge of a dirt lane on the northern boundary line of land now or formerly of Harry E. Neff; thence by said land of Harry E. Neff, North 54 degrees 09 minutes 00 seconds West, 439.61 feet to an existing bed rail at stones at corner of land now or formerly of James L. Riggeal; thence by said land of James L. Riggeal, South 87 degrees 06 minutes 40 seconds West, 173.30 feet to an existing stone at corner of land now or formerly of Charles P. Yager; thence by said land of Charles P. Yager, and by land now or formerly of Alex Kessel, North 37 degrees 57 minutes 00 seconds East, 258.72 feet to an iron pin at corner of other land now or formerly of

Dorothy E. Pfeiffer; thence by said land of Dorothy E. Pfeiffer, and passing through a reference iron pin set back 30.00 feet from the next mentioned point, South 54 degrees 09 minutes 00 seconds East, 608.54 feet to an iron pin in aforesaid dirt lane; thence in and along said dirt lane, South 51 degrees 55 minutes 00 seconds West, 156.20 feet to an existing iron pin, the place of BEGINNING, CONTAINING 2.195 Acres.

BEING the same which William D. Mowery and Dorma Lee Mowery, husband and wife, by deed dated the 20th day of May, 1977, which deed is recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 331 page 112, conveyed unto Roger D. Sidwell and Jane C. Sidwell, husband and wife, the grantors herein.

TITLE TO SAID PREMISES IS VESTED IN Roger D. Sidwell, by Deed from Roger D. Sidwell and Jane C. Sidwell, h/w, dated 04/25/1995, recorded 05/02/1995 in Book 1024, Page 275.

Tax Parcel: (12) C10-0097B

Premises Being: 695 Bingman Road, Orttanna, PA 17353

SEIZED and taken into execution as the property of **Rodger D. Sidwell** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 7, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/19, 26 & 7/2

HAMILTON TWP. VS. HAMILTON TWP. ZHB ET AL

1. It is fundamental law that before an enforcement notice may be upheld, a violation of the zoning provisions as charged must be found.

2. The municipality cannot meet its burden in an enforcement proceeding merely by setting forth the relevant procedural history and establishing the content of the relevant zoning provisions without presenting evidence that those provisions were violated by the named individual.

3. In order for the Board to determine whether a violation existed for failure to pay a permit fee, it was incumbent upon the Board to reach a determination as to whether any such fee was ever due.

4. Although Groft's stop payment on the check, along with Groft's explanation for the same, is a relevant consideration in determining the existence of a violation, it is only part of the evidence which is to be weighed, along with other relevant and credible testimony, by the finder of fact.

5. Pennsylvania law is clear that a permit issued by mistake or upon misrepresentation by the applicant confers no vested right or privilege and may be revoked at any time.

6. As there is no showing of prejudice to the Township, relief under an equitable estoppel theory is inappropriate.

7. Where a trial court takes no additional evidence, review is limited to determining whether the zoning hearing board committed an error of law, abused its discretion, or made findings not supported by substantial evidence.

8. As finder of fact, the Board is free to believe all, some or none of the testimony of any witness and issues of credibility rest solely with them.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 08-S-673, HAMILTON TOWNSHIP VS. HAMILTON TOWNSHIP ZONING HEARING BOARD, EDWARD GROFT AND CAROLINE GROFT.

Ronald L. Finck, Esq., for Plaintiff

Chester G. Schultz, Esq., for Zoning Hearing Board

Gary E. Hartman, Esq., for Grofts

George, J., October 1, 2008

OPINION

Hamilton Township ("Township") appeals from the decision of the Hamilton Township Zoning Hearing Board sustaining the appeal of Edward and Caroline Groft (collectively "Groft") from an enforcement notice issued on Groft by the Township. The enforcement notice describes the violation as failure to pay a fee required with the application seeking issuance of a zoning permit. In upholding the appeal, the Board determined that evidence presented at hearing was insufficient to uphold the enforcement notice. The Township currently argues that the Board committed both an error of law and an abuse of discretion in sustaining the appeal.

Groft is the owner of property located at 1177 Pine Run Road, Hamilton Township, Adams County, Pennsylvania. In approximately mid-August, 2006, Groft was in the process of having concrete poured to finish a driveway. While the work was in progress, the Township Code Enforcement Officer, Ronald Balutis (“Balutis”), drove by the property and noticed the on-going work. He stopped and inquired as to the circumstances as he was unaware of a permit for the work being issued by the Township. Although Balutis allowed the concrete to be poured, he requested the workers to advise Groft to contact the Township office. During subsequent conversation between Balutis and Groft, Balutis indicated that a zoning permit was required before the work could be completed. Groft was advised that the zoning permit fee was \$25.00 and an additional impervious surface fee of \$547.00 would be required to be paid prior to issuance of the permit. The impervious surface fee, according to Township Ordinance, was calculated at a rate of 15¢ per square foot. However, no measurements were taken. Balutis claimed that he estimated the impervious surface fee based upon his observations of the property as the work in progress prevented him from taking an accurate measurement. Groft paid the requested fees and obtained the permit.

After obtaining the permit, Groft completed a second pour of concrete at the property thus completing the project. However, before the check representing payment for the impervious surface fee was cashed by the Township, Groft stopped the payment of the same. He claims that when he tendered the check, he did so out of convenience. He explains that he subsequently learned that the impervious surface fee was improperly charged by the Township as, under Township Ordinances, the fee only applies to the creation or expansion of impervious surfaces at a particular property. He claims that the entire area at his property which was capped by the concrete was previously packed stone and thus an existing impervious surface under the Township Code.

The Township subsequently filed an enforcement notice against Groft alleging that he failed to pay an appropriate zoning fee. Groft appealed the enforcement notice to the Zoning Hearing Board arguing that he cannot be required to pay a fee which is improperly charged. Although the Board did not go as far as concluding that the fee was improperly charged, the Board sustained the appeal on the basis that the Township was unable to prove the propriety of the fee.

The Township appeals to this Court claiming that the Zoning Hearing Board erred as a matter of law in permitting Groft to challenge the calculation of the impervious surface fee as the limited issue before the Board was whether the fee had been paid. The Township suggests that the issue of whether the charge was proper should be conclusively found in their favor as Groft paid the fee prior to issuance of the license. In the alternative, the Township argues that the Zoning Hearing Board committed an abuse of discretion in determining that the Township's evidence was inconclusive as it related to application of the fee to Groft's property. I find both issues lack merit and uphold the decision of the Board.

It is fundamental law that before an enforcement notice may be upheld, a violation of the zoning provisions as charged must be found. See *Hartner v. Zoning Hearing Bd.*, 840 A.2d 1068, 1070 (Pa.Cmwlth. 2004). In a challenge to the propriety of an enforcement notice, the municipality has the responsibility of presenting its evidence first. 53 P.S. §10616.1(d); *Hartner v. Zoning Hearing Bd.*, *supra*. The municipality cannot meet its burden in an enforcement proceeding merely by setting forth the relevant procedural history and establishing the content of the relevant zoning provisions without presenting evidence that those provisions were violated by the named individual. *Hartner v. Zoning Hearing Bd.*, *supra*.

The provision allegedly violated, as described in the Township's enforcement notice, is Section 150-76 of the Hamilton Township Code. That section refers to the establishment and payment of fees for zoning permits. It further provides that "until all applicable fees, charges and expenses have been paid in full, the application shall be considered incomplete and no action shall be taken on the application." Hamilton Township Code, Section 150-76. Common sense dictates that before a fee is applicable, there must be some factual or legal basis for its assessment. Thus, in order for the Board to determine whether a violation existed for failure to pay a permit fee, it was incumbent upon the Board to reach a determination as to whether any such fee was ever due. Any other conclusion would have the absurd and unjust result of the Township being able to collect fees and assessments where there is no legal basis for imposition of the charge.

The Township asks this Court to ignore this fundamental concept on the basis that it was unfair for Groft to obtain a permit, complete

construction pursuant to the permit, and thereafter stop payment of the fee which was tendered in consideration for issuance of the permit. The Township suggests that this action caused them significant detriment as it is impossible to now determine the applicable fee. The Township argues that those areas which were not impervious prior to completion of the project are now covered with concrete thereby preventing any accurate calculation of the fee. They suggest, therefore, that Groft's tender of the check is binding on the Board as to the applicability and amount of the fee. I disagree.

The Township has not cited, nor has this writer found, any legal authority for the argument which they currently advance. As neither common law nor statutory authority exists for such a conclusive presumption, I decline the Township's invitation to create new law. Rather, I will follow applicable appellate precedent. That precedent clearly places the burden of establishing the violation on the Township. See *Hartner, supra*. Although Groft's stop payment on the check, along with Groft's explanation for the same, is a relevant consideration in determining the existence of a violation, it is only part of the evidence which is to be weighed, along with other relevant and credible testimony, by the finder of fact.

This conclusion does not, as the Township suggests, place municipalities at risk for future transgressions by those who may intentionally manipulate the permit process to stop payment of a fee paid by check once an issued permit has been received. Pennsylvania law is clear that a permit issued by mistake or upon misrepresentation by the applicant confers no vested right or privilege and may be revoked at any time. *Eltoron, Inc. v. Zoning Hearing Bd.*, 729 A.2d 149, 154 (Pa.Cmwlth. 1999); *Bruno v. Zoning Bd. of Adjustment of the City of Philadelphia*, 664 A.2d 1077, 1080 (Pa.Cmwlth. 1995). A stop payment on a check tendered as a fee for issuance of the permit would seem to fall in this category. In such instance, enforcement proceedings can be initiated against those undertaking construction without having a required permit in place subject to the evidentiary burdens imposed by statute and our appellate courts.¹

The Township's suggestion of prejudice resulting from Groft's action is neither factually supported nor of legal consequence. The

¹ Instantly, such procedure may suffer from the same fatal deficiency as the Township is unable to establish the element that a permit is required.

argument, as advanced by the Township, is that a permit flowed from the passing of a check which led to the completion of the construction. By treating Groft's tender of the check as anything other than conclusive proof of the need for a permit, the Township claims to have been placed in the unwinnable position of justifying a fee based upon a calculation which can no longer be determined due to the construction. Therefore, the cornerstone of this argument is that the construction which concealed evidence of the need for a permit was a result of the permit obtained by tender of the check. The record simply does not support this logic.

Balutis' testimony at hearing, although confusing, clearly revealed that the construction was completed in two separate pours of concrete. The first pour occurred as, coincidentally, he was traveling past the property. At that time, no permit had been applied for nor issued. Balutis, for whatever reason, permitted the pour to continue and requested Groft to make application for permit. Therefore, any interference with the ability to collect evidence consumed by the first pour occurred well before Groft's check was ever tendered. Prior to tender of the check, Balutis also had ample opportunity to make calculation of the areas not covered by the first pour as some time passed between completion of the first pour and commencement of the second. As to his failure to conduct investigation as to the impervious coverage consumed by the second pour, Balutis explained that it wasn't relevant as he didn't include any of the area covered by the second pour in his calculation of the fee. See generally Hearing Transcript, pg. 117.² Thus, tender of the check played no part in the Township's failure to preserve evidence of the extent of impervious coverage and the Township's argument is based upon fiction rather than fact. As such, there is no evidence of prejudice to the Township.

The circumstances confronting the Township are no different than any other instance where construction occurs prior to application for

²The suggestion that Balutis did not conduct further investigation based upon tender of the check is also nonsensical. In order to ascertain the applicable fee, Balutis was obligated to conduct inspection prior to the issuance of the permit as the impervious coverage fee, if appropriate, could only be calculated based upon the specifics of the property. Instantly, Balutis advised Groft of the amount of the fee prior to issuance of the permit. He must, therefore, have completed his calculation prior to tender of the check. It is simply illogical to suggest that the amount of the assessment was randomly chosen to be followed up by investigation of the property which was foregone because of tender of the check.

permit. Although, admittedly, issues of proof may be difficult, the hurdles are not insurmountable. Indeed, had Balutis' testimony been accepted by the Board as credible, substantial evidence in support of the violation may have been found by the Board.³ Undoubtedly, other evidentiary avenues, although apparently unexplored by the Township, are potentially available. For instance, in support of his claim that the impervious coverage at the property was not increased by the concrete pour, Groft called witnesses who had visited and were familiar with the property. Additionally, thanks to extensive improvements in technology, Groft produced aerial photographs of the property which witnesses represented were taken prior to and subsequent to the placement of concrete. Those photographs corroborated Groft's suggestion that the impervious area had not been increased. Accordingly, the Township's effort to avoid their burden of proof through the creation of a conclusive presumption is rejected. Similarly, as there is no showing of prejudice to the Township, relief under an equitable estoppel theory is inappropriate. *In re Tallarico's Estate*, 228 A.2d 736, 741 (Pa. 1967) (prejudice is an essential element of equitable estoppel).

The Township also challenges the Board's decision by claiming the Board committed an abuse of discretion in its evidentiary findings. This challenge is equally frivolous. Where a trial court takes no additional evidence, review is limited to determining whether the zoning hearing board committed an error of law, abused its discretion, or made findings not supported by substantial evidence. *Valley View Civic Ass'n. v. Zoning Bd. Adjustment*, 462 A.2d 637, 639 (Pa. 1983). A thorough review of the record reveals support for the Board's conclusions. In essence, the Township's evidence of a violation consisted of Groft's tender of the check and Balutis' unconvincing testimony of the means by which the assessment was calculated. On the other hand, as previously mentioned, Groft produced testimonial evidence and photographs of the property prior to construction. As finder of fact, the Board is free to believe all, some, or none of the testimony of any witness and issues of credibility rest solely with them. *Commonwealth v. Williams*, 720 A.2d 679, 683-84 (Pa. 1998). Apparently, the Board determined that the totality of the

³ Substantial evidence is relevant evidence which a reasonable mind might find adequate to support a conclusion. *Valley View Civic Ass'n v. Zoning Bd. of Adjustment*, 462 A.2d 637, 640 (Pa. 1983).

evidence did not support the conclusion suggested by the Township. I cannot find an abuse of discretion on part of the Board as their determination is reasonable based upon the record before the Court.

For the foregoing reasons, the attached Order is entered.⁴

ORDER

AND NOW, this 1st day of October, 2008, the appeal of Hamilton Township is denied. The decision of the Board is affirmed. Costs to be paid by the Appellant.

⁴Groft has filed a cross appeal based upon the Board's failure to consider his challenge to the legality of the impervious coverage assessment. Although acknowledging that the issue was not raised in the initial written appeal to the Board, he claims that he requested permission to amend the appeal by subsequent correspondence to the Board. The Board sustained a Township objection that the issue was waived as the 30-day appeal period had expired prior to the proposed amendment. Groft countered by claiming that Township officials improperly withheld the correspondence seeking amendment as the correspondence seeking amendment was received by Township officials on January 28, 2008, however, not provided to the Board until the date of hearing on February 28, 2008. Finally, to further complicate the issue, the Township has filed a motion with this Court seeking to strike the cross appeal filed by Groft on the basis that the cross appeal was not filed within 30 days of the Board's written decision. In light of the disposition hereinabove, it is not necessary to address these issues. *Commonwealth v. Brennan*, 696 A.2d 1201, 1205 n. 5 (Pa.Super.1997). I note, however, that the Township and the Zoning Hearing Board are separate entities with different interests and responsibilities. *Zoning Hearing Board of the City of Uniontown v. the City Council of the City of Uniontown*, 720 A.2d 166, 169 (Pa.Cmwlt 1998). Specifically, in this instance, the Township's role is no different than that of any other party conducting litigation before the Zoning Board acting in a quasi-judicial capacity. While I make no factual finding on this issue currently, in general, any interference by a municipality with the delivery of correspondence to a zoning board is improper.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-46 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of July, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a bolt on the Eastern edge of Legislative Route 01072 at the intersection of said Legislative Route 01072 and Township Road 317 commonly referred to as Liberty Hall Hill Road; thence by said Township Road 317 and through an iron pin located in said Township Road 317 located 250 feet from said beginning point South 65 degrees 23 minutes 40 seconds West 287.40 feet to an iron pin on the North wheel track; thence continuing along Township Road 317 South 43 degrees 58 minutes 20 seconds West 298.36 feet to an iron pin located in the centerline of said Township Road 317; thence by lands now or formerly of Douglas R. Piper North 26 degrees 6 minutes 55 seconds West 743.42 feet to a pipe at lands now or formerly of Douglas R. Piper; thence by said lands North 88 degrees 49 minutes 30 seconds East 270 feet to an iron pin at lands now or formerly of Douglas R. Piper; thence by said lands North 4 degrees 56 minutes 20 seconds West 216.68 feet to an iron pin located at lands now or formerly of Douglas R. Piper; thence by said lands North 88 degrees 46 minutes 10 seconds East 478.99 feet to a railroad spike in the center line of Legislative Route 01072; thence along the center line of Legislative Route 01072 South 8 degrees 40 minutes 10 seconds East 448.48 feet to a railroad spike in the center line of said Legislative Route 01072; thence continuing along the center line of said Legislative Route 01072 South 0 degrees 58 minutes 40 seconds West 121.50 feet to a bolt on the Eastern edge of Legislative Route 01072 at the intersection of said legislative Route 01072 and Township Road 317 commonly referred to as Liberty Hall Hill Road the place of BEGINNING, CONTAINING 10.016 Acres.

TITLE TO SAID PREMISES IS VESTED IN Luther T. Ridge and Stacey L. Ridge, h/w, as tenants by the entirety, by Deed from Mary E. Waybright, nka, Mary E. Sneeinger, a single woman, dated 06/09/2006, recorded 06/19/2006 in Book 4460, Page 232.

Tax Parcel: (25) D16-0013

Premises Being: 115 Liberty Hall Road, Fairfield, PA 17320-9229

SEIZED and taken into execution as the property of **Luther Ridge, Jr. & Stacey L. Ridge** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 7, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/19, 26 & 7/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1802 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of July, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain tract of land situate, lying and being in Franklin Township, Adams County, Pennsylvania known as Lot No. 1B-1 on the Land Subdivision for Davis E. Kohler recorded in the Adams County Recorder of Deeds Office in Plat Book 78, pages 58 and 58-A, bounded and described as follows, to wit:

BEGINNING at a railroad spike at the corner of Green Ridge Road and Lot No. 1B-2, more particularly described on the above referenced subdivision plan; thence continuing along Lot No. 1B-2, the following two (2) courses and distances: 1) South 53 degrees 00 minutes 50 seconds East, 270.29 feet to an iron pin; 2) South 36 degrees 59 minutes 10 seconds West, 150.81 feet to an iron pin at lands now or formerly of Philip B. Schindel, the following two (2) courses and distances: 1) North 53 degrees 00 minutes 50 seconds West, 230.56 feet to a point; 2) South 33 existing stone pile and at lands now or formerly of Harold C. Ford; thence continuing along lands now or formerly of Harold C. Ford, North 11 degrees 42 minutes 50 seconds West, 110.35 feet to a railroad spike at Green Ridge; thence continuing along Green Ridge Road the following three (3) courses and distances: 1) North 29 degrees 29 minutes 20 seconds East,

128.19 feet to a point; 2) North 45 degrees 21 minutes 10 seconds East, 230.44 feet to a P.K. nail; 3) North 37 degrees 25 minutes 40 seconds East, 91.15 feet to a railroad spike, the point and place of BEGINNING.

IT BEING a part of a larger tract of land which Virginia M. Calvert a/k/a Virginia, widow, by deed dated August 20, 1999 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania in Record Book 1906, page 283, granted and conveyed unto David E. Kohler and Judy G. Kohler, husband and wife, Grantors herein.

IT BEING a part of a larger tract of land which Virginia M. Calvert a/k/a Virginia Calvert Fitzgerald, widow, by deed dated August 20, 1999 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania in Record Book 1906, page 283, granted and conveyed unto David E. Kohler and Judy G. Kohler, husband and wife, Grantors herein.

AND the said Grantors do hereby covenant and agree that they will SPECIALLY warrant the property hereby conveyed.

BEING KNOWN AS: 1120 Green Ridge Road, Orrtanna, PA 17353

Property ID: (12) B11-24A

TITLE TO SAID PREMISES IS VESTED IN Jimmy Melton and Lois Jenn Melton, husband and wife, as the entireties by Deed from David E. Kohler and Judy G. Kohler, husband and wife dated 9/22/2000 recorded 9/26/2000 in Deed Book 2133 Page 102.

SEIZED and taken into execution as the property of **Jimmy Melton & Lois Jean Melton & Lois Jenn Melton & United States of America** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 7, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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6/19, 26 & 7/2

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF BERNADETTE E. AUMEN, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Executors: Michael F. Aumen, 435 Poplar Road, New Oxford, PA 17350; Cynthia J. Higgins, 1723 Art Drive, Hanover, PA 17331

Attorney: David C. Smith, Esq., 754 Edgegrove Rd., Hanover, PA 17331

ESTATE OF FLORENCE E. PHILLIPS, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executrix: Earlyn C. Deardorff, 97 Blue Hill School Road, Dover, PA 17315

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

ESTATE OF RICHARD A. SMITH, DEC'D

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

Executrices: Marie T. Groat, 8 Hanover Street, New Oxford, PA 17350; Rose M. Diehl, 2563 Alessandro Blvd., Harrisburg, PA 17110

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

ESTATE OF FERN E. WAGNER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Harold R. Lau, P.O. Box 22, 227 East King Street, East Berlin, PA 17316

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

SECOND PUBLICATION**ESTATE OF RUBY K. GARVICK, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Russell E. Garvick, 1048 Keith Drive, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF ROBERT J. KAUFFMAN, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Administrator: Esther M. Kauffman, 2781 Biglerville Road, Gettysburg, PA 17325

Attorney: Thomas E. Miller, Esq., Miller & Shultis, P.C., 249 York Street, Hanover, PA 17331

ESTATE OF PHYLLIS E. OVERLY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrator: Robert D. Overly, 304 Diller Road, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION**ESTATE OF KENNETH W. HOOVER, DEC'D**

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

Co-Executors: Thomas E. Hoover and Jane E. McCleary, c/o John M. Hamme, Esq., 1946 Carlisle Road, York, PA 17408

Attorney: John M. Hamme, Esq., 1946 Carlisle Road, York, PA 17408

ESTATE OF KAREN E. JUSTICE, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executor: Jerry W. Justice, 585 Knoxlyn-Orrtanna Rd., Gettysburg, PA 17325

Attorney: Phillips & Phillips, 101 West Middle St., Gettysburg, PA 17325

ESTATE OF ANNA M. NINTLE, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrix: Linda H. Clark, 255 Herr's Ridge Road, Gettysburg, PA 17325

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

ESTATE OF IRVIN H. STRALEY, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Executors: Mr. Steven A. Straley, P.O. Box 174, McKnightstown, PA 17343; Ms. Carol J. Straley Wiatrak, 501 Third Street, Hanover, PA 17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1100 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 17th day of July, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Conewago Township, Adams County, Pennsylvania, being designated as Lot No. 25 on final plan of Allwood Manor, Phase IV, Section 1A prepared by Group Hanover, Inc., designated as Project No. 892006, dated September 2, 1994, revised February 13, 1995 and March 24, 1995 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 67, Page 95.

UNDER AND SUBJECT, NEVERTHELESS, to the covenants, conditions, notes, easements, rights-of-way, etc., as may be shown on the subdivision plan of Allwood Manor, Phase IV, Section 1A, as recorded in Adams County Plan Book 67, Page 95, including, but not limited to: (1) ten (10) feet wide drainage and utility easements along the sides and rear of all lots; (2) clear sight triangles are provided at all intersections wherein no structures, grade, or planting shall be higher than three (3) feet above the centerline of the Street; and (3) all drainage and/or utility easements must be kept free of any plants, trees, shrubbery, structures, fences, etc., and must be properly maintained and mowed by the owner.

UNDER AND SUBJECT, ALSO to the Declaration Creating and Establishing Allwood Manor Planned Community, Inc., dated February 27, 1997, recorded in Adams County Record Book 1335, Page 255, the Declaration Plan, and the By-Laws of Allwood Manor Planned Community, Inc., as thereafter amended in Record Books 1403, Page 200; 1557 Page 244; and 1621, Page 247.

UNDER AND SUBJECT to grants of mineral rights, rights of way, building and use restrictions, easements, covenants, and conditions as set forth in prior instruments of record.

BEING KNOWN AS: 15 Savoir Drive Hanover (Conewago Township), PA 17331

PROPERTY ID NO. : (08) 032-0015

TITLE TO SAID PREMISES IS VESTED IN Erik Slapp and Heidi Slapp, husband and wife by deed from Dorothy A. Taylor, unmarried dated 1/23/2007 recorded 1/26/2007 in deed book 4723 page 229.

SEIZED and taken into execution as the property of **Erik Slapp & Heidi Slapp** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 7, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/19, 26 & 7/2

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on June 10, 2009, a certificate was filed under the Fictitious Names Act in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that BA & WE Trummer DDS LLC of 454 Carlisle Street, Hanover, PA 17331, is the only entity owning a business, which will be conducted under the name TRUMMER FAMILY DENTISTRY and the location where said business is and will be located is 1180 High Street, Hanover, PA 17331.

Donald W. Dorr
Buchen, Wise & Dorr
Solicitor

6/26

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on May 28, 2009, a certificate was filed under the Fictitious Names Act in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Erik Dorr of 219 Baltimore Street, Gettysburg, PA 17325, is the only person owning a business, which will be conducted under the name THE GETTYSBURG MUSEUM OF HISTORY and the location where said business is and will be located is 219 Baltimore Street, Gettysburg, PA 17325.

Donald W. Dorr
Buchen, Wise & Dorr
Solicitor

6/26

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statements of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphan's Court, Gettysburg, Pennsylvania, for confirmation of accounts entering decrees of distribution on Monday, July 6th, 2009 at 9:00 a.m.

NITZ—Orphan's Court Action Number OC-39-2008. The First and Final Account of Dwight Van Nitz, Executor of the Estate of Yvonne C. Nitz, late of the Borough of Gettysburg, Adams County, Pennsylvania, deceased.

REDDING—Orphan's Court Action Number OC-52-2009. The First and Final Account of PNC Bank, NA and Donald M. Redding, Accountants of the Estate of Mary Rita Redding, late of the Borough of Littlestown, Adams County, Pennsylvania, deceased.

KUHN—Orphan's Court Action Number OC-53-2009. The First and Final Account of Talmadge V. Lockamy, Accountant of the Estate of Freda O. Kuhn, late of Mt. Pleasant Township, Adams County, Pennsylvania, deceased.

Kelly A. Lawver
Clerk of Courts

6/26 & 7/2