

WASHINGTON COUNTY REPORTS

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*Serving the
Legal Community
of Washington County*

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CONTAINING FOR TEMPORARY USE ADVANCE SHEETS OF THE DECISIONS OF
THE JUDGES OF THE 27TH JUDICIAL DISTRICT OF PENNSYLVANIA AND THE
OFFICIAL LEGAL NOTICES AND ADVERTISEMENTS OF THE SEVERAL COURTS
OF THE COUNTY OF WASHINGTON, PENNSYLVANIA.

PERIODICAL PUBLICATION. DATED MATERIAL. DO NOT DELAY DELIVERY.

JUDGES & COURT/MOTIONS SCHEDULE

Per Administrative Order 2020-1 24 W.M. 2020 the local judicial emergency has been extended through **Dec. 31, 2020**. For a copy of this and other orders: www.pacourts.us/ujs-coronavirus-information.

Complete motions info during judicial emergency at www.washingtoncourts.us

Judge	Motions Court Schedule.
Emery, Katherine (PJ) CR#1	Tu, Th 9:30a. Judge of the Term, Civil: 1st-15th each month Contested motions Tu, Th 9:30am; mail original motion to chambers, staff will contact atty to schedule date. No emails accepted. Mail consented to motions (original only) to chambers; once signed, motion will be filed in Prothonotary's office by Judge's staff; Pro. will mail copy of order to atty presenting the motion.
DiSalle, John CR#2	Tu 9:15a for Criminal Cases; Th 9:15a for Orphans' Court (copy of motion to be served prior to Audit Atty). "Until further order, all motions, incl. Criminal & Orphans' Court, shall be handled remotely via email or fax to chambers. Filing party must notify all necessary parties that a motion is being filed and if motion is contested. Contested motions shall include a scheduling order. Motions for Modification of Bail or Release from Probation must be circulated first to Probation/Pretrial Services & DA's Office for acknowledgment of objection or consent."
Gilman, Gary CR#4	Tu, Th 9:15a. Judge of the Term
Costanzo, Valarie CR#3	Tu, Th 9:15a. Judge of the Term, Criminal: Dec. During the judicial emergency, all motions shall be sent to the following email addresses (See website for motions format/add'l info): lori.hoag@washingtoncourts.us and jennifer.houpt@washingtoncourts.us .
Lucas, Michael CR#5	M 1:15p and Tu, W, Th 8:45a; also Fr 8:45a when Civil Judge of the Term, 16th-end of each month
Neuman, Brandon CR#6	Motions on Tu (pro se & attys; motions due by noon on Fri) and Wed (attys; motions due by noon on Mon). Starting 7/6, all motions will be heard by phone. For all motions, sign-up outside office. No motions accepted via email or mail. No motions Wed., Dec. 23 ALL motions will be heard Tues., Dec. 22 No motions Tues., Jan. 5 ALL motions will be heard Wed., Jan. 6
McDonald, Traci CR#7	W, Th 9:15a. All Dependency and Delinquency hearings have returned to in-person format unless otherwise announced. Motions will be held remotely. Uncontested motions must show communication of consent; consented motions shall include a scheduling order. To schedule motions, or to request accommodation for telephonic or video appearance, contact billie.jo.pustovrh@washingtoncourts.us and daryl.holt@washingtoncourts.us .

COURT CALENDARS

Jury Trials Canceled through January 31, 2021
Next Sheriff's Sales: Dec 4; No Sale in January

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Obiter Dictum

From the *ABA Journal Daily Newsletter*:

[1] The U.S. Supreme Court has agreed to decide whether a police search of a gun owner's home while he was in the hospital for a suicide evaluation was justified under an exception to the Fourth Amendment warrant requirement. At issue is whether the "community caretaker" exception to the Fourth Amendment permitted the search. The exception was first recognized by the Supreme Court in a 1973 decision, *Cady v. Dombrowski*, in which police searched the trunk of a car that had been towed after an accident. According to the cert petition, "in the decades since *Cady*, the so-called 'community caretaking' exception has taken on a life of it's own, with courts across the country being deeply divided about whether the community caretaking exception can justify a warrantless intrusion into a home." There is at least a 4-3 split on that question among the Federal Courts of Appeals. State courts are similarly divided. [2] Judges in Lackawana County, Pennsylvania, are allowed to ban or reduce peremptory challenges in civil cases to avoid running out of potential jurors. Judges had sought and received permission from the Pennsylvania Supreme Court to make the change because of a drop in would be jurors who are showing up to the court caused as a result of the Covid-19 pandemic. [3] According to the Administrative Office of U.S. Courts, 25 federal district courts have recently suspended jury trials or grand jury proceedings in response to the nationwide surge in Covid-19 cases. Another dozen courts have continued suspensions already in place. While the suspensions are occurring throughout the country, many are taking place in cold weather areas in the north, midwest and plains states. [4] The Pennsylvania Court of Judicial Discipline has held that a judge who referred to a juror as "Aunt Jemima" can't change his mind about resigning. Former Judge Mark Tranquilli resigned on the eve of his trial and agreed that he wouldn't serve as a judge in the future. That pledge is "binding and irrevocable," according to a November 19, 2020 order of the Disciplinary Court. [5] A venture capitalist has sued a pro-Trump election integrity group in a bid to get back his 2.5 million dollar donation. The capitalist said he wanted his money back from True to Vote, a Texas based voting advocacy group after an Indiana lawyer withdrew lawsuits in four states that had promised to find voting fraud through sophisticated data analysis.

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Save the Date: Winter Bench Bar, March 12, 2021

WCBA ONLINE CLE COURSES

WCBA Courses posted at courses.axomeducation.com/pages/washington

Expungements & Pardon Applications (2s)

FROM 2020 Summer Bench Bar:

Civility in the Profession (1e) - qualifies for 7.5% USI PLI discount!

- PA Supreme Court Update (1s)
- Everything You Always Wanted to Know About Real Estate Taxes (1s)
- Racial Disparity: What Lawyers Need to Know (2e)
- Providing Notice of Oil & Gas Lease Termination (1s)
- COVID-19 & Employment Law (1s)
- Business Interruption Insurance and COVID-19 (1s)
- Coronavirus & Your Mental Health: A Lawyer's Guide to Coping with Isolation, Anxiety, and Fear in Uncertain Times (1e)
- Oil & Gas Unitization After Act 85 & Briggs (1s)
- New PA Sentencing Guidelines (2s)

From the Winter Bench Bar, 2020:

- Mediation Basics & Beyond (1s)
- Sexual Harassment Training (1e)
- Domestic Relations Rule Making Process & 2020 Update (1s)
- Understanding & Resolving Conflicts of Interest (1e)
- Post Production Costs in a Low Price Environment (1s)
- Tough Issues Administering Small Estates (1s)
- Mobile Home Park Management (1s)
- 2020 Family Law Update (1s)
- Ten Pro Bono Tips (1e)
- Hot Topics in Municipal Law (1s)
- Low Speed Rear Impacts (1s)
- Appellate Practice: Petitions for Allowance of Appeals (1s)
- Modern Legal: Digitally Transforming the Legal Function (1s)
- Auto Law Update: Gallagher v GEICO (1s)
- PA Power Play (1s)

From Summer Bench Bar, 2019:

- You Never Give Me Your Money: Fab Four Tunes, Rotten Apple Corps & the Legal Breakup of the Greatest Band Ever (1s)
- Clearing the Smoke: A Review of PA Medical Marijuana (1s)
- Hot Topics in PA Animal Law (1s)

From Winter Bench Bar, 2019:

- Best Practices in Legal Research (1s)
- Internal Investigations Ethics (1s)
- Ethical Quandries in Dealing with the Psychiatrically Ill (2e)
- Employment Law: New Wage & Hour Issues (1s)
- How to Hack a Hacker: Protecting Client Data (1s)
- Guardianship Issues & 2019 Update (1s)
- Jury Selection: Civil & Criminal Trials (1s)
- Oil & Gas: Royalties & Post Production Costs (1s)
- Oil & Gas: Briggs & the Law of Capture (1s)
- Ethical Rainmaking: Building a Million Dollar Book of Business (1e)
- Ignition Interlocks & DUI Update (1s)
- Faultlines & Eruptions: Legal Ethics (2e)
- Basics of Construction Law (1s)

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 2020-2617

C.E. KUROWSKI and
SHERRY KUROWSKI,
His wife, JOHN R. GIECEK,
EDWARD SCHLETSKY, and
DENNIS CHABASSOL and
MARY JO CHABASSOL, PLAINTIFFS,

V.

CANTON TOWNSHIP and
OFFICE OF CODE
ENFORCEMENT OF
CANTON TOWNSHIP, DEFENDANTS

[1] Pleading 302

When considering preliminary objections in the nature of a demurrer, a trial court is required to treat as true all well-pleaded material, factual averments and all inferences fairly deducible therefrom. Where the preliminary objections will result in the dismissal of the action, the objections may be sustained only in cases that are clear and free from doubt. To be clear and free from doubt that dismissal is appropriate, it must appear with certainty that the law would not permit recovery by the plaintiff upon the facts averred. Any doubt should be resolved by a refusal to sustain the objections.

[2] Pleading 302

The Commonwealth of Pennsylvania is a fact-pleading state whereby the complaint must provide the defendant notice of the basis of the claim, as well as a summary of the facts essential to support that claim. It is not necessary to plead evidence which can be developed through discovery.

[3] Pleading 302

When determining whether the averments of the complaint are sufficient, a court must ensure that the challenged averments present no risk of a future, unexpected amendment to the complaint based upon new facts after the statute of limitations has run

[4] Pleading 302

Preliminary objections in the form of motions to strike items in a complaint under Pa.R.C.P. 1028(a)(3) can be for lack of specificity of pleading pursuant to Pa.R.C.P. 1019(a). These Rules of Civil Procedure require that all the material facts on which a cause of action or defense are based shall be stated in a concise and summary form. See Pa.R.C.P. 1019(a).

[5] Pleading 302

A 1028(a)(3) objection requires a trial court to determine whether: i) the complaint is sufficiently clear to enable the defendant to prepare his defense; or ii) the complaint informs the defendant with accuracy and completeness of the specific basis on which recovery is sought so that he may know without question upon what grounds to make his defense.

[6] Constitutional Law 92; Municipal Corporations 268

A local government has no authority to adopt an ordinance, that is vague. A municipal ordinance must be sufficiently understandable.

[7] Constitutional Law 92; Municipal Corporations 268

An ordinance is unconstitutionally vague if it fails to give a person of ordinary intelligence a reasonable opportunity to know what conduct is prohibited and it encourages arbitrary and discriminatory enforcement; an ordinance passes constitutional muster if its terms, when read in context, are sufficiently specific that they provide reasonable standards by which a person may gauge future conduct.

[8] Constitutional Law 92; Municipal Corporations 268

An ordinance is presumptively constitutional; if the constitutionality of an ordinance is challenged a heavy burden is placed upon the party challenging the ordinance.

[9] Constitutional Law 92; Municipal Corporations 268

An “Equal Protection” argument involves consideration of whether fundamental or important rights are impacted and whether a suspect or “quasi suspect class” of individuals suffers discrimination due to municipal legislation.

[10] Pleading 302

Pa.R.C.P. 1020(a) directs that “each cause of action shall be stated in a separate count containing a demand for relief.”

[11] Pleading 302

As a general rule, the court has a duty to allow the pleader, against whom the objection was sustained, the opportunity to file an amended pleading.

[12] Municipal Corporations 268; Landlord Tenant 233

The Landlord Tenant Act does not provide a pervasive regulatory framework for residential rental property. For that reason, landlords making such arguments must demonstrate that the ordinance they challenge contains “irreconcilable differences” with the Landlord Tenant Act.

[13] Municipal Corporations 268; Landlord Tenant 233

Local municipalities may enact, pursuant to their police powers, laws affecting landlord-tenant relationships, as long as those local laws do not directly conflict with the Landlord Tenant Act.

[14] Finance Banking and Credit 172 H

Residential leases are “consumer contracts” that must comply with PLCCA. Plain Language Consumer Contract Act, 73 P.S. § 2201-2212

[15] Constitutional Law 92

Whether based on the Federal or Pennsylvania Constitutions, an Equal Protection challenger faces a heavy burden. In challenging a municipal ordinance as facially unconstitutional, a plaintiff must demonstrate that no set of circumstances exist under which the ordinance could be validly applied.

[16] Constitutional Law 92

In order to sustain an equal protection claim under the Pennsylvania Constitution, the challenger must establish that the ordinance is arbitrary and unreasonable and has no substantial relationship to public health, safety, morals or general welfare.

[17] Constitutional Law 92

The analysis of an Equal Protection claim begins with a determination of the type of interest at issue.

[18] Pleading 302

When analyzing a demurrer, the court “need not consider the pleader's conclusions of law, unwarranted inferences from facts, opinions, or argumentative allegations.

[19] Pleading 302

When a demurrer is raised by preliminary objection, a Court examines the averments in the complaint and the documents attached to the complaint to evaluate the adequacy of the facts averred and to assess the legal sufficiency of the complaint.

[20] Constitutional Law 92

The Equal Protection Clause prohibits state and local governments from creating classifications among groups or individuals that disadvantage a suspect class or impinge upon a fundamental right unless the governmental purpose is narrowly tailored to further a compelling governmental interest.

[21] Constitutional Law 92

A suspect class or quasi-suspect class is one that has been historically used for discrimination, such as race, national origin, religion, alienage, and gender.

[22] Constitutional Law 92; Landlord Tenant 233

Landlords and tenants are not members of a suspect class.

[23] Constitutional Law 92

Requirements that owners provide the names of current tenants, inform the municipality of any new tenants, and maintain documents in each rental unit that contains the names of the current tenants, does not violate the owner or renters' privacy rights, as guaranteed by the Fourth Amendment.

[24] Constitutional Law 92; Municipal Corporations 268

An ordinance providing for occupancy licenses and inspections is a reasonable exercise of police powers. A municipal ordinance that requires landlords to obtain annual rental licenses is rationally related to legitimate government purposes, and not a facial violation of Equal Protection clause. Further, such ordinance is valid despite rental property owners being required to submit to an inspection that other residential property owners are not.

[25] Constitutional Law 92

An ordinance seeking to ensure safe, healthful, and habitable rental dwellings falls within the municipality's police powers and, as such, must be judged under a rational basis review. Accordingly, only where the exercise of the police power is so palpably unreasonable as to suggest that its real object is not to protect the community or to promote the general well-being that a law is subject to judicial rejection.

[26] Constitutional Law 92; Municipal Corporations 268; Landlord Tenant 233

An ordinance does not violate a landlord's substantive Due Process rights where it may likely force some landlords to change the manner in which they operate their residential rental business.

[27] Municipal Corporations 268

The Municipalities Planning Code (MPC) provides that a Second Class Township's

Zoning Hearing Board has jurisdiction over a denial of an occupancy permit. See 53 P.S. § 10909.1 and Jay-Lee, Inc. v. Municipality of Kingston Zoning Hearing Bd., 799 A.2d 923, 930 (Pa. Cmwlth. 2002).

[28] Mandamus 250

Where the right to a permit is clear, and the issuance thereof by the proper official is no more than the performance of a ministerial act which admits of no discretion in the municipal officer, mandamus is both appropriate and proper to compel performance.

[29] Municipal Corporations 268

Generally, the power of state and local authorities to act in the areas of health and safety and, thus, within their police powers, is as comprehensive as the demands of society require and the least limitable of their powers.

[30] Constitutional Law 92; Municipal Corporations 268

Under Article I, Section 1, of the Pennsylvania Constitution and the Due Process clause of the Federal Constitution, the exercise of the police power by state and local entities is limited only to the extent that the law enacted should bear a real and substantial relation to the object sought to be obtained by the law.

[31] Constitutional Law 92

For Fourth Amendment purposes, the requirement that a landlord submit a list of tenant names and addresses does not constitute a "search" or "seizure."

[32] Constitutional Law 92; Municipal Corporations 268; Landlord Tenant 233

whether the purpose is to collect taxes or to ensure effective enforcement of the ordinance, requiring a landlord to disclose his tenants' names, addresses and residency dates does not violate owner or renters' privacy rights. The infringement upon the privacy interest is extremely minimal because when it is used for a narrow purpose.

[33] Constitutional Law 92

For purposes of Article I Section 8 of the Pennsylvania Constitution, in this day and age where people routinely disclose their names and addresses to all manner of public and private entities, and are thus readily available to the public, there can be no reasonable expectation of privacy in that information.

[34] Constitutional Law 92

For purposes of Article I Section 1 of the Pennsylvania Constitution, the right to informational privacy is guaranteed and may not be violated unless outweighed by a public interest favoring disclosure. Pennsylvanians enjoy a constitutionally-protected right of privacy in their home addresses pursuant to Article I Section 1.

[35] Constitutional Law 92

Protection from disclosure is not absolute but is subject to limitation by countervailing state interests.

[36] Constitutional Law 92

The Constitutional right to privacy includes two classes of interests: (1) freedom from interference in the making of certain important personal decisions; and (2) freedom from the disclosure of certain matters which an individual deems so personal that publication adversely affects one's right to the pursuit of life, liberty and happiness.

[37] Constitutional Law 92

In determining whether a statute is facially invalid, courts do not look beyond the statute's explicit requirements or speculate about hypothetical or imaginary cases.

[38] Constitutional Law 92; Municipal Corporations 268; Landlord Tenant 233

Ordinance requirements regarding systematic inspections of rental units, a more intrusive governmental interference than the mere disclosure of name, address and telephone number, did not violate landlords' substantive due process rights.

[39] Process 313

The tort of "abuse of process" is defined as the use of legal process against another primarily to accomplish a purpose for which it is not designed. To establish a claim for abuse of process it must be shown that the defendant (1) used a legal process against the plaintiff, (2) primarily to accomplish a purpose for which the process was not designed; and (3) harm has been caused to the plaintiff.

[40] Constitutional Law 92; Statutes 361

The underlying purpose of Pa. Const., Art. III, § 32 prohibition on special legislation was not so much to prohibit the General Assembly from undertaking limited, remedial measures as part of a long-term strategy to fulfill its duties connected with the public interest, but to end the practice of favoritism. Even so, Article III, Section 32 does not deprive the legislature of its **power to make classifications, or to treat persons differently who have different needs, which derives from its general power to enact laws that affect the health, safety, and welfare** of the people of the Commonwealth. Robinson Twp. v. Commonwealth, 637 Pa. 239, 299, 147 A.3d 536, 572 (2016).

[41] Constitutional Law 92

Time and again, the Pennsylvania Supreme Court has declared that "the touchstone of interpretation of a constitutional provision is the actual language of the Pennsylvania Constitution, itself. The Constitution's language controls and must be interpreted in its popular sense, as understood by the people when they voted on its adoption. In doing so, reading the provisions of the Constitution in any "**strained or technical manner**" is to be avoided. Jubelirer v. Rendell, 598 Pa. 16, 953 A.2d 514, 528 (2008).

[42] Constitutional Law 92; Municipal Corporations 268

Pa. Const., Art. III, § 32 by no means restricts a municipality's power of regulating its local affairs.

[43] Pleading 251

Although the court generally should exercise its discretion to permit amendment, where a party will be unable to state a claim on which relief could be granted, leave to amend should be denied

Charles E. Kurowski, Esq., for Plaintiffs

Christopher P. Furman, Esq. for Defendants

MEMORANDUM AND ORDER

This case involves a challenge to the legality of Canton Township Ordinance 4 of 2019 (Renter Registration Ordinance). Presently at issue, are multiple (11) preliminary objections, asserted by the Defendants ("Township") to the Plaintiffs' ("Property Owners") Complaint.

THE ORDINANCE

Despite numerous grounds for disagreement, the parties do not dispute that on

March 14, 2019, the Township enacted the Renter Registration Ordinance. In preamble clauses, the Ordinance recites that the Township Supervisors determined that the health safety and welfare of its residents are promoted by requiring: i) “occupancy inspections” of dwelling units; and ii) that property owners submit information regarding the “occupancy” of dwelling units. (See Complaint Ex. A)

With regard to “occupancy inspections,” the Renter Registration Ordinance mandates property owners to obtain an “Occupancy Permit.” Property owners must do so in any of six circumstances being: initial occupancy; subsequent sale; subsequent vacancy; “reoccupancy;” let or “reletting.” (See Complaint Ex. A § 9) The occupancy permit may not be issued unless an inspection by the Township Zoning and Code Enforcement Officer occurs. The Renter Registration Ordinance requires that the dwelling unit meet “minimum” Township “requirements and standards.” (See Complaint Ex. A § 10) The Renter Registration Ordinance places the duty to schedule an inspection on the property owner. If the property owner fails to schedule an occupancy inspection, the Renter Registration Ordinance authorizes the Zoning and Code Officer to issue a citation for failure to “secure an Occupancy Permit or permit entry to the unit.” (See Complaint Ex. A § 10) The ordinance also imposes per unit inspection fees, which vary according to the type of unit being single and multi-family homes; trailers and mobile homes; and commercial and business properties. (See Complaint Ex. A § 11).

With regard to information submission, the Renter Registration Ordinance requires a rental dwelling unit owner to provide information to several Township officials. The Renter Registration Ordinance requires each owner of a rental dwelling unit to submit a written form to the Township Secretary. To complete the form a rental property owner must include information listing their rental dwelling units located in the Township; providing an address and description for each unit; and identifying the persons who occupy those units. (See Complaint Ex. A § 5). The ordinance also directs persons who become owners of rental dwelling units to submit information and data to the Township Treasurer. (See Complaint Ex. A § 6). Within 10 days of any change in use or occupancy of a rental dwelling unit, the owner must provide the names of new occupants, the forwarding addresses of the old occupants and the date of the change in occupancy. (See Complaint Ex. A § 7). Semi-annually, rental dwelling unit owners are required to submit information to the treasurer regarding current lists of tenants and their addresses. (See Complaint Ex. A § 8).

The Renter Registration Ordinance includes specific “Enforcement Procedures.” (See Complaint Ex. A § 13) These procedures authorize the Zoning and Code Officer to enforce the ordinance. The ordinance directs that officer to send “Enforcement Notices” to owners who violate the Renter Registration Ordinance. (See Complaint Ex. A § 13 C) Further, the ordinance sets forth specific penalties for ordinance violations. Those penalties include both fines up to \$1,000.00 and imprisonment up to 90 days. (See Complaint Ex. A § 14).

THE COMPLAINT

Procedurally, the Property Owners, who also identify themselves as Township residents, commenced this action on June 3, 2020. (See Complaint ¶ 1-5 and 8) Broadly, the Property Owners allege that the Renter Registration Ordinance violates “civil liberties” and Federal and Commonwealth Constitutional protections to include Due Process, Equal Protection, privacy, and property rights. (See Complaint ¶ 14).

In particular, the Property Owners allege that the Renter Registration Ordinance is overbroad and vague. The Property Owners assert the ordinance is a direct attack on them that exposes them to civil liability for violating the civil liberties and privacy rights of others. The Property Owners contend that the ordinance creates a “suspect classification,” “selective enforcement” and impermissibly favors commercial

landlords against all other owners of real property. The Property Owners protest that the Renter Registration Ordinance directs them to provide telephone numbers for their tenants. Further, the Property Owners decry the burden caused by the ordinance's mandate for re-occupancy permits. (See Complaint ¶ 17).

Further, in Counts IV, VI, X and XI, the Property Owners make several claims of constitutional violations. In Count IV, the Property Owners allege the Renter Registration Ordinance violates the "Equal Protection" by creating two categories of property owners, and by its discriminatory application to residential rental property owners. In Count VI, the Property Owners charge that the ordinance revokes "registration" without Due Process and bears no "real and substantial" relationship to the objectives of the ordinance. In Count X, in one prolix sentence, the Property Owners complain:

The ORDINANCE is discriminatory, obtrusive, a violation of an individual owner's interests and Bill of Rights, overreaching and a violation of a governments (sic) police powers because it creates an unduly intrusive and discriminatory requirement when the TOWNSHIP has a manner of accomplishing what it purports to accomplish by the amendment to the Ordinance with those procedures already in place.

(See Complaint ¶ 102). In Count XI, the Property Owners characterize the Renter Registration Ordinance as being an unconstitutional "Special Law" that violates Art. 3 § 32 of the Commonwealth's Constitution.

The Property Owners also allege that the Renter Registration Ordinance violates the Landlord Tenant Act and Plain Language Consumer Protection Act. The Property Owners contend the Renter Registration Ordinance conflicts with statutory provisions regarding evictions, and includes requirements that could not have been contemplated prior to the execution of residential leases. (See Complaint ¶ 20-30) The Property Owners charge that the Renter Registration Ordinance requirements regarding disclosure of "personal and confidential" tenant exposes landlords to liability under the Plain Language Consumer Protection Act. (See Complaint Counts II and III).

In Counts V and IX, the Property Owners make additional claims regarding fees charged and sanctions imposed by the Renter Registration Ordinance. In Count V, they charge the Ordinance is an illegal revenue raising measure. In Count IX, they assert the Township's collects such "illegally revenue" by filing criminal citations and abusing the legal process.

In Counts VII and VIII, the Property Owners reiterate claims of an intrusive ordinance that violates civil liberties and the privacy of themselves and their tenants. In Count VII, the Property Owners demand declaratory relief and in Count VIII they add a claim for injunctive relief.

PRELIMINARY OBJECTIONS

The Township responded by objecting to all counts except Count V, which alleged the Ordinance was an improper revenue raising measure. Matching the Property Owners number of counts, the Township asserted eleven (11) preliminary objections. However, those objections have two categories, demurrers and claims of a lack of specificity.

DEMURRERS AND SPECIFICITY OF PLEADING

The Township demurred to Counts I, II, III, IV, VII, VIII and IX of the Complaint. The Township coupled its demurrers with specificity challenges to the Counts I, II, IV, VI, and XI of the Complaint. Both types of objections, examine the sufficiency of the Complaint's allegations.

[1] When considering preliminary objections in the nature of a demurrer, a trial

court is required to treat as true all well-pleaded material, factual averments and all inferences fairly deducible therefrom. Where the preliminary objections will result in the dismissal of the action, the objections may be sustained only in cases that are clear and free from doubt. To be clear and free from doubt that dismissal is appropriate, it must appear with certainty that the law would not permit recovery by the plaintiff upon the facts averred. Any doubt should be resolved by a refusal to sustain the objections. Burgoyne v. Pinecrest Community Ass'n, 924 A.2d 675, 679 (Pa.Super. 2007) as cited in Ira G. Steffy & Son, Inc. v. Citizens Bank of Pennsylvania, 7 A.3d 278, 282–83 (Pa. Super. 2010).

[2]The Commonwealth of Pennsylvania is a fact-pleading state whereby the complaint must provide the defendant notice of the basis of the claim, as well as a summary of the facts essential to support that claim. Alpha Tau Omega Fraternity v. University of Pennsylvania, 318 Pa. Super. 293, 464 A.2d 1349 (1983). It is not necessary to plead evidence which can be developed through discovery. Local No. 163, International Union U.B.F.C.S.D. & D. W. v. Watkins, 417 Pa. 120, 207 A.2d 776 (1965). See also, Com. of PA v. Schlittler, 104 Lacka. Jur. 112, 115-16 (2003).

[3] However, when determining whether the averments of the complaint are sufficient, a court must ensure that the challenged averments present no risk of a future, unexpected amendment to the complaint based upon new facts after the statute of limitations has run. Boyd v. Somerset Hospital, 24 Pa. D. & C.4th 564, 567 (1993); Connor v. Allegheny General Hospital, 501 Pa. 306, 461 A.2d 600 (1983); see also, Clarkson v. Geisinger Medical Center, 46 Pa. D. & C.4th 431 (2000) and Lawrence v. Malloy, 74 Pa. D. & C.4th 361, 374–77 (Pa. Com. Pl. 2005).

[4][5] Preliminary objections in the form of motions to strike items in a complaint under Pa.R.C.P. 1028(a)(3) can be for lack of specificity of pleading pursuant to Pa.R.C.P. 1019(a). These Rules of Civil Procedure require that all the material facts on which a cause of action or defense are based shall be stated in a concise and summary form. See Pa.R.C.P. 1019(a); Yacoub v. Lehigh Medical Associates P.C., 805 A.2d 579 (Pa. Super. 2002). A 1028(a)(3) objection requires a trial court to determine whether: i) the complaint is sufficiently clear to enable the defendant to prepare his defense; or ii) the complaint informs the defendant with accuracy and completeness of the specific basis on which recovery is sought so that he may know without question upon what grounds to make his defense.” Ammlung v. City of Chester, 224 Pa. Super. 47, 59 n.36, 302 A.2d 491, 498 n.36 (1973).

COUNT I

The Township argues that Count I merely asserts legal conclusions that certain parts of the Renter Registration Ordinance are overbroad, vague and conflicting. The Township asserts that the Property Owners do not identify the provisions of Renter Registration Ordinance that: i) create selective enforcement; ii) cannot be understood by a person of reasonable intellect; and iii) violate civil liberties by requiring a phone number to be given for an occupant of a rental dwelling unit. The Township adds that the Complaint is merely a facial attack on the Renter Registration Ordinance, lacking allegations of fact of a specific case. The Township maintains that the ordinance has no evident constitutional deficiency.

[6] A local government has no authority to adopt an ordinance that is vague. Commonwealth, Office of Atty. Gen. ex rel. Corbett v. Richmond Tp., 917 A.2d 397 (Pa. Commw. Ct. 2007). A municipal ordinance must be sufficiently understandable. Will v. Electrical Contractors Examining Bd. of City of Erie, 168 Pa. Commw. 535, 650 A.2d 1226 (1994).¹

In Count I, the Property Owners allege:

f. The ORDINANCE is vague and in conflict in that it defines

“Dwelling” as any building for human occupancy and then goes on to apply permits, fees, and inspections to rental dwellings which creates a suspect classification and selective enforcement in conflict with the ORDINANCE’S stated purpose...

(See Complaint ¶ 17f.) The Property Owners also included allegations acknowledging ordinance provisions requiring them to provide specific information regarding their tenants and the occupants of the owner’s rental dwelling units. In other words, the Property Owners, themselves, specify ordinance requirements they believe are onerous and a denial of “Equal Protection.” (See Complaint ¶ 17 a-e, g and h).

[7] An ordinance is unconstitutionally vague if it fails to give a person of ordinary intelligence a reasonable opportunity to know what conduct is prohibited and it encourages arbitrary and discriminatory enforcement; an ordinance passes constitutional muster if its terms, when read in context, are sufficiently specific that they provide reasonable standards by which a person may gauge future conduct. Commonwealth v. Barud, 545 Pa. 297, 681 A.2d 162, 165 (1996); Commonwealth v. Asamoah, 809 A.2d 943, 946 (Pa.Super.2002); Commonwealth v. Ebaugh, 783 A.2d 846, 850 (Pa.Cmwlth.2001).

[8] In this instance, the taking all of the allegations of Count I as true does not permit one to conclude that the Ordinance is unconstitutionally vague. The Township’s mandate that residential landlords provide information on tenants and obtain a “re-occupancy certification” suffers from no ambiguity or lack of clarity. An ordinance is presumptively constitutional; if the constitutionality of an ordinance is challenged a heavy burden is placed upon the party challenging the ordinance. Commonwealth v. Sterlace, 24 Pa.Cmwlth. 62, 354 A.2d 27, 29 (1976).

In response to the Township’s objections to Count I, Property Owners argued:

The unidentified prohibited conduct does not clearly indicate what constitutes the nature of the inspection to allow landlords and tenants to be made aware of this physical intrusion into homes without a warrant. ..It (Ordinance) also permit’s (sic) a plethora of scenarios to be violations changing with each inspection. The Ordinance is not sufficiently clear with accuracy and specificity to enable a Landlord or tenant to correct defects before inspection so that they may pass inspection.

(See Plaintiffs’ Brief “Contra”)

However, in their argument, Property Owners do not address Section 10 of the Renter Registration Ordinance. In this portion of the challenged ordinance the Township specifies:

- A. No occupancy permit shall be issued for occupancy unless the premises shall be inspected by the Township’s Zoning Officer and/or Code Enforcement Officer and meet minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards and safe and sanitary maintenance in accordance with the Building Code and other applicable Township Ordinances.

(See Complaint Ex. A, § 10). The Renter Registration Ordinance defines “Building Code” as “[t]he building codes officially adopted by Canton Township for the regulation of construction, alteration, addition, repair, removal, demolition, *use, location, occupancy and maintenance of buildings and structures.*” (See Complaint Ex. A § 4) (Emphasis Added).

Further, the Property Owners' allegations demonstrate that the ordinance's requirements are sufficiently specific to permit a person to gauge his or her future conduct. The Property Owners protest that the ordinance requires them to provide information on occupants to include phone numbers; to share the address of persons who might be subject to an order of protection or be a participant in "witness protection." (See Complaint ¶ 17a-17d) That the Property Owners believe that the Renter Registration Ordinance is an unlawful in what it requires landlords to do and is an unnecessary exercise of municipal authority does not mean the Ordinance is vague and overbroad. In this instance, Count I falls short on its allegations regarding vagueness.

[9] As for the Property Owners' allegation of an "Equal Protection" violation that supports their vagueness claim, Property Owners appear to be blending separate constitutional claims. In other words, an "Equal Protection" argument involves consideration of whether fundamental or important rights are impacted and whether a suspect or "quasi suspect class" of individuals suffers discrimination due to municipal legislation. See Love v. Borough of Stroudsburg, 528 Pa. 320, 597 A.2d 1137 (1991). An Equal Protection argument is different from a claim that an ordinance is vague or overbroad.

Property Owners claim they are a suspect class, being owners of rental dwelling units. They cite Fink v. Bd. of Ed. of Warren Cty. Sch. Dist., 65 Pa.Cmwlt. 320, 442 A.2d 837 (1982), which **rejected** a similar "vagueness" challenge to the School Code of 1949. On the issue of a statute that permitted "silent prayer" in public schools, the Fink Court ruled:

Petitioner maintains that by authorizing certain activities but prohibiting others, the statute is necessarily vague. **This is strained legal reasoning at best.** It is clear to us that when the legislature enacted Section 1516.1 it was endeavoring to implement what Abington held to be permissible under the United States Constitution; no more and no less. As such, the statute withstands Petitioner's constitutional attack for vagueness.

Fink, 65 Pa.Cmwlt. at 327, 442 A.2d at 841. (Emphasis added) Fink does not support Property Owner's claim.

[10] Essentially, Count I runs afoul of specific pleadings requirements set forth in Pa.R.C.P. 1020(a). This rule directs that "each cause of action shall be stated in a separate count containing a demand for relief." Id. In Count IV, Property Owners assert that their Equal Protection rights have been offended. They may not bootstrap or reiterate that claim to one asserting the Renter Registration Ordinance is vague and overbroad.

[11] The Township's demurrer and specificity objections to Count I are sustained. If a preliminary objection on the ground of legal insufficiency in the nature of a demurrer is sustained, as a general rule, the court has a duty to allow the pleader, against whom the objection was sustained, the opportunity to file an amended pleading. Harley Davidson Motor Co., Inc. v. Hartman, 296 Pa. Super. 37, 442 A.2d 284 (1982). The Plaintiffs shall be afforded the opportunity to amend Count I.

COUNT II

According to the Township, Count II fails to specify sufficient material facts that support the Property Owner's charge that the Renter Registration Ordinance violates the Landlord Tenant Act.² The Township adds that Property Owners failed to set forth material facts that establish a claim under any section of the Landlord Tenant Act cited in the Complaint.

Property Owners pleaded that sections 5, 8, 9, 11, 13 and 14 of the Renter Reg-

istration Ordinance are inconsistent with and violate the Landlord Tenant Act. Broadly, the Property Owners charge that sections 5, 13 and 14 violate tenants' civil liberties and expose landlords to civil liability. (See Complaint ¶ 26-30) Property Owners assert that section 11's "fee based inspection system" is not "codified in the Landlord Tenant Act." (See Complaint ¶ 22) Property Owners contend that the reporting requirements of sections 8 and 9 "improperly invalidate" the purpose of the Landlord Tenant Act. (See Complaint ¶ 24-25).

The Commonwealth Court has repeatedly concluded that the Landlord Tenant Act does not provide a pervasive regulatory framework for residential rental property. See Com. v. Tobin, 828 A.2d 415, 422 (Pa.Cmwlt. 2003) and Berwick Area Landlord Ass'n v. Borough of Berwick, 48 A.3d 524, 534-35 (Pa.Cmwlt. 2012). For that reason, landlords making such arguments must demonstrate that the ordinance they challenge contains "irreconcilable differences" with the Landlord Tenant Act. See Berwick, supra.

In this instance, the Property Owners do not identify irreconcilable differences between the Renter Registration Ordinance and the Landlord Tenant Act. For instance, they cite section 201 of the Landlord Tenant Act and refer to sections 8, 9 and 11 in paragraphs prior and after that citation. (See Complaint ¶ 22-24). Section 201 provides:

Real property, including any personal property thereon, may be leased for a term of not more than three years by a landlord or his agent to a tenant or his agent, by oral or written contract or agreement.

68 P.S. § 250.201. Section 8 of the Renter Registration Ordinance requires landlords to provide a list of current occupants twice a year on a form sent by the Township Treasurer. Section 9 sets forth occupancy permit requirements. Section 11 sets forth a schedule of fees for occupancy inspections. These sections do not coincide with Section 201 of the Landlord Tenant Act.

Similarly, Property Owners cite to Sections 501 through 503 of Landlord Tenant Act. These sections address eviction procedures. The Township's Renter Registration Ordinance does not regulate such matters. Section 5 of the ordinance directs landlords to provide a list of their units located in the Township, their addresses, descriptions, occupied status, and if occupied, names of the occupants. As discussed above Sections 8, 9 and 11 address matters other than eviction procedures. Sections 13 and 14 address enforcement of the ordinance and penalties for non-compliance. No part of these sections regulate the type of rental contract landlords may enter into or eviction remedies.

As the Commonwealth Court explained in Tobin, the focus of the Landlord Tenant Act is on the right of landlords to recover possession and rental fees owed. Property Owners do not allege that the Renter Registration Ordinance alters requirements for pursuing evictions and recovering overdue rent.

[13] The objections to Count II are sustained. Property Owners will be afforded the opportunity to amend this count of their Complaint. However, in doing so, Property Owners should heed the longstanding principle, well-established in Pennsylvania Law, that local municipalities may enact, pursuant to their police powers, laws affecting landlord-tenant relationships, as long as those local laws do not directly conflict with the Landlord Tenant Act. Warren v. City of Philadelphia, 382 Pa. 380, 385-86, 115 A.2d 218, 221 (1955) as cited in Berwick, supra.

COUNT III

The Township objects to Count III, which seeks a "finding" that the Renter Registration Ordinance violates the Plain Language Consumer Contract Act (PLCCA). See 73 P.S. § 2201-2212. The Township argues that because the Renter Registration Ordinance is not a consumer contract PLCCA does not apply.

The Property Owners allege that their compliance with the ordinance will subject them to liability and “penalties under the PLCCA if provided.” (See Complaint ¶ 34) In their written brief, the Property Owners add that supplying information regarding their tenants will cause tenants to “move on to the next lease hold (sic) and view such an (sic) disclosure as against their civil rights.”

[14] Property Owners arguably are correct that residential leases are “consumer contracts” that must comply with PLCCA. See 73 P.S. § 2204, which directs that the act “applies to all contracts that are made, solicited or intended to be performed in this Commonwealth...” However, Property Owners claim that compliance with the Renter Registration Ordinance will result in a violation of the PLCCA is not supported by plain requirements of each law.

The PLCCA mandates that:

(a) General rule.--All consumer contracts executed after the effective date of this act shall be written, organized and designed so that they are easy to read and understand.

73 P.S. § 2205. If a consumer contract does not comply with the Act’s readability guidelines, a creditor, lessor or seller may be subject to actual loss damages, statutory damages of \$100, costs attorney’s fees and equitable relief. See 73 P.S. § 2207. No part of the PLCCA directs that a lessor may be subject to damages because he or she provided information regarding occupancy of their leaseholds or submitted to an inspection of those properties.

Further, simply because the PLCCA may apply to leases given by residential landlords does not mean that the Renter Registration Ordinance violates the PLCCA. As explained above, the Legislature is not presumed to have preempted a field merely by legislating in it. Council of Middletown Twp. v. Benham, 514 Pa. 176, 181, 523 A.2d 311, 313–14 (1987).as cited in Berwick, supra.

The Township’s Objection to Count III is sustained. The Property Owners will be afforded the opportunity to file an amended complaint that revises Count III.

COUNT IV

The Township objects to Count IV of the Complaint. According to the Township, Property Owners’ claim is contradicted, by the language of the full ordinance, and not supported by Commonwealth Court decisions.³ The Township argues that the Renter Registration Ordinance is presumed valid. The Township adds that the Property Owners have failed to articulate how the ordinance “clearly, palpably and plainly” violates the Constitution.

In Count IV, Property Owners allege that:

The stated purpose of the ORDINANCE appears to regulate non owner occupied properties in Canton Township and exempt owner occupied (sic) creating discrimination and denying Equal Protection as a suspect class of individuals.

(See Complaint ¶ 39). Property Owners add that application of the Renter Registration Ordinance to residential rental units is “not justified because that classification is not supported based upon the stated purpose of the Ordinance...” (See Complaint ¶ 40) Property Owners posit that applying the Renter Registration Ordinance to residential property is “purely prejudicial and discriminatory.” (See Complaint ¶ 40) Property Owners point to Section 5 of the Ordinance as being a violation of “privacy rights.” (See Complaint ¶ 42) Property Owners contend that no rational basis exists to justify treating owner occupied property differently than non-owner occupied property. Accordingly, Property Owners conclude that the Renter Registration Ordinance is arbitrary, capri-

cious and violates the Equal Protection provisions of the Federal and Pennsylvania Constitutions. (See Complaint ¶ 43-45).

[15] Whether based on the Federal or Pennsylvania Constitutions, an Equal Protection challenger faces a heavy burden. In challenging a municipal ordinance as facially unconstitutional, a plaintiff must demonstrate that no set of circumstances exist under which the ordinance could be validly applied. United States v. Salerno, 481 U.S. 739, 745, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987) as cited in Lopez v. City of Oil City, C.A. 07-206 ERIE, 2008 WL 906521, at *3 (W.D. Pa. Mar. 31, 2008). There is a presumption that the ordinance is valid and the party challenging its validity has a heavy burden to prove that it is unconstitutional. Love v. Borough of Stroudsburg, 528 Pa. 320, 597 A.2d 1137 (1991) and Farley v. Zoning Hearing Bd. of Lower Merion Twp., 161 Pa.Cmwlt. 229, 237, 636 A.2d 1232, 1236 (1994).

[16] To meet this heavy burden and overcome a local ordinance's "presumption of rationality," a challenger must make a clear showing of arbitrariness and irrationality. Hodel v. Indiana, 452 U.S. 314, 331-332, 101 S.Ct. 2376, 69 L.Ed.2d 40 (1981); Lopez, supra. In order to sustain an equal protection claim under the Pennsylvania Constitution, the challenger must establish that the ordinance is arbitrary and unreasonable and has no substantial relationship to public health, safety, morals or general welfare. Love; Farley as cited in St. Margaret Mem'l Hosp. v. Borough Council of Borough of Aspinwall, 163 Pa.Cmwlt. 595, 600, 641 A.2d 1270, 1272 (1994).

[17] The analysis of an equal protection claim begins with a determination of the type of interest at issue. James v. Southeastern Pennsylvania Transp. Auth., 505 Pa. 137, 477 A.2d 1302 (1984). For instance, a borough parking ordinance that improperly classifies and distinguishes between landowners whose principal place of business is within the Borough and landowners who own property in the Borough but have a principal place of business outside the Borough fails. Such an ordinance is "is arbitrary and unreasonable since prohibiting a landowner from using its property in accordance with permitted accessory uses solely because the landowner's principal use is located outside the Borough bears no substantial relationship to public health, safety, morals or general welfare." St. Margaret Mem'l Hosp., 163 Pa.Cmwlt. at 601, 641 A.2d 1270 at 1273.

This case, as pleaded by the Property Owners, is different. First, Property Owners have alleged that they not only own property in Canton Township but also *are township residents*. (See Complaint ¶ 5) Contrary to the Property Owner's allegation, the Renter Registration Ordinance does not contain a provision that treats non-residents differently than residents. (See Complaint Ex. A p. 5) The definition of an "owner" is the same whether a township resident or not. (See Complaint Ex. A p. 4) Resident and non-resident property owners have the same duties regarding reporting and inspections. (See Complaint Ex. A § 5-10)

[18] [19] When analyzing a demurrer, the court "need not consider the pleader's conclusions of law, unwarranted inferences from facts, opinions, or argumentative allegations." Wiernik v. PHH U.S. Mortg. Corp., 736 A.2d 616, 619 (Pa.Super. 1999), *appeal denied*, 561 Pa. 700, 751 A.2d 193 (2000). A Court examines the averments in the complaint and the documents attached to the complaint to evaluate the adequacy of the facts averred and to assess the legal sufficiency of the complaint. Clemleddy Const., Inc. v. Yorston, 810 A.2d 693, 696 (Pa.Super. 2002), *appeal denied*, 573 Pa. 682, 823 A.2d 143 (2003) and Am. Express Bank, FSB v. Martin, 200 A.3d 87, 93 (Pa. Super. Ct. 2018) In this instance, Property Owners fleeting and non-specific reference to non-resident discrimination is insufficient to sustain an Equal Protection claim.

Second, the classification the Plaintiffs primarily rely upon is their status as owners of "non owner occupied properties." (See Complaint ¶ 39) In basic terms, they claim that they are a "suspect class" who have been denied Equal Protection.

[20] [21] Federal Courts have explained that the Equal Protection Clause:

... prohibits state and local governments from creating classifications among groups or individuals that disadvantage a suspect class or impinge upon a fundamental right unless the governmental purpose is narrowly tailored to further a compelling governmental interest.

Plyler v. Doe, 457 U.S. 202, 216–17, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982). A suspect class or quasi-suspect class is one that has been historically used for discrimination, such as race, national origin, religion, alienage, and gender. Berwick Area Landlord Ass'n v. Borough of Berwick, CIV A 4 07-CV-316, 2007 WL 2065247, at *7–8 (M.D. Pa. July 16, 2007).

[22] [23] For a quarter century, courts in Pennsylvania have rejected Equal Protection claims like that advanced by the Property Owners in Count IV. Landlords and tenants are not members of a suspect class, See Lock Haven Property Owners' Ass'n v. City of Lock Haven, 911 F.Supp. 155, 160 (M.D.Pa.1995). Further, requirements that owners provide the names of current tenants, inform the municipality of any new tenants, and maintain documents in each rental unit that contains the names of the current tenants, *does not violate the owner or renters' privacy rights*. See Lopez supra at 6.

[24] Pennsylvania Courts have rejected Equal Protection challenges to rental registration ordinances similar to that enacted by the Township in this case. An ordinance providing for occupancy licenses and inspections is a reasonable exercise of police powers. See Berwick Area, 48 A.3d at 524. See also McSwain v. Commonwealth, 103 Pa.Cmwlth. 326, 520 A.2d 527, 531 (Pa.Cmwlth.1987), where the Court rejected the argument that the ordinance's distinction between rental property and owner-occupied property constituted an equal protection violation and did so again in Com. v. Campbell, 1962 C.D. 2013, 2014 WL 3537956, at *3 (Pa.Cmwlth. July 17, 2014).

A municipal ordinance that requires landlords to obtain annual rental licenses is rationally related to legitimate government purposes, and not a facial violation of Equal Protection clause. Further, such ordinance is valid despite rental property owners being required to submit to an inspection that other residential property owners are not. See Marcavage v. Borough of Lansdowne, Pa., 826 F.Supp.2d 732 (E.D. Pa. 2011), *aff'd*, 493 Fed.Appx. 301 (3d Cir. 2012).

Accordingly, the Township's objections to Count IV are sustained. Like the other counts, Property Owners will be afforded the opportunity to amend Count IV.

COUNT VI

The Township contends that Count VI of the Complaint lacks requisite specificity. In Count VI, Property Owners charge that ordinance Sections "9-14" deprive them of Due Process.

[25] Property Owners correctly assert that their Due Process challenge requires the application of rational basis test. (See Complaint ¶ 60-61) An ordinance seeking to ensure safe, healthful, and habitable rental dwellings falls within the municipality's police powers and, as such, must be judged under a rational basis review. Berwick Area Landlord Ass'n, 48 A.3d at 537. Accordingly, only where the exercise of the police power is so palpably unreasonable as to suggest that its real object is not to protect the community or to promote the general well-being that a law is subject to judicial rejection. Parise v. State Board of Funeral Directors, 52 Pa.Commonwealth Ct. 80, 415 A.2d 153 (1980) as cited in McSwain v. Com., 103 Pa.Cmwlth. 326, 328–30, 520 A.2d 527, 528–29 (1987).

[26] Property Owners assert the Renter Registration Ordinance unreasonably requires "grandfathered" properties to abide by the Township Building Code. (See Complaint ¶ 62) However, an ordinance does not violate a landlord's substantive due process

rights where it may likely force some landlords to change the manner in which they operate their residential rental business. Berwick Area Landlord Ass'n v. Borough of Berwick, 48 A.3d 524, 538–39 (Pa.Cmwlt. 2012) Property Owners do not specify what parts of the Building Code for which they are “grandfathered.” The Property Owners do not set forth in a concise summary manner how the application of existing Township Building Codes to residential rental property is otherwise unreasonable or an effort devoid of a purpose to promote the general well-being and protection of the community.

Property Owners also protest that the Renter Registration Ordinance authorizes the Township to deny, revoke or suspend landlord property registration without providing an appeal mechanism. Section 10 of the Ordinance states that no occupancy permit shall be issued unless a Township Zoning or Code Enforcement Officer inspects the rental unit and it meets minimum requirements of the Building Code and other Township Ordinances. (See Complaint Ex. A § 10) Indeed, such a provision is sanctioned by the Second Class Township Code. See 53 P.S. § 66517 which provides:

The board of supervisors may enact and enforce codes and ordinances to govern and regulate the construction, alteration, repair, **occupation, maintenance**, sanitation, lighting, ventilation, water supply, toilet facilities, drainage, use **and inspection of all buildings and housing constructed, erected, altered, designed or used for any use or occupancy** and the sanitation and inspection of land in accordance with Article XVII-A⁴

(Emphasis Added).

[27] [28] Property Owners’ also appear to be agnostic concerning certain well-established statutory requirements set forth in the Municipalities Planning Code (MPC). As the Commonwealth Court has explained:

MPC, 53 P.S. § 10909.1, addresses who has jurisdiction over an appeal from a zoning officer's decision. That section provides, in pertinent part, as follows: “The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudications in the following matters ... (3) Appeals from the determination of the zoning officer, **including, but not limited to, the granting or denial of any permit....**” Since the MPC specifically provides that the zoning hearing board has exclusive jurisdiction over all appeals from a zoning officer's denial of a permit, we reject Appellants' argument and hold that Section 181–64(E), in conjunction with the MPC, provides for adequate procedural safeguards for review of a zoning officer's decision.

Jay-Lee, Inc. v. Municipality of Kingston Zoning Hearing Bd., 799 A.2d 923, 930 (Pa.Cmwlt. 2002). Additionally, in certain circumstances, the Property Owners may also be entitled to obtain relief in mandamus. For instance, where the right to a permit is clear, and the issuance thereof by the proper official is no more than the performance of a ministerial act which admits of no discretion in the municipal officer, mandamus is both appropriate and proper to compel performance. Lhorner v. Bowen, 410 Pa. 508, 188 A.2d 747, 749–50 (1963) and Battiste v. Borough of E. McKeesport, 94 A.3d 418, 422 (Pa.Cmwlt. 2014).

For violations of the Renter Registration Ordinance, the ordinance sets for a detailed procedure in Sections 13 and 14. Section 13 directs the Township Zoning or Code Enforcement Officer to issue an enforcement notice that includes five categories of information that specifies the nature of the violation, a period to comply and a warning regarding possible sanctions. If compliance does not occur, the Township must then proceed to file a summary citation or seek equitable relief. The Legislature has specifically authorized Second Class Townships to do so. See 53 P.S. § 66601(c.1).

Count VI does not inform the Township with accuracy and completeness of the specific basis on which the Property Owners rest their claim of a Due Process violation. The Property Owners are granted leave to more specifically plead this claim.

COUNTS VII AND VIII

In Counts VII and VIII, Property Owners assert that the Renter Registration Ordinance violates individual privacy rights of tenants and landlords and thereby purportedly deprives them of Due Process. As support for their claim, the Property Owners point to ordinance requirements regarding the disclosure of: i) the names, physical addresses, telephone numbers, email addresses and length of occupancy for tenants and occupants; and ii) primary managerial personnel for owners. Property Owners request a declaration that the Renter Registration Ordinance is unconstitutional and that the Township be enjoined in both implementation and enforcement of the ordinance. (See Complaint ¶¶ 68-75 and 77-83).

The Township seeks dismissal of these claims. The Township argues that the Property Owners do not have a reasonable expectation of privacy in the ownership and management of the information requested. Further, citing to Berwick Area Landlord Ass'n and McSwain v. Com., the Township contends the disclosure requirements of the ordinance are a reasonable and non-arbitrary exercise of their police power.

[29] Generally, the power of state and local authorities to act in the areas of health and safety and, thus, within their police powers, is as comprehensive as the demands of society require and the least limitable of their powers. National Wood Preservers, Inc. v. Commonwealth, 489 Pa. 221, 414 A.2d 37, *appeal dismissed*, 449 U.S. 803, 101 S.Ct. 47, 66 L.Ed.2d 7 (1980). In exercising its police power, the state and its political subdivisions may not only suppress what is offensive, disorderly, and unsanitary, but may enact regulations to promote the public health, morals, or safety and the general well-being of the community. Commonwealth v. Harmar Coal Company, 452 Pa. 77, 306 A.2d 308 (1973), *appeal dismissed*, 415 U.S. 903, 94 S.Ct. 1395, 39 L.Ed.2d 460 (1974).

In McSwain, the Commonwealth Court explained:

Under Article I, Section 1, of the Pennsylvania Constitution and the due process clause of the Federal Constitution, the exercise of the police power by state and local entities is limited only to the extent that the law enacted should bear a real and substantial relation to the object sought to be obtained by the law. Goldblatt v. Town of Hempstead, 369 U.S. 590, 82 S.Ct. 987, 8 L.Ed.2d 130 (1962); Bacchetta v. Bacchetta, 498 Pa. 227, 445 A.2d 1194 (1982). Thus, it is only where the exercise of the police power is so palpably unreasonable as to suggest that its real object is not to protect the community or to promote the general well-being that a law is subject to judicial rejection. Parise v. State Board of Funeral Directors, 52 Pa.Commonwealth Ct. 80, 415 A.2d 153 (1980).

McSwain v. Com., 103 Pa.Cmwlt. at 328–30, 520 A.2d at 528–29.

[31] [32] Federal Courts, sitting in Pennsylvania, have rejected landlord privacy challenges predicated on the Fourth Amendment. First, the requirement that a landlord submit a list of tenant names and addresses does not constitute a “search” or “seizure.” Lopez v. City of Oil City, C.A. 07-206 ERIE, 2008 WL 906521, at *8 (W.D. Pa. Mar. 31, 2008) Second, whether the purpose is to collect taxes or to ensure effective enforcement of the ordinance, requiring a landlord to disclose his tenants’ names, addresses and residency dates does not violate owner or renters’ privacy rights. Berwick Area Landlord Ass'n v. Borough of Berwick, CIV A 4 07-CV-316, 2007 WL 2065247, at *8 (M.D. Pa. July 16, 2007) as cited by Lopez. “[T]he infringement upon the privacy interest is extremely minimal because it is used for such a narrow purpose.” Lopez v.

City of Oil City, 2008 WL 906521, at *6.

[33] [34] The Pennsylvania Supreme Court has not addressed the constitutionality of rental registration requirements pursuant to Article I Sections 1 and 8. In Commonwealth v. Duncan, 572 Pa. 438, 817 A.2d 455 (2003) the Supreme Court indicated that a criminal defendant's name and address were entitled to no constitutional protection. The Duncan Court explained “in this day and age where people routinely disclose their names and addresses to all manner of public and private entities,” and are thus readily available to the public, there can be no reasonable expectation of privacy in that information. Id. at 459. However, in Pennsylvania State Educ. Ass'n v. Commonwealth Dep't of Cmty. & Econ. Dev., 637 Pa. 337, 359, 148 A.3d 142, 155 (2016) the Court held that Pennsylvanians enjoy a constitutionally-protected right of privacy in their home addresses pursuant to Article I Section 1. The Court explained “[t]he right to informational privacy is guaranteed by Article 1, Section 1 of the Pennsylvania Constitution, and may not be violated unless outweighed by a public interest favoring disclosure.” See PSEA III, 637 Pa. at 364, 148 A.3d at 158.

Critically, Duncan and PSEA III involve disparate factual contexts. In Duncan, the Court upheld the warrantless disclosure of an ATM cardholders' name and address to law enforcement. In PSEA III, the Court ruled that government authorities responding to a Right to Know Law request must recognize an individual's constitutional right to privacy in her home address before disclosing the address to the public, at large. In this instance, factually the Township's Renter Registration Ordinance requires a warrantless disclosure of information to Township officials. The Renter Registration Ordinance does not provide for the disclosure of that information to the public, at large.

[35] [36] Further, protection from disclosure is not absolute but is subject to limitation by countervailing state interests. Denoncourt v. State Ethics Commission, 504 Pa. 191, 470 A.2d 945 (1983) and Fischer v. Com., Dep't of Pub. Welfare, 116 Pa.Cmwlth. 437, 442, 543 A.2d 177, 179 (1988). The constitutional right to privacy includes two classes of interests: (1) freedom from interference in the making of certain important personal decisions; and (2) freedom from the disclosure of certain matters which an individual deems so personal that publication adversely affects one's right to the pursuit of life, liberty and happiness. In re June 1979 Allegheny County Investigating Grand Jury, 490 Pa. 143, 415 A.2d 73 (1980) and Fischer v. Com., Dep't of Pub. Welfare, 116 Pa.Cmwlth. 437, 441-42, 543 A.2d 177, 179 (1988).

[37] In this instance, the Property Owner's conclusory Article I Section 1 claim appears to be one that asserts the “freedom from disclosure.” However, Property Owners have not sufficiently articulated how their pursuit of “life, liberty and happiness” is adversely affected by the Township's Renter Registration Ordinance. As Justice Wecht has recently explained:

A statute is facially unconstitutional only where there are no circumstances under which the statute would be valid. *See Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449, 128 S.Ct. 1184, 170 L.Ed.2d 151 (2008); *Clifton v. Allegheny Cty.*, 600 Pa. 662, 969 A.2d 1197, 1222 (2009). In determining whether a statute is facially invalid, **courts do not look beyond the statute's explicit requirements or speculate about hypothetical or imaginary cases.** *Wash. State Grange*, 552 U.S. at 449-50, 128 S.Ct. 1184.

Germantown Cab Co. v. Philadelphia Parking Auth., 651 Pa. 604, 206 A.3d 1030, 1041 (2019) (Emphasis Added).

In other words, though Property Owners' postulated that disclosure would conceivably impact persons who are protected by a Protection From Abuse Order or those who are in “witness protection,” Property Owners did not allege they were so affected. Such

pleading is speculative and resembles the type of unwarranted inferences from facts, opinions, or argumentative allegations that this trial court need not consider. See Wiernik v. PHH U.S. Mortg. Corp., 736 A.2d at 619, Envirotest Partners v. Department of Transportation, 664 A.2d 208 (Pa.Cmwlt.1995) and Pennsylvania State Lodge v. Com., Dep't of Labor & Indus., 692 A.2d 609, 613 (Pa.Cmwlt. 1997).

Lastly, though the Pennsylvania Supreme Court has not addressed an Article I Section 1 due process challenge to a municipal ordinance that compels landlord disclosures, the Commonwealth Court has. In Berwick Area, supra., the Commonwealth Court rejected such a challenge. The Commonwealth Court explained that “an ordinance seeking to ensure safe, healthful, and habitable rental dwellings fell within the municipality’s police powers and...should be judged under a rational basis review.” Berwick Area, 48 A.3d at 537. The Court then concluded that ordinance requirements regarding systematic inspections of rental units, a more intrusive governmental interference than the mere disclosure of name, address and telephone number, did not violate landlords’ substantive due process rights. Berwick Area, 48 A.3d 538.

The Township’s objections are sustained. However, Property Owners are granted leave to amend Counts VII and VIII to further specify their Article I Section I claim and any related Due Process claim.

COUNT IX

The Township also objects to Property Owners “Abuse of Process” claim. In Count IX, Property Owners grieve the Township’s use of summary criminal citation procedures to collect rental registration fees. (See Complaint ¶ 85-90)

The tort of “abuse of process” is defined as the use of legal process against another primarily to accomplish a purpose for which it is not designed. To establish a claim for abuse of process it must be shown that the defendant (1) used a legal process against the plaintiff, (2) primarily to accomplish a purpose for which the process was not designed; and (3) harm has been caused to the plaintiff. Lerner v. Lerner, 954 A.2d 1229, 1238 (Pa. Super. 2008).

Absent from Property Owner’s Complaint is any allegation that the Township used a legal process against them for a purpose for which the process was not designed. To the contrary, Property Owners seemingly attack the Ordinance’s design; that is its purported requirement that the Township use summary proceedings to collect registration fees. Property Owners do not allege that they are presently being prosecuted for failing to pay registration fees.

Importantly, the Renter Registration Ordinance does not specifically indicate that the failure to pay a fee is a violation of the ordinance that is subject to summary prosecution. Section 11 of the Ordinance addresses “Fees” and simply indicates an occupancy permit will not be issued, unless a completed application is submitted with payment of inspection fees. Thus, the failure to pay an inspection fee appears to have the administrative consequence that the occupancy permit will not issue. Count IX fails to state a claim upon which relief may be granted. The Township’s objection is sustained.⁵

COUNT XI

In Count XI, Property Owners charge that the Renter Registration Ordinance violates Article III Section 32 of the Pennsylvania Constitution. In support of this claim, the Property Owners allege:

The actions of the TOWNSHIP are discriminatory ab initio and in their intent to create an ORDINANCE against a suspect class and a specific business with a purpose to raise revenue in the process.

(See Complaint ¶ 109). Property Owners protest that the Renter Registration Ordinance

is an “added and unnecessary expense” borne by landlords and their rental property. (See Complaint ¶ 110) In the shortest of its objections, the Township contends that Count XI is a “rehash of” the Property Owners’ constitutional claims. (See Objections ¶ 115).

[40] Article III, Section 32 of the Pennsylvania Constitution, provides:

§ 32. Certain local and special laws.

The General Assembly shall pass no local or special law in any case which has been or can be provided for by general law and specifically the General Assembly shall not pass any local or special law:

1. Regulating the affairs of counties, cities, townships, wards, boroughs or school districts:
2. Vacating roads, town plats, streets or alleys:
3. Locating or changing county seats, erecting new counties or changing county lines:
4. Erecting new townships or boroughs, changing township lines, borough limits or school districts:
5. Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:
6. Exempting property from taxation:
7. Regulating labor, trade, mining or manufacturing:
8. Creating corporations, or amending, renewing or extending the charters thereof.

Nor shall the General Assembly indirectly enact any special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

Pa. Const., Art. III, § 32. “[T]he underlying purpose of Section 32’s prohibition on special legislation was not so much to prohibit the General Assembly from undertaking limited, remedial measures as part of a long-term strategy to fulfill its duties connected with the public interest, but to end the practice of favoritism.” Robinson Twp. v. Commonwealth, 637 Pa. 239, 299, 147 A.3d 536, 572 (2016).

However, the Supreme Court qualified this statement and cautioned those quick to claim a law treats them differently. The Court explained:

Even so, Article III, Section 32 does not deprive the legislature of its **power to make classifications, or to treat persons differently who have different needs, which derives from its general power to enact laws that affect the health, safety, and welfare** of the people of the Commonwealth.

Robinson Twp. v. Commonwealth, 637 Pa. at 299, 147 A.3d at 573. (Emphasis Added).

For instance, legislation that “singles out” the sheriff of only one Pennsylvania County and restricts his discretion in hiring, termination or promotion of employees runs afoul of Article III section 32. See DeFazio v. Civil Serv. Comm’n of Allegheny Cty., 562 Pa. 431, 437–38, 756 A.2d 1103, 1106 (2000) which explained:

One particular county officer may not be treated differently from the other officers of that county unless the difference in treatment bears some reasonable relationship to some unique characteristic of that particular office...

While to some extent this distinction may exist, it is insufficient to justify different treatment from other offices which have, to varying extents, the same types of interaction, e.g., the county police, the district attorney, and others who must relate to both the public and the courts.

Id. DeFazio dealt with a challenge to a statute enacted by the Pennsylvania Legislature which applied only to the Sheriff of Allegheny County. See 16 P.S. § 4217.

Here Property Owners are not challenging a state statute enacted by the Pennsylvania “General Assembly.” Art. 3 Section 32 only mentions municipalities in a portion that prohibits the General Assembly from passing local or special laws that regulate municipal government. See Art. 3 Section 32 (1).

[41] Time and again, the Pennsylvania Supreme Court has declared that “the touchstone of interpretation of a constitutional provision is the actual language of the Constitution itself.” Ieropoli v. AC & S Corp., 577 Pa. 138, 842 A.2d 919, 925 (2004) and League of Women Voters v. Commonwealth, 645 Pa. 1, 97, 178 A.3d 737, 802 (2018). Justice Todd has explained:

“[T]he Constitution’s language controls and must be interpreted in its popular sense, as understood by the people when they voted on its adoption.” *Id.* In doing so, reading the provisions of the Constitution in any “**strained or technical manner**” is to be avoided. Jubelirer v. Rendell, 598 Pa. 16, 953 A.2d 514, 528 (2008). Consistent therewith, “we must favor a natural reading which avoids contradictions and difficulties in implementation, which completely conforms to the intent of the framers and which reflects the views of the ratifying voter.” Commonwealth ex rel. Paulinski v. Isaac, 483 Pa. 467, 397 A.2d 760, 766 (1979).

League of Women Voters v. Commonwealth, supra. (Emphasis Added).

[42] Long ago, the Pennsylvania Supreme Court ruled that the Special and Local prohibitions of the Commonwealth’s Constitution did not extend to municipal ordinances. Justice Paxson wrote:

Granted the constitutional prohibition, and that under it the legislature may not pass any law ‘regulating the affairs of counties, townships, wards, boroughs, or school-districts,’ **it by no means follows that where the legislature, by a general law, confers upon a borough the power of regulating its local affairs, it may not do so by ordinances that are special in their character. The object of the constitutional provision was, clearly, to prevent the legislature from interfering in local affairs by means of special legislation; and, if the town councils of cities and boroughs cannot regulate them, then they are in a bad way indeed.** The principle contended for would prevent the town councils of a city or borough from passing an ordinance to pave one street, unless it also provided for the paving of all other streets within the limits of the municipality.

Klinger v. Bicket, 117 Pa. 326, 337, 11 A. 555, 557 (1887) (Emphasis Added).

Further, if this trial court were to suspend its disbelief, toss aside the “touchstone of constitutional interpretation” and engage in an agnostic view of historical precedent, Property Owners’ Article 3 Section 32 claim fails, nonetheless. Property Owners do not allege that they are the *only landlords in the Commonwealth or Canton Township who are* subject to occupancy disclosures and inspections. Missing from the Property Owners’ Complaint are specific material facts that the Township’s separate treatment and classification of residential rental dwellings does not advance the health, safety and welfare of Township residents.

[43] The Township's objection to Count XI is sustained. Because an Article III Section 32 claim does not appear to be cognizable against a municipality, the Property Owners' will not be afforded the opportunity to amend this count of their complaint. Although the court generally should exercise its discretion to permit amendment, where a party will be unable to state a claim on which relief could be granted, leave to amend should be denied. Schwarzwaelder v. Fox, 895 A.2d 614, 621 (Pa. Super. 2006) and Pollock v. Nat'l Football League, 171 A.3d 773, 778 (Pa. Super. 2017).

ORDER

AND NOW, this 17th day of December, 2020, following consideration of the Complaint, Preliminary Objections thereto, the parties' briefs and oral argument, the following is directed:

- 1) The Defendants' Objections to Count I, Count II, III, IV, VI, VII, VIII, IX and XI are sustained;
- 2) Count XI is stricken with prejudice;
- 3) The Plaintiffs are granted leave to file an amended complaint;
- 4) On or before January 21, 2021, the Plaintiffs may file an Amended Complaint;
- 5) If no such amended complaint is filed then, Counts I, II, III, IV, VI, VII, VIII, and IX shall be stricken from the Complaint, and **on or before February 19, 2021**, the Defendants shall file an Answer responsive to the remaining counts in the Complaint.

BY THE COURT

/s/ MICHAEL J. LUCAS, J.

¹ See 22A Summ. Pa. Jur. 2d Municipal and Local Law § 14:28 (2d ed.)

² Identified in the Complaint as 68 P.S. § 250.101 –250.602

³ See Simpson v. City of New Castle, 740 A.2d 287 (1999).

⁴ Pennsylvania Construction Code Act 53 P.S. § 66701-A

⁵ As of Count X, the Township did not specifically object to Count X. Though it referenced Count X in its objection to Count IX such an approach is inconsistent with Pa.R.C.P. 1028(b) requirements that grounds for a preliminary objection be stated "specifically."

ESTATE NOTICES

FIRST PUBLICATION

Butler, Terrence Robert

Late of Winter Haven, Polk County, FL
File No. 63-20-1475

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Kathy Denise Butler, 622
Kings Ln. SW, Winter Haven, FL 33880
Attorney: Colt A. McKelvey, Esq.,
McKelvey Law Offices, LLC,
437 Theatre Dr., Johnstown, PA 15904

WCR Vol 101 Issues 23,24,25

Jones, Frances Mary

a/k/a Frances Jones
Late of Canonsburg
Washington Co., PA
File No. 63-20-1483

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Patricia Ann Porter, 100 Century Farm Rd., Clinton, PA 15026
Attorney: Philip K. Rubenstein, Esq.,
312 22nd Ave., Carnegie, PA 15106

WCR Vol 101 Issues 23,24,25

SECOND PUBLICATION

Aubrey, Jacqueline A.

Late of Charleroi
Washington Co., PA
File No. 63-20-1427

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executors or attorney, and all persons indebted to the decedent to make payment to the Executors without delay.

Executors: William Aubrey, 311 Phillips St., Charleroi, PA 15022
Attorney: Lisa J. Buday, Esq., P.O. Box 488, Charleroi, PA 15419

WCR Vol 101 Issues 22,23,24

Barno, Doris

a/k/a Doris W. Barno
Late of Amwell Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Cheryl Kuharcik c/o
Attorney: Kelly A. Stepp, Esq., Stepp Law Offices, 64 N. Richhill St., Ste. 101, Waynesburg, PA 15370

WCR Vol 101 Issues 22,23,24

Christy, Joseph

Late of Smith Twp.
Washington Co., PA
File No. 63-20-1402

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

dent to make payment to the Executor without delay.

Executor: Carole Everhart a/k/a Carole Jo Everhart, 126 Webster Ave., Weirton, WV 26062

Attorney: Loretta B. Kendall, Esq., 364 E. Lincoln Ave., McDonald, PA 15057

_____ WCR Vol 101 Issues 22,23,24

Cox, Nellie E.

a/k/a Nellie Elizabeth Cox

a/k/a Nellie Cox

Late of Washington

Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrators or attorney, and all persons indebted to the decedent to make payment to the Administrators without delay.

Administrators: Robin Ruth Anderson and Judy Lynn Cox, c/o

Attorney: Kelly A. Stepp, Esq., Stepp Law Offices, 64 N. Richhill St., Ste. 101, Waynesburg, PA 15370

_____ WCR Vol 101 Issues 22,23,24

Davis, Linda Lee

Late of California

Washington Co., PA

File No. 63-20-1441

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Michael Bloom, 1127 Highland Dr., California, PA 15419

Attorney: Lisa J. Buday, Esq., P.O. Box 488, California, PA 15419

_____ WCR Vol 101 Issues 22,23,24

Dufour, Paul V.

Late of McDonald

Washington Co., PA

File No. 63-20-1454

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Cheryl Zibert c/o

Attorney: John W. Giltinan, Esq., P.C., 3 Gateway Ctr., 401 Liberty Ave., Ste. 1460, Pittsburgh, PA 15222-1004

_____ WCR Vol 101 Issues 22,23,24

Gus, Walter R.

a/k/a Walter R. Gus Jr.

a/k/a Walter Richard Gus Jr.

Late of Monongahela

Washington Co., PA

File No. 63-20-1391

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Karen P. Livolsi, 104 Highcroft Cir., Eighty-Four, PA 15330

Attorney: James W. Haines, Jr., Esq., 1202 W. Main St., Monongahela, PA 15063

_____ WCR Vol 101 Issues 22,23,24

Hoey, James Keith

Late of Finleyville

Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Jake Hoey, 408 Parkinson St., Monongahela, PA 15063

Attorney: Blane A. Black, Esq., 223 Second St., Monongahela, PA 15063

_____ WCR Vol 101 Issues 22,23,24

Hyde, Lloyd Wayne

Late of McMurray
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Susan Hyde, 103 Robinhood Ln., Canonsburg, PA 15317

Attorney: Matthew Carl, Esq., Blumling & Gusky, 436 7th Ave., Ste. 1200, Pittsburgh, PA 15219

_____ WCR Vol 101 Issues 22,23,24

Kornosky, Genevieve J.

a/k/a Genevieve Kornosky
Late of Monongahela
Washington Co., PA
File No. 63-20-1389

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Co-Administratrix or attorney, and all persons indebted to the decedent to make payment to the Co-Administratrix without delay.

Co-Administratrix: Diane L. Brleitch; 644 Third St., Donora, PA 15033, and Cynthia M. Weiss; 1208 Center St., Monongahela, PA 15063,

Attorney: James W. Haines, Jr., Esq., 1202 W. Main St., Monongahela, PA 15063

_____ WCR Vol 101 Issues 22,23,24

Lindsey, Gloria Ann

a/k/a Gloria A. Lindsey
Late of Canonsburg
Washington Co., PA

The Register of Wills has granted Letters

on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Annette L. Cole, 11 Iron St., Canonsburg, PA 15317

Attorney: Emmanuel S. Anthon, Esq. 165 McClelland Rd., Canonsburg, PA 15317

_____ WCR Vol 101 Issues 22,23,24

Lyon, Carol Marie

a/k/a Carol M. Lyon
a/k/a Carol Lyon
Late of Washington
Washington Co., PA
File No. 63-20-1335

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Michael J. Lyon, 2058 Dantry Dr., Canonsburg, PA 15317

_____ WCR Vol 101 Issues 22,23,24

Morton, Leonard Louis

Late of Strabane
Washington Co., PA
File No. 63-20-1166

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Leonard E. Morton, 19 McNary St., Houston, PA 15342

Attorney: Justin Ellis, Esq., Zacharia Brown Law Offices, 111 W. McMurray Rd., McMurray, PA 15317

_____ WCR Vol 101 Issues 22,23,24

Rowles, Larry Joel

Late of N. Strabane Twp.
Washington Co., PA
File No. 63-20-1473

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Jean L. Rowles a/k/a Jean Louise Rowles c/o

Attorney: Timothy J. Giltinan, Esq.,
3 Gateway Ctr., 401 Liberty Ave.,
Ste. 1460, Pittsburgh, PA 15222-1004

WCR Vol 101 Issues 22,23,24

Taczak, George

Late of Cross Creek Twp.
Washington Co., PA
File No. 63-20-1317

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: William Taczak c/o

Attorney: Stephen J. Taczak, Esq., 23 E.
Beau St., Washington, PA 15301

WCR Vol 101 Issues 22,23,24

Vihlidal, Mary Ann

Late of Bentleyville
Washington Co., PA
File No. 63-20-1423

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Robert W. Vihlidal, 18270 Old

Bayshore Rd., North Fort Myers, FL
33917

Attorney: Brian F. Levine, Esq., 22 E.
Grant St., New Castle, PA 16101

WCR Vol 101 Issues 22,23,24

Weightman, David Allen

a/k/a David Weightman
Late of Burgettstown
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Kathy Weightman a/k/a Kathy S. Weightman, 3 Fayette St., Burgettstown, PA 15021

Attorney: Thomas O. Vreeland, Esq.,
Bassi, Vreeland & Assoc., P.C., 62 E.
Wheeling St., Washington, PA 15301

WCR Vol 101 Issues 22,23,24

THIRD PUBLICATION**Ammon, Keith Charles**

a/k/a Keith C. Ammon
a/k/a Keith Ammon
Late of N. Strabane
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: David Ammon, 24 Willow St., Canonsburg, PA 15317

Attorney: Belinda Dunmire Attwood, Esq., Law Offices of Belinda Dunmire Attwood, 6 S. Main St., Ste. 500, Washington, PA 15301

WCR Vol 101 Issues 21,22,

Arnold, Robert S.

a/k/a Robert S. Arnold, Jr.
 a/k/a Robert Shannon Arnold
 Late of Chartiers Twp.
 Washington Co., PA
 File No. 63-20-1395

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Ruth May Zarger, 6300 Blue Beech Rd., Rochester Hills, MI 48306

Attorney: Mark S. Riethmuller, Esq.,
 Speakman, Riethmuller & Allison,
 6 S. Main St., Ste. 614, Washington, PA
 15301

WCR Vol 101 Issues 21,22,23

Cook, William W.

a/k/a William Wallace Cook
 Late of S. Strabane Twp.
 Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Patricia A. Cook, 1040 Beech St., Washington, PA 15301

Attorney: Belinda Dunmire Attwood,
 Esq., Law Offices of Belinda Dunmire
 Attwood, 6 S. Main St., Ste. 500,
 Washington, PA 15301

WCR Vol 101 Issues 21,22,23

Kuhns, Virgie Ellen

a/k/a Virgie E. Kuhns
 a/k/a Virgie Kuhns
 Late of N. Charleroi
 Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having

claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Wilma Gonzalez,

1706 Mountaineer Highway,
 New Martinsville, WV 26155

Attorney: Blane A. Black, Esq.,
 223 Second St., Monongahela, PA 15063

WCR Vol 101 Issues 21,22,23

Leytrick, Raymond

a/k/a Raymond S. Leytrick
 Late of Robinson Twp.
 Washington Co., PA
 File No. 63-20-1406

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Thomas R. Leytrick,
 431 Pinkerton Rd., Wexford, PA 15090

Attorney: Kassie R. Gusarenko, Esq., Myers Law Group, LLC, 17025 Perry Hwy.,
 Warrendale, PA 15086

WCR Vol 101 Issues 21,22,23

Luisi, Michael L.

Late of Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Richard L. Luisi c/o

Attorney: Frank C. Roney, Jr., Esq.,
 382 W. Chestnut St., Ste. 102,
 Washington, PA 15301

WCR Vol 101 Issues 21,22,23

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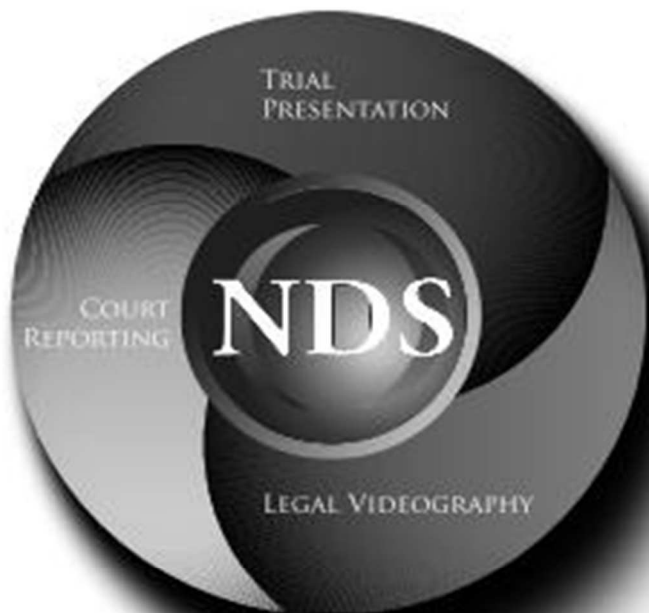
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