

# Northampton County Reporter

(USPS 395-280)

VOL. LXI

EASTON, PA January 16, 2020

NO. 3

**Bethlehem Manor Village, LLC et al. v. ZHB of Bethlehem City et al.**

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### INSERT: Goldenrod: 1. Annual Association Meeting

2. 2020 Calendar

3. Top Ten Reasons to Complete and Return a Committee Preference Form

4. Ethics Hotline

Cream: 1. Hartford Wolf Pack vs. Lehigh Valley Phantoms

2. Thanks to the 2019 Volunteer CLE Presenters

3. NCBA/Miller Keystone Blood Center Blood Bank Program

### **NOTICE TO THE BAR...**

#### **Northampton County Court PFA Change**

Please be advised that starting in the year 2020, Final PFA Hearings will be held on Mondays, Wednesdays and Fridays at 1:00 p.m., with the exception of the first Miscellaneous List on Thursday, 1/2/2020.

\* \* \* \* \*

#### **Northampton County Court Swearing-in Ceremonies**

See page 3.

\* \* \* \* \*

#### **NCBA Annual Meeting – Thursday, January 23, 2020**

See insert for registration.

**NORTHAMPTON COUNTY BAR ASSOCIATION  
2020 BAR ASSOCIATION OFFICERS**

Robert Eyer ..... President  
Maura Zajac McGuire ..... President-Elect  
Paul J. Harak ..... Vice President  
Steven B. Molder ..... Treasurer  
Jeremy F. Clark ..... Secretary  
Lisa M. Spitale ..... Past President

**BOARD OF GOVERNORS**

Erika A. Farkas  
Richard Eugene Santee  
Douglas Jon Tkacik  
David M. Backenstoe  
Scott M. Wilhelm  
Joshua D. Fulmer  
Jill Kelly McComsey

**ZONE II DELEGATES**

Joel M. Scheer  
Michael C. Deschler  
Keri A. Schantz  
Frank W. Yandrisevits  
Lisa M. Spitale  
Jonathan M. Huerta, Zone Governor

*Northampton County Reporter*  
**Attorney Referral & Information Service**  
**155 South Ninth Street, P.O. Box 4733**  
**Easton, PA 18042**  
**Phone (610) 258-6333 Fax (610) 258-8715**  
**E-mail: [ncba@norcobar.org](mailto:ncba@norcobar.org)**  
**PBA (800) 932-0311—PBI (800) 932-4637**  
**BAR ASSOCIATION STAFF**

Mary Beth Leeson .....Executive Director  
Patti A. Gober .....Accounting  
..... Legal Journal  
Heather Rizzotto-Stefanik .....Attorney Referral  
Deborah J. Flanagan .....Attorney Referral

The Northampton County Reporter will be published every Thursday by the Northampton County Bar Association, 155 South Ninth St., Easton, PA 18042-4399. All legal notices relating to the business of the county, are required by rule of Court, to be published in this Journal. All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. Neither the Law Reporter nor the printer will assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes to content.

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Ralph J. Bellafatto, Esquire  
Editor

### **NOTICE TO NCBA MEMBERS – BAR NEWS**

#### **Save the Date!**

**Thursday, May 28, 2020 – “Foundation Libations”**

Our Second Annual Foundation Fundraiser.

5:00 – 7:30 p.m. at ArtsQuest, Bethlehem.

#### **Northampton County Court Announces Dates and Times for Swearing-in Ceremonies**

The Northampton County Court is pleased to announce the upcoming ceremonies:

- The Induction Ceremony of the **Hon. Abraham P. Kassis** as Judge of the Northampton County Court of Common Pleas will be held on Friday, January 17, 2020 at 3:30 p.m. in Courtroom #1.
- The Induction Ceremony of the **Hon. John M. Morganelli** as Judge of the Northampton County Court of Common Pleas will be held on Friday, January 31, 2020 at 3:30 p.m. in Courtroom #1.

#### **PA Supreme Court Board and Committee Vacancies**

There are currently nine vacancies on the PA Supreme Court board and committees. They are posted on the UJS Website. <http://www.pacourts.us/courts/supreme-court/committees/>.

Applications are due by January 31, 2020.

#### **Courthouse Library Copy Machine Cards**

Copy machine cards are still available at the NCBA Office. If you make any copies on the copy machine in the Law Library you may want to consider purchasing copy cards. The cards sell for \$10.00. If you use the cards, copies are 15 cents rather than the usual 25 cents.

There cannot be a crisis next week. My schedule is already full.  
~ Henry A. Kissinger

**ESTATE AND TRUST NOTICES**

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

**FIRST PUBLICATION****BEGOVICH, ANGELYN**, dec'd.

Late of the City of Easton, Northampton County, PA

Executrix: Christine Clauser c/o Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

Attorney: Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

**CAMARDA, CASPER M.**, dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Clare E. Ebner a/k/a Clare E. Camarda Ebner c/o Constantine M. Vasiliadis, Esquire, Kolb, Vasiliadis, Florenz & Recchiuti, LLC, 60 W. Broad Street, Suite 303, Bethlehem, PA 18018-5721

Attorneys: Constantine M. Vasiliadis, Esquire, Kolb,

Vasiliadis, Florenz & Recchiuti, LLC, 60 W. Broad Street, Suite 303, Bethlehem, PA 18018-5721

**DOYLE, SHERRY A.**, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Administratrix: Barbara Ann Doyle c/o Kevin F. Danyi, Esquire, Danyi Law, P.C., 133 East Broad Street, Bethlehem, PA 18018

Attorneys: Kevin F. Danyi, Esquire, Danyi Law, P.C., 133 East Broad Street, Bethlehem, PA 18018

**GOLDEN, STEVEN B.**, dec'd.

Late of 146 Pennsylvania Avenue, Easton, Northampton County, PA

Personal Representative: Marilyn B. Golden c/o R. Nicholas Nanovic, Esquire, Gross McGinley, LLP, 33 S. 7th Street, P.O. Box 4060, Allentown, PA 18105-4060

Attorneys: R. Nicholas Nanovic, Esquire, Gross McGinley, LLP, 33 S. 7th Street, P.O. Box 4060, Allentown, PA 18105-4060

**KROMER, JOHN A.**, dec'd.

Late of Hellertown, Northampton County, PA

Executrices: Linda Mae Wotring and Carol J. Kuhns c/o Jon A. Swartz, Esquire, Swartz & Associates, 7736 Main Street, Fogelsville, PA 18051

Attorneys: Jon A. Swartz, Esquire, Swartz & Associates, 7736 Main Street, Fogelsville, PA 18051

**LOTTI, GILBERT J.**, dec'd.

Late of the Township of Forks, Northampton County, PA

Executor: Richard A. Lotti c/o Jamie Michael McFadden,

Esquire, 3055 College Heights Blvd., Suite 2B, Allentown, PA 18104

Attorney: Jamie Michael McFadden, Esquire, 3055 College Heights Blvd., Suite 2B, Allentown, PA 18104

**LOUNSBURY, WILLIAM J.,** dec'd.

Late of the Borough of Bangor, Northampton County, PA

Executor: James Wilson Lounsbury c/o David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

Attorney: David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

**MARKULICS, BRIAN MICHAEL,** dec'd.

Late of the Borough of Bath, Northampton County, PA

Administrator: Mark David Markulics, 801 Meadow Lane, Bath, PA 18014

Attorney: Daniel G. Spengler, Esquire, 110 East Main Street, Bath, PA 18014

**REED, PEGGY J.,** dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executor: Bruce Bradley Reed c/o Richard P. Kovacs, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Richard P. Kovacs, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

**REPASH, ROBERT J.,** dec'd.

Late of Hellertown, Northampton County, PA

Executrix: Melissa A. Repash c/o E. Keller Kline, III, Esquire, Kline

and Kline, 731 Turner Street, Allentown, PA 18102

Attorneys: E. Keller Kline, III, Esquire, Kline and Kline, 731 Turner Street, Allentown, PA 18102

**ROBERTS, RITA C.,** dec'd.

Late of the Township of Washington, Northampton County, PA  
Executrices: Kathy Anne Transue and Marjorie C. Klein c/o David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

Attorney: David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

**ROSE, LOIS J.,** dec'd.

Late of the Township of Upper Mount Bethel, Northampton County, PA

Co-Executors: Thomas Wayne Rose and Donna Lee Predmore c/o Henry R. Newton, Jr., Esquire, 127 N. 4th St., Easton, PA 18042

Attorney: Henry R. Newton, Jr., Esquire, 127 N. 4th St., Easton, PA 18042

**ROVER, CECELIA MARY,** dec'd.

Late of Bethlehem, Northampton County, PA

Executor: George Neal Rover c/o Constantine M. Vasiliadis, Esquire, Kolb, Vasiliadis, Florenz & Recchiuti, LLC, 60 W. Broad Street, Suite 303, Bethlehem, PA 18018-5721

Attorneys: Constantine M. Vasiliadis, Esquire, Kolb, Vasiliadis, Florenz & Recchiuti, LLC, 60 W. Broad Street, Suite 303, Bethlehem, PA 18018-5721

**STEINIS, STEPHEN,** dec'd.

Late of Upper Nazareth Township, Northampton County, PA

Administratrix: Charlene Rauscher, Esquire, P.O. Box 427, Fogelsville, PA 18051

Attorney: Charlene D. Rauscher, Esquire, P.O. Box 427, Fogelsville, PA 18051

#### **SECOND PUBLICATION**

#### **BEARSE, CHARLES I., JR.,** dec'd.

Late of Bethlehem, Northampton County, PA

Co-Executors: Charles I. Bearse, III and Wendy L. Bianchi c/o Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

Attorneys: Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

#### **BREWSTER, MARILYN J.,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: Gary A. Krenicky c/o Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064  
Attorneys: Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

#### **CRAIG, JOHN W.,** dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executrix: Kelly Craig Spitale c/o Lisa M. Spitale, Esquire, 680 Wolf Avenue, Easton, PA 18042  
Attorney: Lisa M. Spitale, Esquire, 680 Wolf Avenue, Easton, PA 18042

#### **GESTL, HERMAN E.,** dec'd.

Late of Moore Township, Northampton County, PA

Administrator: Edwin D. Gestl, 2455 Williams Rd., Bath, PA 18014

Attorney: Daniel G. Spengler, Esquire, 110 East Main Street, Bath, PA 18014

#### **GIMBAR, HELEN MARIE PAVKOVIC,** dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Lisa A. Frinzi c/o William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

Attorney: William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

#### **GRUBE, ELIZABETH A.,** dec'd.

Late of the Township of Moore, Northampton County, PA

Executor: Robert James Grube c/o Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

Attorneys: Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

#### **JANY, ROSE M.,** dec'd.

Late of the Borough of Northampton, Northampton County, PA

Administrator: Louis A. Jany c/o William J. Fries, Esquire, The Atrium, 2895 Hamilton Boulevard, Suite 106, Allentown, PA 18104

Attorney: William J. Fries, Esquire, The Atrium, 2895 Hamilton Boulevard, Suite 106, Allentown, PA 18104

#### **KRAKOWSKI, FRANCIS MICHAEL,** dec'd.

Late of the City of Bethlehem, Northampton County, PA

Administratrix: Carol Kay Krakowski c/o Goudsouzian & Associates, 2940 William Penn Highway, Easton, PA 18045-5227

Attorneys: Goudsouzian & Associates, 2940 William Penn Highway, Easton, PA 18045-5227

**KRAKOWSKI, MARY A.,** dec'd.

Late of the City of Hellertown, Northampton County, PA

Administratrix: Carol Kay Krakowski c/o Goudsouzian & Associates, 2940 William Penn Highway, Easton, PA 18045-5227

Attorneys: Goudsouzian & Associates, 2940 William Penn Highway, Easton, PA 18045-5227

**LINSMAN, VICTORIA ANNE,** dec'd.

Late of 1433 Lehigh Street, Easton, Northampton County, PA

Administrators: Ashby Law Offices, LLC, 314 West Broad Street, Suite 118, Quakertown, PA 18951

Attorneys: Ashby Law Offices, LLC, 314 West Broad Street, Suite 118, Quakertown, PA 18951

**RUSSO, ANNA JEAN,** dec'd.

Late of the Borough of Bath, Northampton County, PA

Executrix: Dawn A. Moore, 8775 Pleasant View Road, Bangor, PA 18013

Attorneys: Charles Bruno, Esquire, Bruno Law, 44 N. 2nd Street, P.O. Box 468, Easton, PA 18044-0468

**THIRD PUBLICATION**

**BOWMAN, ALICE M. L.,** dec'd.

Late of the Borough of Hellertown, Northampton County, PA

Executrix: Nancy J. Althouse  
Attorney: David M. Backenstoe, Esquire, 148 Main Street, Hellertown, PA 18055

**BRICKLER, EDWARD,** dec'd.

Late of Scranton, Lackawanna County and Lehigh Township, Northampton County, PA

Executors: Thomas L. Brickler and Annette M. Shannon c/o Stephen A. Strack, Esquire, Steckel and Stopp LLC, 125 S. Walnut Street, Suite 210, Slatington, PA 18080

Attorneys: Stephen A. Strack, Esquire, Steckel and Stopp LLC, 125 S. Walnut Street, Suite 210, Slatington, PA 18080

**GREENE, MICHAEL K.,** dec'd.

Late of the Township of Moore, Northampton County, PA

Executrix: Kimberly Yvonne Houck a/k/a Kimberly Yvonne Greene, 74 Roth Street, Nazareth, PA 18064

Attorney: Daniel G. Spengler, Esquire, 110 East Main Street, Bath, PA 18014

**KORELL, WILLIAM K.,** dec'd.

Late of Bangor, Northampton County, PA

Executrix: Elizabeth Caesar c/o Law Office of David A. Martino, Esquire, 1854 PA Rte. 209, P.O. Box 420, Brodheadsville, PA 18322

Attorneys: Law Office of David A. Martino, Esquire, 1854 PA Rte. 209, P.O. Box 420, Brodheadsville, PA 18322

**KUPIS, KATHLEEN P.,** dec'd.

Late of the Township of Lower Saucon, Northampton County, PA

Executrices: JoAnn M. Billig and Marie Elaine Bigas c/o Robert V.



Littner, Esquire, Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18018

Attorneys: Robert V. Littner, Esquire, Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18018

**PARILLO, MARGARET, dec'd.**

Late of Lower Mt. Bethel, Northampton County, PA

Executor: Joseph Parillo, 6078 Hillendale Road, Bangor, PA 18013

**SCHURDAK, ELEANORA W., dec'd.**

Late of Bethlehem, Northampton County, PA

Personal Representative: Ellen C. Schurdak c/o Kirby G. Upright, Esquire, King Spry Herman Freund & Faul LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

Attorneys: Kirby G. Upright, Esquire, King Spry Herman Freund & Faul LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

**WERTMAN, ALBERTA M. a/k/a ALBERTA WERTMAN, dec'd.**

Late of Walnutport Borough, Northampton County, PA

Co-Executors: Carol L. Polkowski and Jeffrey C. Wertman c/o Joshua D. Shulman, Esquire, Shulman Law Office PC, 1935 Center Street, Northampton, PA 18067

Attorneys: Joshua D. Shulman, Esquire, Shulman Law Office PC, 1935 Center Street, Northampton, PA 18067

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**NOTICES OF INCORPORATION**

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the

Commonwealth of Pennsylvania on Friday, January 3, 2020 for the purpose of creating a business corporation which has been incorporated under the provisions of the Business Corporation Law of 1988.

The name of the corporation is:

**TOC II CORPORATION**

For further information contact Business and Community Financing Solutions, LLC, 2314 N. 1st Ave., Whitehall, PA 18052.

Jan. 16

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

The name of the corporation is:

**TY'S KAKES, INC.**

Robert H. Jacobs, Esquire  
400 Northampton St.  
Suite 408  
Easton, PA 18042-3546

Jan. 16

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**FICTITIOUS NAME  
REGISTRATION NOTICE**

In compliance with the requirements of 54 Pa. C.S. 311, the undersigned desires to register a fictitious name under 54 Pa. C.S. Ch. 3. The fictitious name is:

**DAVE MANNERS ENTERPRISES**

The nature of the business is real estate management. The principal place of business is: 503 Filbar Street, Easton, PA 18045. The name and address of the individual interested in said business are: David W.



Manners c/o 503 Filbar Street,  
Easton, PA 18045.

Jan. 16

**CORPORATE FICTITIOUS NAME  
REGISTRATION NOTICES**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act 295 of 1982, as amended, of intention to file, or the filing of, in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, a certificate for the conduct of a business in Pennsylvania, under the assumed or fictitious name, style or designation of

Name:

**LVH—**

**COORDINATED BETHLEHEM**

with its principal place of business at: 2310 Highland Avenue, Bethlehem, PA 18020.

The name and address of the entity owning or interested in said business are: Lehigh Valley Hospital—Coordinated Health Bethlehem with its principal place of business at: One City Center, 707 Hamilton Street, 7th Floor, P.O. Box 1806, Allentown, PA 18105-1608.

NORRIS McLAUGHLIN, P.A.  
515 W. Hamilton Street  
Suite 502  
Allentown, PA 18101  
Telephone: (610) 391-1800

Jan. 16

An application for registration of the fictitious name:

**THE OTHER FISH II**

has been filed with the Pennsylvania Department of State in Harrisburg, PA. File date January 9, 2020 pursuant to the Fictitious Name Act, Act 1982-295. The name and address of the party to the registration are TOC II Corporation, 1857 Bayard Street, Bethlehem, PA 18017.

Jan. 16

**NOTICE OF DISSOLUTION**

Pursuant to the requirements of section 1975 of the Pennsylvania Business Corporation Law of 1988, notice is hereby given that **SOUTH CENTRAL DIGITAL SYSTEMS INCORPORATED** is currently in the process of voluntarily dissolving.

Jan. 16

**IN THE NORTHAMPTON COUNTY  
COURT OF COMMON PLEAS  
ORPHANS' COURT DIVISION**

The following Executors, Administrators, Guardians & Trustees have filed Accounts in the Office of the Orphans' Court:

ESTATE; Accountant

JOHN T. STARK; James C. Omdahl, Executor

EARL M. FEGELY; Robyn M. Bischoff, Executrix

PAUL H. WEISS; Nancy L. Weiss, Co-Executrix

**AUDIT NOTICE**

All parties interested are notified that an audit list will be made up of all Accounts and the said list will be called for audit at the Northampton County Government Center, Easton, PA on: WEDNESDAY, JANUARY 22, 2020 AT 9:00 A.M. IN COURTROOM #1.

Gina X. Gibbs

Clerk of Orphans' Court

Jan. 9, 16

**NOTICE FOR CHANGE OF NAME**

NOTICE IS HEREBY GIVEN that on January 9, 2020, the Petition of Mohammed J. Qureshi and Sadia Javed Qureshi was filed in Northampton County Court of Common Pleas at No. C-48CV2020-00249 seeking to change the name(s) of minor child(ren) from 1. FNU Mohammed Moin Hassan to Moin Mohammed Hassan Qureshi. 2. NFN Sundus to Sundus Qureshi.

The Court has fixed Monday, May 4, 2020 at 9:00 A.M., in Courtroom No. 4, at Northampton County Courthouse, 669 Washington Street, Easton, PA 18042 as the date for hearing of the Petition. All persons interested in the proposed Change of Name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jan. 16

#### **NOTICE FOR CHANGE OF NAME**

NOTICE IS HEREBY GIVEN that, January 10, 2020, the Petition of Frederick Hirshman was filed in the Northampton County Court of Common Pleas at No. C-48CV-2020-274 seeking to change the name of the Petitioner from Frederick Hirshman to Fred E. Herschman. The Court has fixed March 24, 2020 at 10:00 a.m. in Courtroom #4 at the Northampton County Courthouse as the date for hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jan. 16

#### **IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION INVOLUNTARY TERMINATION OF PARENTAL RIGHTS**

In Re: A.M.B., a Minor Child  
**NO. 2019-0071**

TO: Joseph Stokes, Jr., Putative  
Father

#### **NOTICE**

A Petition has been filed asking the Court to put an end to all rights you have to your child listed above. The Court has set a hearing concerning your parental rights to your child. That hearing will be held in Courtroom No. 1, Northampton County Govern-

ment Center, 669 Washington Street, Easton, Pennsylvania, on January 28, 2020 at 9:00 a.m. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child will be ended by the Court without your being present. You have the right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. You may also have rights under ACT 101, and a notice explaining your rights under this act is included with all your legal papers.

If you cannot afford a lawyer, go to or telephone the office set forth below to find out where you can get legal help.

Lehigh Valley Legal Services:  
North Penn Legal Services  
559 Main Street  
Suite 200  
Bethlehem, PA 18018  
(610) 317-8757

If you can afford to hire a lawyer but do not have a lawyer, go to or telephone the office set forth below to find out where you can get legal help.

Lawyer Referral Service  
P.O. Box 4733  
Easton, PA 18043-4733  
(610) 258-6333

Jan. 16

#### **COURT OF COMMON PLEAS, NORTHAMPTON COUNTY, PENNSYLVANIA CIVIL ACTION—LAW**

NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE  
NATIONSTAR HECM ACQUISITION  
TRUST 2017-2 WILMINGTON  
SAVINGS FUND SOCIETY  
FSB, NOT INDIVIDUALLY, BUT  
SOLELY AS TRUSTEE

Plaintiff

vs.

OLGA JENSEN, IN HER CAPACITY  
AS KNOWN HEIR OF  
RICHARD JENSEN et al.

Defendants

**NO. C-48-CV-2018-06891**

COMPLAINT IN

MORTGAGE FORECLOSURE

TO: UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER RICHARD JENSEN; UNKNOWN SUCCESSOR TRUSTEES AND UNKNOWN BENEFICIARIES OF THE RICHARD W. JENSEN REVOCABLE TRUST AGREEMENT, Defendant(s), 106 HIGH STREET AND 30 CLEVELAND AVENUE, BANGOR, PA 18013

You are hereby notified that Plaintiff, NATIONSTAR HECM ACQUISITION TRUST 2017-2 WILMINGTON SAVINGS FUND SOCIETY FSB, NOT INDIVIDUALLY, BUT SOLELY AS TRUSTEE, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of NORTHAMPTON County, PA docketed to No. C-48-CV-2018-06891, seeking to foreclose the mortgage secured on your property located, 106 HIGH STREET AND 30 CLEVELAND AVENUE, BANGOR, PA 18013.

#### NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in this notice you must take action within twenty (20) days after the Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are

warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Lawyer Referral Service  
P.O. Box 4733  
Easton, PA 18043-4733  
(610) 258-6333

JENINE DAVEY, ESQUIRE

ID No. 87077

RAS CITRON, LLC

Attorneys for Plaintiff

133 Gaither Drive  
Suite F  
Mt. Laurel, NJ 08054  
(855) 225-6906

Jan. 16

#### **COURT OF COMMON PLEAS CIVIL DIVISION NORTHAMPTON COUNTY**

JPMorgan Chase Bank,  
National Association

PLAINTIFF

vs.

Unknown Heirs, Successors,  
Assigns and All Persons, Firms or  
Associations Claiming Right, Title or  
Interest from or under Edgar O.  
Schoenenberger, deceased

DEFENDANTS

**NO.: C-48-CV-2019-07953**

To: the Defendants, Unknown Heirs,  
Successors, Assigns and All  
Persons, Firms or Associations  
Claiming Right, Title or Interest  
from or under Edgar O.  
Schoenenberger, deceased

TAKE NOTICE THAT THE Plaintiff,  
JPMorgan Chase Bank, National  
Association has filed an action  
Mortgage Foreclosure, as captioned  
above.

**NOTICE**

IF YOU WISH TO DEFEND, YOU  
MUST ENTER A WRITTEN APPEAR-  
ANCE PERSONALLY OR BY  
ATTORNEY AND FILE YOUR  
DEFENSE OR OBJECTIONS WITH  
THE COURT. YOU ARE WARNED  
THAT IF YOU FAIL TO DO SO THE  
CASE MAY PROCEED WITHOUT  
YOU AND A JUDGMENT MAY BE  
ENTERED AGAINST YOU WITHOUT  
FURTHER NOTICE FOR THE RELIEF  
REQUESTED BY THE PLAINTIFF.  
YOU MAY LOSE MONEY OR  
PROPERTY OR OTHER RIGHTS  
IMPORTANT TO YOU.

YOU SHOULD TAKE THIS  
NOTICE TO YOUR LAWYER AT  
ONCE. IF YOU DO NOT HAVE A  
LAWYER GO TO OR TELEPHONE  
THE OFFICE SET FORTH BELOW.  
THIS OFFICE CAN PROVIDE YOU  
WITH INFORMATION ABOUT  
HIRING A LAWYER.

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

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PA I.D. NO. 87075

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3600 Horizon Drive  
Suite 150  
King of Prussia, PA 19406  
Telephone: (610) 278-6800

Jan. 16

**IN THE COURT OF COMMON  
PLEAS OF NORTHAMPTON  
COUNTY, PENNSYLVANIA  
CIVIL DIVISION—LAW**

IN RE: Petition of Career Institute  
of Technology for Approval of  
Private Sale of Land Totaling  
Approximately .26 Acres Located at  
548 Toboggan Trail, Easton,  
Northampton County, Pennsylvania

**C-48-CV-2019-12191****PUBLIC NOTICE**

All parties interested are notified  
that the Career Institute of Technol-  
ogy desires to sell improved real  
property consisting of .26 acres and  
located at 548 Toboggan Trail, Forks  
Township, Northampton County,  
Pennsylvania, by private sale for the  
purchase price of \$285,000.00 and  
has filed a Petition for Approval of  
Private Sale of Land in the Court of  
Common Pleas of Northampton  
County.

All parties interested are notified that a hearing on the Petition for Approval of Private Sale of Land is scheduled on January 22, 2020 at 9:00 a.m. in Courtroom No. 1 of the Court of Common Pleas of Northampton County, located at 669 Washington Street, Easton, PA. Any party interested shall appear to be heard.

Jan. 2, 9, 16

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**SHERIFF'S SALE OF  
VALUABLE REAL ESTATE**

The following real estate will be sold by the Sheriff of Northampton County, Pennsylvania, on FEBRUARY 7, 2020, at ten o'clock a.m. in the COUNCIL CHAMBERS, THIRD FLOOR, of the Northampton County Government Center, within the City of Easton, County of Northampton and State of Pennsylvania.

PLEASE TAKE NOTICE that the sale price will include only the outstanding taxes certified to the Sheriff's Office. Any taxes not reported to the Sheriff are the responsibility of the purchaser.

**No. C-48-CV-2013-05763**

US BANK  
NATIONAL ASSOCIATION, AS  
TRUSTEE ET AL.

vs.

TANYA TOLIVER

**Property Address:**

2605 Hickory Drive, Easton, PA  
18040

**UPI/Tax Parcel Number:**

K9/36/63/0311

All that certain message, tenement and lot or piece of ground situate in Forks Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Tanya Toliver by deed from David J. Rhine and Donna J. Rhine, h/w, said deed recorded 10/19/2005 in Deed Book 2005-1, Page 413901.

Thereon being erected a two-story single dwelling with brick exterior, shingle roof and an attached two-car garage.

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**No. C-48-CV-2015-11108**

MTGLQ INVESTORS, LP

vs.

STEVE A. DIVIETRO

**Property Address:**

3800 Farmersville Road, Easton,  
PA 18045

**UPI/Tax Parcel Number:**

L8SE1/7/1/0324

All that certain lot or parcel of land situate in Palmer Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Steve A. Divietro by deed from Steve A. Divietro and Lisa B. Divietro, h/w, said deed recorded 10/20/2004 in Deed Book 2004-1, Page 407160.

Thereon being erected a two-story single dwelling with vinyl siding/brick exterior, shingle roof, an attached two-car garage, an additional two-car detached garage and an in-ground pool.

---

**No. C-48-CV-2016-04465**

U.S. BANK NATIONAL  
ASSOCIATION ET AL.

vs.

JUDD A. LABAR,  
PHYLLIS K. LABAR

**Property Address:**

114 North 13th Street, Easton, PA  
18042-3210

**UPI/Tax Parcel Number:**

L9SW2B/10/6/0310

All that certain message and lot of land situated in Easton City, Northampton County, Pennsylvania.

Title to said premises is vested in Judd A. Labar and Phyllis K. Labar, h/w, by deed from Richard A. Poirier and Debra A. Poirier, said deed recorded 7/7/2000 in Deed Book 2000-1, Page 84616.

Thereon being erected a two-story row home dwelling with aluminum siding and shingle roof.

---

**No. C-48-CV-2016-04843**

1900 CAPITAL TRUST II, BY U.S.  
BANK TRUST NATIONAL  
ASSOCIATION ET AL.

vs.

TERRY C. DAUBERT, JR.,  
ELAINA M. DAUBERT

**Property Address:**

3714 Lehigh Drive, Northampton,  
PA 18067

**UPI/Tax Parcel Number:**

J4/6/10E/0516

All that certain lot, parcel, or tract of land situate along the northerly side of Lehigh Drive in Lehigh Township, Northampton County, Pennsylvania.

Title to said premises is vested in Terry C. Daubert, Jr. and Elaina M. Daubert, h/w, by deed from Terry C. Daubert, widower, said deed recorded 6/8/1999 in Deed Book 1999-1, Page 84039.

Thereon being erected a colonial-style single dwelling with vinyl siding, shingle roof and an attached three-car garage.

---

**No. C-48-CV-2016-10453**

AFFINITY FEDERAL  
CREDIT UNION

vs.

MICHAEL O'DOWD

**Property Address:**

444 Broad Street, Pen Argyl, PA  
18072

**UPI/Tax Parcel Number:**

E8NE2D/59/20/0625

All that certain lot or tract of land situate in Pen Argyl Borough, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Michael O'Dowd, married, by deed from Walter W. Edelman, Jr., Executor of the Last

Will and Testament of Floyd A. Kessler, Deceased, said deed recorded 6/16/2004 in Deed Book 2004-1, Page 233335.

Thereon being erected a colonial-style single dwelling with vinyl siding and slate roof.

---

**No. C-48-CV-2016-10633**

BOROUGH OF FREEMANSBURG

vs.

KAREEM H. MORRISON,  
RACHEL E. MORRISON

**Property Address:**

707 Bach Court, Freemansburg,  
PA 18017-6303

**UPI/Tax Parcel Number:**

N7/2/48/0212

All that certain tract of land located in Freemansburg Borough, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Kareem H. Morrison and Rachel E. Morrison by deed from Ramblewood Partners of Bethlehem, L.P., said deed recorded 9/5/2003 in Deed Book 2003-1, Page 366648.

Thereon being erected a two-story townhouse dwelling with aluminum siding and shingle roof.

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**No. C-48-CV-2017-01445**

PNC BANK,  
NATIONAL ASSOCIATION

vs.

MICHAEL A. KWIATKOWSKI

**Property Address:**

250 Wagner Avenue, Hellertown,  
PA 18055

**UPI/Tax Parcel Number:**

Q7NW2C/6/1/0715

All those certain lots or pieces of land lying and being in Hellertown Borough, Northampton County, Pennsylvania.

Being the same premises conveyed unto Michael A. Kwiatkowski by deed from Miguel E. Rodriguez and Kimberly Hatter, said deed recorded



10/25/2005 in Deed Book 2005-1, Page 421398.

Thereon being erected a two-story single dwelling with vinyl siding/brick exterior, shingle roof and an attached one-car garage.

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**No. C-48-CV-2017-07289**

NORTHAMPTON AREA  
SCHOOL DISTRICT

vs.

MICHAEL C. COSTALAS,  
ANNA W. COSTALAS

**Property Address:**

685 Fir Drive, Walnutport, PA  
18088

**UPI/Tax Parcel Number:**

J3/4/3B/0516

All that certain message, tenement and lot or piece of ground situated in Lehigh Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Michael C. Costalas and Anna W. Costalas, h/w, by deed from Wayne B. Prutzman and Karen L. Prutzman, h/w, said deed recorded 5/11/1993 in Deed Book 895, Page 304.

Thereon being erected a ranch-style single dwelling with vinyl siding/brick exterior and shingle roof.

---

**No. C-48-CV-2017-09874**

NORTHAMPTON AREA  
SCHOOL DISTRICT

vs.

JAMES H. SEITZ, II,  
HEIDI L. SEITZ

**Property Address:**

680 Vista Court, Bath, PA 18014

**UPI/Tax Parcel Number:**

H5/20/1-6/0520

All that certain lot or piece of ground situate in Moore Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto James H. Seitz, II and Heidi L. Seitz by deed from Ann C. Dally and Heidi L. Seitz, said deed

recorded 6/9/2016 in Deed Book 2016-1, Page 114016.

Thereon being vacant land.

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**No. C-48-CV-2017-11258**

BAYVIEW LOAN SERVICING, LLC

vs.

BRIAN K. STULL, NANCY R. STULL

**Property Address:**

2012 11th Street, Bethlehem, PA  
18020

**UPI/Tax Parcel Number:**

N7NE4/21/10/0205

All that certain message, tenement and lots or pieces of ground situate in Bethlehem Township, Northampton County, Pennsylvania.

Title to said premises is vested in Brian Stull and Nancy Stull, h/w, by deed from Elaine J. Moyer, said deed recorded 9/11/2006 in Deed Book 2006-1, Page 373497.

Thereon being erected a two-story single dwelling with vinyl siding/brick exterior, shingle roof and an attached one-car garage.

---

**No. C-48-CV-2018-00502**

NORTHAMPTON AREA  
SCHOOL DISTRICT

vs.

JAMES H. SEITZ, II,  
HEIDI L. SEITZ

**Property Address:**

688 Vista Court, Bath, PA 18014

**UPI/Tax Parcel Number:**

H5/20/1-7/0520

All that certain lot or piece of ground situate in Moore Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto James H. Seitz, II and Heidi L. Seitz, his wife, by deed from Ann C. Dally, married, and Heidi L. Seitz, married, said deed recorded 6/9/2016 in Deed Book 2016-1, Page 114029.

Thereon being vacant land.



**No. C-48-CV-2018-01926**

U.S. BANK  
NATIONAL ASSOCIATION  
vs.

EDWARD P. FOX, III,  
MICHELLE L. DIMMITT

**Property Address:**

1038 Crawford Street, Bethlehem,  
PA 18017-6102

**UPI/Tax Parcel Number:**

N7SW1D/15/4/0204

All that certain lot or piece of land  
in Bethlehem City, Northampton  
County, Pennsylvania.

Title to said premises is vested in  
Edward P. Fox, III and Michelle L.  
Dimmitt, h/w, by deed from Matthew  
C. Hiner and Amy S. Hiner, h/w, said  
deed recorded 7/14/2005 in Deed  
Book 2005-1, Page 262707.

Thereon being erected a cape  
cod-style single dwelling with vinyl  
siding and shingle roof.

**No. C-48-CV-2018-02762**

BOROUGH OF BATH  
vs.

GEORGENE R. RHODES

**Property Address:**

218 Old Forge Drive, Bath, PA  
18014

**UPI/Tax Parcel Number:**

K6NW4B/4/16/0503

All that certain tract of land situate  
in Bath Borough, Northampton  
County, Pennsylvania.

Being the same premises granted  
and conveyed unto Georgene R.  
Rhodes by deed from Georgene R.  
Gable n/k/a Georgene R. Rhodes,  
said deed recorded 1/27/1997 in  
Deed Book 1997-1, Page 7836.

Thereon being erected a two-story  
townhouse dwelling with brick  
exterior/vinyl siding and shingle roof.

**No. C-48-CV-2018-03879**

FEDERAL NATIONAL  
MORTGAGE ASSOCIATION

vs.

MICHAEL A. MUJAHID a/k/a  
MICHAEL REEDER,  
BEVERLY A. NIXON-REEDER

**Property Address:**

3005 Fox Hill Road, Easton, PA  
18045

**UPI/Tax Parcel Number:**

K8/15/2-128/0324

All that certain piece, parcel or  
tract of land situate in Palmer  
Township, Northampton County,  
Pennsylvania.

Being the same premises conveyed  
unto Michael Reeder and Beverly A.  
Nixon-Reeder, h/w, by deed from  
NVR, Inc., a Virginia Corporation,  
trading as Ryan Homes, said deed  
recorded 3/5/2007 in Deed Book  
2007-1, Page 83563.

Thereon being erected a two-story  
single dwelling with vinyl siding/brick  
exterior, shingle roof and an attached  
two-car garage.

**No. C-48-CV-2018-04269**

U.S. BANK  
NATIONAL ASSOCIATION, AS  
TRUSTEE ET AL.

vs.

SANDRA MARIE OSTILE

**Property Address:**

556 O.W. Road, Bangor, PA 18013

**UPI/Tax Parcel Number:**

E9/20/8C/0134

All that certain piece, parcel or  
tract of land situate and being in  
Washington Township, Northampton  
County, Pennsylvania.

Title to said premises is vested in  
Santa Marie Ostile a/k/a Sandra  
Marie Ostile, single, by deed from  
John L. Murling, Sr. and Marie A.  
Murling, his wife, said deed recorded  
5/27/1993 in Deed Book 897, Page  
239.

Thereon being erected a colonial-  
style single dwelling with brick  
exterior, shingle roof, attached  
two-car garage and a detached 4-car  
garage.

**No. C-48-CV-2018-04544**BETHLEHEM AREA  
SCHOOL DISTRICT

vs.

CARL P. DELVILLAGGIO

**Property Address:**3049 Washington Street,  
Bethlehem, PA 18020-5544**UPI/Tax Parcel Number:**

N7NW3/55/8/0205

All those certain lots located in Bethlehem Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Carl P. Delvillaggio by deed from Carl P. Delvillaggio, Executor under the Last Will and Testament of John C. Delvillaggio, Deceased, said deed recorded 9/22/2016 in Deed Book 2016-1, Page 202574.

Thereon being erected a two-story duplex dwelling with brick exterior, shingle roof and an attached one-car garage.

**No. C-48-CV-2018-05760**BETHLEHEM AREA  
SCHOOL DISTRICT

vs.

STANLEY A. YEVELSON,  
MICHELE K. YEVELSON**Property Address:**937 Barnsdale Road, Bethlehem,  
PA 18017-3897**UPI/Tax Parcel Number:**

N6/6/2A-6/0204

All that certain lot or piece of land situate on the north side of Barnsdale Road between Barclay Manor and Linden Street in the 14th Ward of Bethlehem City, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Stanley A. Yevelson and Michele K. Yevelson, h/w, by deed from Carole G. Gombosi, married, said deed recorded 6/24/1997 in Deed Book 1997-1, Page 65219.

Thereon being erected a two-story single dwelling with wood exterior, shingle roof and an attached two-car garage.

**No. C-48-CV-2018-10164**NORTHAMPTON AREA  
SCHOOL DISTRICT

vs.

WILLIAM C. BILLMAN, JR.,  
ALICE E. BILLMAN**Property Address:**3891 Banyan Drive, Danielsville,  
PA 18038-9567**UPI/Tax Parcel Number:**

H3/12/7-13/0516

All that certain tract of land located in Lehigh Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto William C. Billman, Jr. and Alice E. Billman by deed from Richard C. Becker and Naomi J. Becker, h/w, said deed recorded 11/23/1994 in Deed Book 1994-6, Page 99274.

Thereon being erected a ranch-style single dwelling with vinyl siding, shingle roof and a detached one-car garage.

**No. C-48-CV-2018-11452**

WELLS FARGO BANK, N.A.

vs.

WILLIAM BIES,  
KAREN GETTMANN**Property Address:**705 Hillcrest Drive, Portland, PA  
18351**UPI/Tax Parcel Number:**

B11SE3A/1/9/0127

All that certain lot situate in Portland Borough, Northampton County, Pennsylvania.

Being the same property conveyed to William Bies by deed from Diane E. Wilson, said deed recorded 11/27/2013 in Deed Book 2013-1, Page 307482.

Thereon being erected a bi-level single dwelling with vinyl siding and shingle roof.

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**No. C-48-CV-2019-00575**

SHARESTATES INVESTMENTS  
LLC, SERIES BC2017-001473

vs.

DLH MANAGEMENT LLC

**Property Address:**

800 Walnut Avenue, Easton, PA  
18042

**UPI/Tax Parcel Number:**

L9SE1C/15/8/0310

All that certain piece or parcel of land situate in Easton City, Northampton County, Pennsylvania.

Thereon being erected a two-story half-double dwelling with aluminum siding and shingle roof.

**Property Address:**

802 Walnut Avenue, Easton, PA  
18042

**UPI/Tax Parcel Number:**

L9SE1C/15/7/0310

All that certain piece or parcel of land situate in Easton City, Northampton County, Pennsylvania.

Being the same premises vested in DLH Management, LLC by deed from Daniel A. Holder, a married man, said deed recorded 1/18/2018 in Deed Book 2018-1, Page 10961.

Thereon being erected a two-story duplex dwelling with aluminum siding and shingle roof.

---

**No. C-48-CV-2019-00742**

REO TRUST 2017-RPL1

vs.

ROBERT M. SPEARMINT, JR.,  
JENNIFER S. SPEARMINT

**Property Address:**

15 George Street, Pen Argyl, PA  
18072

**UPI/Tax Parcel Number:**

E8NE2D/27/1/0625

All that certain lot situated in Pen Argyl Borough, Northampton County, Pennsylvania.

Title to said premises is vested in Robert M. Spearmint, Jr. and Jennifer S. Spearmint, h/w, tenants by the entirety, by special warranty deed from Michael G. Farmer and Elizabeth M. Farmer, his wife, said deed recorded 8/30/2002 in Deed Book 2002-1, Page 230830.

Thereon being erected a colonial-style single dwelling with vinyl siding, shingle roof and a detached three-car garage.

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**No. C-48-CV-2019-01526**

SUN WEST MORTGAGE  
COMPANY, INC.

vs.

SYLVESTER LEE TINGLE

**Property Address:**

2416 6th Street, Bethlehem, PA  
18020

**UPI/Tax Parcel Number:**

N7NE1/13/4/0205

All that certain parcel of land situate in Bethlehem Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Sylvester Lee Tingle, a married man as his sole and separate property, by deed from Sylvester Lee Tingle, a married man who acquired title as unmarried herein joined by his spouse Kysha N. Brody, by Quit Claim Deed recorded 10/6/2015 in Deed Book 2015-1, Page 195723.

Thereon being erected a split-level single dwelling with aluminum siding, shingle roof and an attached two-car garage.

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**No. C-48-CV-2019-02172**

FULTON BANK, N.A.

vs.

JONATHAN PERNER,  
INDIVIDUALLY AND AS  
EXECUTOR OF ESTATE OF NILI T.  
PERNER-KASZA a/k/a NILI  
TAMMY PERNER-KASZA,  
DECEASED, UNKNOWN HEIRS,

SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER NILI T. PERNER-KASZA a/k/a NILI TAMMY PERNER-KASZA, DECEASED, NILI TAMMY PERNER-KASZA, DECEASED

**Property Address:**

2159 Stocker Mill Road, Easton, PA 18045-7416

**UPI/Tax Parcel Number:**

K9SW1/4/3/0324

All that certain message, tenement and lot or piece of land situate in Palmer Township, Northampton County, Pennsylvania.

Title to said premises is vested in Jonathan M. Perner by deed from Estate of Nili T. Perner-Kasza a/k/a Nili Tammy Perner-Kasza, said deed recorded 7/17/2019 in Deed Book 2019-1, Page 144041.

Thereon being erected a ranch-style single dwelling with brick exterior, shingle roof and an attached two-car garage.

**No. C-48-CV-2019-02575**

WILMINGTON SAVINGS FUND SOCIETY, FSB d/b/a  
CHRISTIANA TRUST ET AL.

vs.

CRAIG N. MERKEL, JR.,  
CHRISTINE M. MERKEL

**Property Address:**

543 Carol Lane, Bath, PA 18014

**UPI/Tax Parcel Number:**

H6SW3/4/6/0520

All that certain tract or parcel of land situate in Moore Township, Northampton County, Pennsylvania.

Title to said premises is vested in Craig N. Merkel, Jr. and Christine M. Merkel a/k/a Christine Merkel by deed from James N. Iannitto and Karen J. Iannitto, h/w, said deed recorded 9/9/1997 in Deed Book 1997-1, Page 97575.

Thereon being erected a ranch-style single dwelling with vinyl siding, shingle roof and a detached two-car garage.

**No. C-48-CV-2019-03302**

DITECH FINANCIAL LLC

vs.

DAVID AHN,  
MARGARET NOTHSTEIN

**Property Address:**

4262 Howertown Road, Northampton, PA 18067

**UPI/Tax Parcel Number:**

K4SW1/1/6/0501

All that certain lot, parcel or tract of land, situate and lying in Allen Township, Northampton County, Pennsylvania.

Title to said premises is vested in David Ahn and Margaret Nothstein by deed from David Ahn, said deed recorded 3/25/2008 in Deed Book 2008-1, Page 80504.

Thereon being erected a two-story single dwelling with shingled exterior and shingle roof.

**No. C-48-CV-2019-03437**

CARRINGTON MORTGAGE SERVICES, LLC

vs.

HEATHER HAHR,  
ROBERT E. HAHR, JR.

**Property Address:**

339 Green Street, Bath, PA 18014

**UPI/Tax Parcel Number:**

K6NW4C/13/15A/0503

All that certain message, tenement or lot of ground situate in Bath Borough, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Robert E. Hahr, Jr. and Heather Hahr, h/w, by deed from John C. Kardelis and Maureen G. Kardelis, said deed recorded 10/17/2014 in Deed Book 2014-1, Page 181904.

Thereon being erected a two-story single dwelling with aluminum siding, shingle roof and a detached two-car garage.

---

**No. C-48-CV-2019-04264**

NATIONSTAR

MORTGAGE LLC ET AL.

vs.

MIRANDA NICOLE CLARK,  
ADMINISTRATRIX C.T.A. FOR THE  
ESTATE OF ROBERT N. EASTON,  
DECEASED, SARAH D. EASTON,  
KNOWN HEIR OF ROBERT N.  
EASTON, DECEASED, ESTATE OF  
ROBERT N. EASTON

**Property Address:**

4951 Coatbridge Lane, Walnut-  
port, PA 18088

**UPI/Tax Parcel Number:**

J2/18/20-62/0516

All that certain tract, piece or  
parcel of land situate in Lehigh  
Township, Northampton County,  
Pennsylvania.

Title to said premises is vested in  
Robert N. Easton by deed from  
Greenock Ventures, LLC, said deed  
recorded 9/13/2018 in Deed Book  
2018-1, Page 197031. The said  
Robert N. Easton departed this life on  
10/27/2018. Estate No. 2018-1456  
was filed within the Register of Wills  
of Northampton County naming  
Miranda Nicole Clark as Administra-  
trix C.T.A. for the Estate.

Thereon being erected a two-story  
half-double dwelling with vinyl  
siding/stone exterior, shingle roof and  
an attached two-car garage.

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**No. C-48-CV-2019-04267**

PHH MORTGAGE CORPORATION

vs.

EUGENE KARWACKI, JR.,  
SHELBY SHOEMAKER

**Property Address:**

102 Wynnwood Lane East,  
Easton, PA 18040

**UPI/Tax Parcel Number:**

K9/16/10-21/0311

All that certain lot or parcel of land  
situate on the north side of Wynnwood  
Lane East in Forks Township, North-  
ampton County, Pennsylvania.

Being the same premises granted  
and conveyed unto Eugene Karwacki  
Jr., unmarried, and Shelby  
Shoemaker, unmarried, as joint  
tenants with the right of survivorship,  
by deed from Sean P. Bonini and  
Sandra Y. Bonini a/k/a Sandra  
Yasmin Bonini, by her agent Sean  
Paul Bonini, said deed recorded  
7/29/2008 in Deed Book 2008-1,  
Page 218316.

Thereon being erected a bi-level  
single dwelling with vinyl siding,  
shingle roof and an attached one-car  
garage.

---

**No. C-48-CV-2019-05440**

US BANK

NATIONAL ASSOCIATION,  
AS TRUSTEE ET AL.

vs.

DIANA M. SEEDS, THE UNITED  
STATES OF AMERICA,  
RICHARD J. SEEDS

**Property Address:**

3432 Spear Street, Bethlehem, PA  
18020-3440

**UPI/Tax Parcel Number:**

M7SW3/24/5/0205

All those certain lots or pieces of  
land situate in Bethlehem Township,  
Northampton County, Pennsylvania.

Being the same premises granted  
and conveyed unto Diana M. Seeds  
and Richard J. Seeds, h/w, by deed  
from Diana M. Seeds and Richard J.  
Seeds, h/w, said deed recorded  
4/29/1997 in Deed Book 1997-1,  
Page 41300.

Thereon being erected a ranch-  
style single dwelling with vinyl siding,  
shingle roof and an attached two-car  
garage.

**No. C-48-CV-2019-05869**

BAYVIEW LOAN SERVICING, LLC

vs.

JOHN K. DAGGETT,  
OMEGA DAGGETT**Property Address:**3011 Windsor Street, Easton, PA  
18045**UPI/Tax Parcel Number:**

L8/9/3Y/0324

All that certain lot or tract of land located in Palmer Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto John K. Daggett and Omega Daggett, h/w, by deed from Lawrence J. Kolasensky and Carol H. Kolasensky, h/w, said deed recorded 7/2/2004 in Deed Book 2004-1, Page 257841.

Thereon being erected a two-story single dwelling with vinyl siding/brick exterior, shingle roof and an attached one-car garage.

**No. C-48-CV-2019-06168**

FREEDOM

MORTGAGE CORPORATION

vs.

MEGAN SMITH, AARON SMITH

**Property Address:**1936 Abbruzzi Avenue, Martins  
Creek, PA 18063**UPI/Tax Parcel Number:**

H10NW4/1/2/0317

All those three certain lots or pieces of land situated in Lower Mount Bethel Township, Northampton County, Pennsylvania.

Title to said premises is vested in Aaron Smith and Megan Smith, h/w, by deed from Rodney D. Pensack, Executor of the Estate of Lillian G. Pensack, said deed recorded 1/13/2010 in Deed Book 2010-1, Page 8177.

Thereon being erected a cape cod-style single dwelling with brick exterior and shingle roof.

**No. C-48-CV-2019-06305**

WILMINGTON SAVINGS FUND

SOCIETY, FSB ET AL.

vs.

BELLANUNA, LLC

**Property Address:**4357 Newburg Road, Nazareth, PA  
18064**UPI/Tax Parcel Number:**

L7NW2/4/11/0418

All that certain tract or parcel and message of land situate on the westerly side of PA State Route 191 and on the southerly side of Newburg Road in Lower Nazareth Township, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Bellanuna LLC, a PA limited liability company, by deed from Luigi Basta and Mary D. Basta, h/w, said deed recorded 9/10/2014 in Deed Book 2014-1, Page 156898.

Thereon being erected a commercial two-story single dwelling with masonry exterior/aluminum & vinyl siding, shingle & slate roof and parking lot.

**No. C-48-CV-2019-06509**

MIDFIRST BANK

vs.

RAYMOND H. SMALLBERGER, III,  
CHERYL L. SMALLBERGER,  
SECRETARY OF HOUSING AND  
URBAN DEVELOPMENT**Property Address:**838 West Milton Street, Easton,  
PA 18042**UPI/Tax Parcel Number:**

M9NE1A/18/4/0310

All that certain lot of land situated on the south side of Milton Avenue, formerly Main Street, in Easton City, Northampton County, Pennsylvania.

Being the same premises granted and conveyed unto Raymond H. Smallberger, III and Cheryl L. Smallberger by deed from Barry J. Sliker and Jean M. Sliker, his wife,

said deed recorded 6/24/1986 in Deed Book 703, Page 172.

Thereon being erected a two-story half-double dwelling with vinyl siding/wood exterior and shingle roof.

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**No. C-48-CV-2019-06873**

US BANK NATIONAL  
ASSOCIATION ET AL.

vs.

ANN L. PIERCE

***Property Address:***

2148 Butler Street, Easton, PA  
18042

***UPI/Tax Parcel Number:***

L9SW4B/11/2/0837

All that certain message, tenement and lot or piece of ground situate on Butler Street in Wilson Borough, Northampton County, Pennsylvania.

Title to said premises is vested in Ann L. Pierce by deed from Anthony N. Verenna and Gwyn J. Verenna, h/w, said deed recorded 8/24/1998 in Deed Book 1998-1, Page 112522.

Thereon being erected a two-story half-double dwelling with aluminum siding and shingle roof.

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**No. C-48-CV-2019-07106**

NATIONSTAR HECM ACQUISITION  
TRUST 2018-2 ET AL.

vs.

LOUIS KOOTSARES,  
WENDY KOOTSARES

***Property Address:***

108 North Westbrook Avenue, Pen  
Argyl, PA 18072

***UPI/Tax Parcel Number:***

E8NE2A/28/2/0625

All that certain lot, piece or parcel or tract of land situate in Pen Argyl Borough, Northampton County, Pennsylvania.

Title to said premises is vested in Louis Kootsares and Wendy Kootsares, his wife, by deed from Crecienzo Malone and Mary Malone, his wife, said deed recorded 6/19/1974 in Deed Book 490, Page 244.

Thereon being erected a colonial-style single dwelling with vinyl siding, slate roof and a detached one-car garage.

A Schedule of Distribution will be filed by the Sheriff thirty days from the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed thereto within ten days from the date of filing the Schedule of Distribution.

RICHARD H. JOHNSTON

Sheriff

Northampton County,  
Pennsylvania

DAVID J. CERAUL, ESQUIRE  
Solicitor to the Sheriff

Jan. 16, 23, 30



**NORTHAMPTON COUNTY  
COURT OF COMMON PLEAS  
PROBLEM-SOLVING COURT DIVISION  
ANNOUNCEMENT**

The Northampton County Problem-Solving Court Division is pleased to announce that the Drug Court is now known as the Recovery Court. Updated Policy and Procedure and Application materials are available at the County's Criminal Court forms webpage at: <https://www.nccpa.org/forms/criminal>.

All future applications shall use the revised form and shall be complete when submitted. Incomplete forms will be returned for completion.

Please contact the Recovery Court Coordinator, Stephanie Spencer Steward at (610) 829-6926 or [sspencer@northamptoncounty.org](mailto:sspencer@northamptoncounty.org) with any questions.

Jan. 9, 16, 23

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Jan. 9, 16, 23

**BETHLEHEM MANOR VILLAGE, LLC and  
PENNSYLVANIA VENTURE CAPITAL, INC., Appellants v.  
ZONING HEARING BOARD of the CITY of BETHLEHEM,  
Appellee and ALEXANDER SCHWARZ, CHRISTINE USSLER,  
GREGORY A. ZEBROWSKI and  
CITY of BETHLEHEM, Intervenor**

*Zoning and Planning—Municipal Corporations/Local Agency Law—Administrative Law and Procedure.*

Appellants filed a land use appeal seeking judicial review of a decision by the Zoning Hearing Board of the City of Bethlehem, denying Appellants' appeal from a determination of the Zoning Officer adverse to Appellants' application to construct a psychiatric hospital. The Court affirmed the decision of the Board.

The Court found that the Board used the proper standard of review, affording deference to the Zoning Officer's interpretation and reviewing whether the Zoning Officer was "clearly erroneous." Nevertheless, the Court found that the issue regarding standard of review was inconsequential given that the Board accepted additional evidence and made findings that were supported by substantial evidence and not contrary to law.

The Court found that in making its decision, the Board considered evidence from Appellants' witnesses and experts, which was speculative and equivocal on the issue of whether the proposed facility was a permitted "Hospital" under the Ordinance. Further, the Court agreed with the Board's interpretation of the Ordinance in finding that the proposed use was not permitted as a "Related Testing and Treatment Facility." Finally, the Court found that the Board made findings of fact, supported by substantial evidence, that the proposed use meets the key criteria for a "Treatment Center" under the Ordinance, which is not a permitted use in the I Institutional District in the City of Bethlehem.

In the Court of Common Pleas of Northampton County, Pennsylvania,  
Civil Division—Law—No. C-48-CV-2019-1709.

JOHN A. VAN LUVANEE, ESQUIRE, for Appellants.

ERICH J. SCHOCK, ESQUIRE, for Appellees.

STEVEN GOUDSOUZIAN, ESQUIRE and STEPHANIE STEWARD, ESQUIRE,  
for Schwarz, Ussler, and Zebrowski Intervenor.

EDMUND J. HEALY, ESQUIRE, for City of Bethlehem Intervenor.

Order of the Court entered on November 15, 2019 by SLETVOLD, J.

*OPINION*

This is a land use appeal filed by the owner of property, Bethlehem Manor Village, LLC ("BMV") and the agent for the owner, Pennsylvania Venture Capital, Inc. ("PVC") (collectively "Appellants") from a decision of the Zoning Hearing Board of the City of Bethlehem ("Board" or "Appellee") dated February 1, 2019, wherein the Board denied Appellants' appeal from a determination of the Zoning Officer adverse to Appellants'

application to construct a psychiatric hospital. At issue in this appeal is the interpretation of the City of Bethlehem Zoning Ordinance, effective June 15, 2012 (“Ordinance”); specifically, whether Appellants’ proposed psychiatric hospital is a permitted use in the I Institutional District. After careful consideration, we affirm the decision of the Board.

### *FACTUAL BACKGROUND AND PROCEDURAL HISTORY*

On April 11, 2013, BMV submitted preliminary land development plans to the City of Bethlehem (“City”) proposing the development of a psychiatric hospital on the property located at 1838 Center Street, Bethlehem, Northampton County, Pennsylvania (the “Property”). The preliminary land development plans were identified by the City as “Bethlehem Hospital Land Development Plan (13-002-LD)” (the “Land Development Plan”). The Property is located in the City’s I Institutional Zoning District. At the time of filing, the Ordinance included as a permitted use in the I District “Hospital or Surgery Center or Related Testing and Treatment Facilities,” however, a “Treatment Center” was not a permitted use pursuant to the Ordinance.

By letter dated September 12, 2013, the City Planning Commission granted conditional approval to the Land Development Plan (the “Land Development Approval Letter”). *See* Index of Record 3/28/19, Ex. “A-2.” In the Land Development Approval Letter, the Planning Commission imposed seven (7) conditions of approval, which conditions included *inter alia*:

1. The applicant shall comply with all conditions stated in the September 5, 2013 review letter [issued by the City’s Director of Planning and Zoning (the ‘Zoning Review Letter 9/5/13’) which was attached to the Land Development Approval Letter];

2. The applicant shall obtain any and all necessary approvals under the City of Bethlehem Zoning Ordinance, including, but not limited to, a determination that the proposed plan is a permitted use at the property. In the event the proposed plan is not a permitted use, Applicant shall be required to obtain the necessary zoning relief from the Zoning Hearing Board as a condition of this approval. Furthermore, Applicant shall be required to obtain any additional necessary zoning relief as a condition of this approval;

3. The applicant shall obtain any and all necessary approvals and licenses from the Commonwealth of Pennsylvania, including, but not limited to, any licensing necessary to open and operate the proposed facility under applicable law ... ;

6. The applicant shall not operate a Treatment Center at this site as defined in the Zoning Ordinance.

*See id.*, Exhibit “A-2” at p. 1.

The Zoning Review Letter of 9/5/13 stated, *inter alia*, that:

Applicant shall provide evidence of the location of following to assist in the verification that the proposed use is a hospital, per Chapter 51 of Part IV: Health Facilities for the State of Pennsylvania, Department of Health:

- Pharmacy (§ 101.31 & § 113.1)
- Emergency Room (§ 117.1 & § 117.32)
- Radiologic Services area (§ 127.2)
- Library (§ 101.31 & § 145)
- Maintenance, laundry, housekeeping facilities area (Chapter 147)
- Central supply area (§ 149.3)

This information will assist in my determination whether the proposed use is a hospital or a residential treatment facility. The applicant shall submit the PA DOH floor plan to this office when submitting to the State.

*See id.*, Ex. “A-2.”

The Zoning Review Letter of 9/5/13 further required BMV to “obtain a determination from the Zoning Officer regarding any and all uses proposed and shall meet any and all provisions of the Zoning Ordinance prior to receiving a building permit.”<sup>1</sup> *See id.*

On July 11, 2018, BMV, through its agent PVC, submitted a zoning permit application (the “Zoning Permit Application”) to the Zoning Officer. *See id.*, Ex. “A-1.” The Zoning Permit Application and accompanying cover letter described the proposed use as a “Freestanding Private Inpatient Acute Hospital,” and it included an attached application that had been submitted to the Pennsylvania Department of Health Division of Safety Inspection on May 25, 2018. *See id.* at Exs. “A-1” and “C-1.” The application consisted of the following documents:

- a. 1-page cover letter dated July 11, 2018 from PVC;
- b. 1-page Application for Permit dated July 11, 2018 directed to the City;
- c. 1-page cover letter from ‘Valley Behavioral Health Hospital, LLC’ to the Pennsylvania Department of Health dated May 25, 2018 which submitted a ‘Program Narrative for Valley Behavioral Health Hospital’;

<sup>1</sup> We note that in their brief, Appellants take the position that Section 1345.01 of the City Subdivision and Land Development Ordinance (“SALDO”), in effect at the time, provided that one of the factors on which the Planning Commission’s decision to approve or disapprove a land development plan depends is “adherence to the pertinent regulations in the City Zoning Ordinance.” SALDO §1345.01. Appellants believe that, based on this directive, the Planning Commission should have made a determination that the proposed use was a permitted use before approving the Land Development Plan. *See* Appellants’ Brief in Support of Land Use Appeal dated June 24, 2019 (“Appellants’ Brief”) at p. 4.

d. 1-page document entitled ‘Plan Review Application’ dated May 25, 2018 (which accompanied item 2(c)) to the Pennsylvania Department of Health Division of Safety Inspection;

e. 8-page PowerPoint-style document (which accompanied item 2(c)) describing the proposed use and minimal structural elements associated therewith;

f. 6-pages bearing a general topical heading of ‘1.2-2 Functional Program’, plus 5 spreadsheet pages describing the types of rooms constituting the facility, all of which accompanied item 2(c); and

g. 13 large-scale pages of architectural submissions, all of which accompanied item 2(c), but only 2 of which depict the room layout on each of the two floors constituting the facility.<sup>[2]</sup>

See Written Decision of the Board dated February 1, 2019 (“Board Decision 2/1/19”) at pp. 5-6, ¶¶18, 19; *see also*, Index of Record 3/28/19, Exs. “A-1” and “C-1.”

On July 20, 2018, the Zoning Officer issued a response letter denying the requested zoning permit (the “Permit Denial Letter”). In the Permit Denial Letter, the Zoning Officer concluded that “the proposed use ... is a treatment center under § 1302.127 ...,” and that “this determination is inconsistent with Item #6 of the City Planning Commission approval letter dated September 12, 2013 ...” See Index of Record 3/28/19, Ex. “A-3.”

The Zoning Officer explained in the Permit Denial Letter that she had relied upon the definitions of “hospital” and “treatment facility” in the Ordinance, as well as “other pertinent articles of the Zoning Ordinance.” *Id.* She then stated the bases for her determination, which were, *inter alia*:

- that the use ‘proposes to address types of mental illness or other behaviors that cause a person to be a threat to the physical safety of others,’ because some patients will be housed in secured wings and there are secured courtyards;
- that there are 21 beds designated for an adult inpatient Dual Dx [diagnosis] program ‘for when someone experiences a mental illness and a substance abuse disorder simultaneously ...’;
- that a ‘Management Plan’ submitted for a residential treatment facility proposed at 111 Dewberry Avenue, which allegedly ‘mirrors the Department of Health application proposed for 1838 Center Street ...’ and demonstrates that ‘the operations are those of a treatment center ...’; and

<sup>2</sup> At the hearing before the Board, thirteen large-scale pages of architectural submissions were omitted from the record. N.T. 9/6/18 at pp. 11-12. Two reduced-size sheets depicting the layouts of the two floors were admitted as Exhibit “C-3.” *Id.* at pp. 59-62.

- that the proposed use does not qualify as a ‘hospital’ because ‘the building will not be “licensed by the Pennsylvania Department of Health as a Hospital” ... ’ and because ‘the Pennsylvania Department of health does not issue licenses for the kinds of psychiatric care or structure planned at this location.’

*Id.*

On July 25, 2018, PVC and BVM filed an appeal of the Zoning Officer’s Permit Denial Letter to the Board. Hearings were held before the Board on September 6 and November 29, 2018. *See* Notes of Testimony (“N.T.”), 9/6/18 and 11/29/18. Appellants offered the testimony of three key witnesses: Dwayne Jones, a consultant hired to assist in preparing the licensing applications for the proposed psychiatric hospital, who testified as a lay witness; Dr. Dominic Marfisi, a consultant psychiatrist who assisted in preparing the licensing applications for the psychiatric hospital, who was accepted as an expert in the licensing of medical facilities; and Dr. Muhamad Aly Rifai, a licensed physician and Board-certified psychiatrist, who was accepted as an expert in psychiatry and the licensing process in Pennsylvania for both treatment centers and psychiatric hospitals. Oral argument was held before the Board on December 19, 2018. The Assistant City Solicitor, Edmund Healy, Esquire, appeared on behalf of the City in opposition to the application. Steven Goudsouzian, Esquire, appeared on behalf of Alexander Schwarz, Christine Ussler, Greg Zebrowski, and William and Susan Moran<sup>3</sup> all of whom are homeowners who live in the vicinity of the Property.

The Board issued a written decision on February 1, 2019. In the Board Decision, the Board sustained the Zoning Officer’s determination in the Permit Denial Letter and denied the appeal.

On February 27, 2019, Appellants commenced this land use appeal. On March 7, 2019, Alexander Schwarz, Christine Ussler and Gregory A. Zebrowski filed a Notice of Intervention. On March 13, 2019, the City filed its Notice of Intervention under 53 P.S. §11004-A. On March 28, 2019, the Board filed the original record.

On June 24, 2019, Appellants filed their Brief in Support of Land use Appeal (“Appellants’ Brief”). On August 22, 2019, Appellee, the Board, filed a Brief In Support of Its Decision (“Appellee’s Brief”). The City filed a Brief In Opposition To Land Use Appeal, dated August 19, 2019 (“City’s Brief”). Intervenors, Alexander Schwarz, Gregory Zebrowski and Christine Ussler, filed a Brief In Opposition to Appeal of Bethlehem Manor Village, dated August 19, 2019 (“Intervenors’ Brief”). Appellants filed a Reply Brief on September 30, 2019. This Court entertained oral argument on August 27, 2019. The matter is now ripe for disposition.

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<sup>3</sup>William and Susan Moran are not Intervenors in the instant appeal.



*QUESTIONS PRESENTED*

Appellants raise the following issues for our consideration:

A. Whether the ZHB [Board] erred as a matter of law in applying a standard and scope of review applicable to appellate courts in land use matters and limiting the evidence it would consider to that which was available to the Zoning Officer when she prepared her Permit Denial Letter.

B. Whether Appellants' proposed psychiatric hospital is a permitted use in the I District of the City because it falls under the use of a 'Hospital or Surgery Center or Related Testing and Treatment Facilities.'

C. Whether Appellants' proposed psychiatric hospital does not qualify as a 'Treatment Center' as that term is defined under the 2012 Zoning Ordinance.

Appellants' Brief at p. 9.

By contrast, Appellee, the Board, frames the issues as follows:

A. Whether the Zoning Hearing Board properly applied the appellate standard of review and scope of review and provided deference to the interpretation of the zoning officer in a manner consistent with Pennsylvania law?

B. Whether applicant failed to meet its burden to prove that the proposed facility is a hospital, because it did not meet the definition of such use under the Zoning Ordinance as any evidence of licensure by the Department of Health was speculative or equivocal?

C. Whether the Zoning Hearing Board appropriately interpreted the ordinance in holding that the proposed facility was not a treatment facility related to a hospital, an issue which was waived by applicant as it was beyond the scope of the application to both the Zoning Officer and the Zoning Hearing Board?

Appellee's Brief at p. 3.

*STANDARD AND SCOPE OF REVIEW*

Whether a proposed use falls within a given category of a zoning ordinance is a question of law subject to an appellate court's plenary review. *In re Richboro CD Partners, L.P.*, 89 A.3d 742, 747 (Pa. Commw. 2014). Ordinances are to be construed expansively, affording the landowner the broadest possible use and enjoyment of his land. *Aldridge v. Jackson Township*, 983 A.2d 247, 253 (Pa. Commw. 2009). Thus, "restrictions on a property owner's right to free use of his property must be strictly construed and all doubts resolved in his favor." *Id.* (citing *Appeal of Gilden*, 406 Pa. 484, 492, 178 A.2d 562, 566 (1962)). "Like statutes, the primary objective

of interpreting ordinances is to determine the intent of the legislative body that enacted the ordinance.” *Id.* (citations omitted). “Where the words in an ordinance are free from all ambiguity, the letter of the ordinance may not be disregarded under the pretext of pursuing its spirit.” *Id.* (citing 1 Pa. C.S. §1921); *see also*, 1 Pa. C.S. §1903 (words and phrases in a statute shall be construed in accordance with their comment and accepted usage). “An ambiguity exists when language is subject to two or more reasonable interpretations and not merely because two conflicting interpretations may be suggested.” *Aldridge*, *supra* (citations omitted). Finally, a board of supervisors is entitled to considerable deference in interpreting its zoning ordinance. *Id.* at 254.

The proper scope of review is set forth in Section 754(b) of Local Agency Law, 2 Pa. C.S.A. §754(b) which provides:

(b) *Complete record.*—In the event a full and complete record of the proceedings before the local agency was made, the court shall hear the appeal without a jury on the record certified by the agency. After hearing the court shall affirm the adjudication unless it shall find that the adjudication is in violation of the constitutional rights of the appellant, or is not in accordance with law, or that the provisions of Subchapter B of Chapter 5 (relating to practice and procedure of local agencies) have been violated in the proceedings before the agency, or that any finding of fact made by the agency and necessary to support its adjudication is not supported by substantial evidence. If the adjudication is not affirmed, the court may enter any order authorized by 42 Pa.C.S. § 706 (relating to disposition of appeals).

2 Pa. C.S. §754(b). Thus, “[p]ursuant to Section 754(b), a reviewing court may properly reverse where it determines that constitutional rights were violated, an error of law was committed, the procedure before the agency was contrary to statute, or the necessary findings of fact were not supported by substantial evidence.” *In re Thompson*, 896 A.2d 659, 668 (Pa. Commw. 2006). An abuse of discretion can be found only if the Board’s findings are not supported by substantial evidence. This means “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Valley View Civic Association v. Zoning Board of Adjustment*, 501 Pa. 550, 555, 462 A.2d 637, 640 (1983); *Eichlin v. Zoning Hearing Board of New Hope Borough*, 671 A.2d 1173, 1175 (Pa. Commw. 1996). Moreover, in a zoning case, the Board is the sole judge of the credibility of the witnesses and the weight to be given to their testimony. *McDonald v. Zoning Board of Adjustment*, 133 Pa. Commonwealth Ct. 664, 577 A.2d 240 (1990). A Board may reject even uncontradicted testimony if it finds that it is lacking in credibility. *Lower Allen Citizens Action Group, Inc. v. Lower Allen Township Zoning Hearing Board*, 93 Pa. Commonwealth Ct.

96, 105, 500 A.2d 1253, 1258 (1985); *George v. Zoning Hearing Board of Upper Moreland Township, Montgomery County*, 39 Pa. Commonwealth Ct. 472, 396 A.2d 478 (1978).

### THE PARTIES' ARGUMENTS

Appellants argue herein that the Board erred as a matter of law and abused its discretion by affirming the Zoning Officer's denial of Appellants' Zoning Permit Application and dismissing their appeal. Appellants believe that the Board applied an overly narrow standard and scope of review in order to disregard testimony offered by Appellants' expert witnesses based solely on the fact that the information they offered had not been presented to the Zoning Officer when she made the decision to deny the permit. Even if the standard applied by the Board—that of an appellate court reviewing a matter where no additional evidence has been taken—was appropriate, Appellants assert that the Board misapplied the standard because additional evidence and testimony was taken, and the Board issued its own written findings of fact and conclusions of law. In the alternative, Appellants argue that the proposed psychiatric hospital is a permitted use on the Property under the broad use category of a "Hospital or Surgery Center or Related Testing and Treatment Facilities" and that the Zoning Officer erred when she ignored Appellants' own characterization of the proposed facility and concluded that the facility was for a non-permitted treatment center use. They argue that the testimony and evidence established that the proposed psychiatric hospital does not fall within the definition of a "Treatment Center." Additionally, Appellants posit that even if the facility does not qualify as a "Hospital," it falls within the broader use classification of a "Related ... Treatment Facility."

Appellee, the Board, argues that Appellants have waived the issue concerning whether or not the Board applied the appropriate appellate scope and standard of review and also that Appellants' argument in this regard is contrary to established case law. The Board further argues that Appellants failed to meet their burden to prove that the proposed facility is a hospital because Appellants did not meet the zoning ordinance requirement of licensure by the Department of Health. Further, the Board argues that it appropriately concluded that the proposed facility was not related to a hospital or surgical facility, an issue which was waived by Appellants and beyond the scope of their application. The Board also takes the position, as it did in its written decision, that the proposed use is a prohibited treatment center.<sup>4</sup>

The City takes the position that the Board applied the proper standard of review during its consideration of the appeal from the Zoning Officer's

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<sup>4</sup> Intervenor Schwarcz, Zebrowski and Ussler adopt and join the Brief of the Board and the arguments raised therein.

denial of the zoning permit. The City further agrees with the Board that the proposed use does not meet the definition of “Hospital or Surgery Center or Related Testing and Treatment Facilities” within the meaning of the Ordinance. Finally, the City argues that the proposed use readily meets the definition of a “treatment center” within the Ordinance, which is permitted only by special exception in a different zoning district.

We will address the parties’ arguments in turn.

### DISCUSSION

#### *Whether the Zoning Hearing Board Applied the Proper Scope and Standard of Review*

In its written decision, the Board described the issue before it as: “Does the decision set forth by the Zoning Officer, which is part of the record as Exhibit A-3, include a determination by the Zoning Officer that represents an abuse of discretion and an error as a matter of law?” Board Decision 2/1/19 at pp. 20-21. Appellants argue herein that use of this appellate scope and standard of review was error. We disagree. We also find, as more fully explained below, that the issue is largely inconsequential given that the Board accepted additional evidence and made findings that are supported by substantial evidence and not contrary to law.<sup>5</sup>

First, there is a distinction between a zoning hearing board’s role in original jurisdiction as opposed to the board sitting in an appellate capacity. A zoning hearing board has original jurisdiction only in selected matters, such as substantive challenges and applications for variances and special exception. 53 P.S. §10909.1(a). In *Orange Stones Co. v. Borough of Hamburg Zoning Hearing Board*, 991 A.2d 996, 998-99 (Pa. Commw. 2010), the Commonwealth Court recognized differing jurisdiction as follows:

Section 909.1(a)(5) of the Municipalities Planning Code (MPC)<sup>¶</sup> grants the Board original jurisdiction to hear applications for variances pursuant to Section 910.2 of the MPC.<sup>¶</sup> Similarly, Section 909.1(a)(6) of the MPC, 53 P.S. § 10909.1(a)(6), grants the Board original jurisdiction to hear applications for special exceptions pursuant to Section 912.1 of the MPC.<sup>¶</sup> By contrast, Section 909.1(a)(3) of the MPC, 53 P.S. § 10909.1(a)(3), grants the Board appellate jurisdiction over zoning officer decisions granting or denying zoning permits. Therefore, unlike applications for variances and special exceptions, which are received

<sup>5</sup>Appellee argues that Appellants have waived the issue concerning the standard of review because Appellants submitted a Memorandum before the Board, in which Appellants claimed that the issue before the Board was whether the Zoning Officer abused her discretion and erred as a matter of law. See Appellee’s Brief at p. 5. Appellees assert that in rendering its decision, the Board explicitly relied upon this standard as acknowledged by Appellants. *Id.* While we note the waiver argument as raised, we will reach the merits of the issue concerning the standard of review.

directly by the Board without any involvement of the zoning officer, applications for zoning permits are submitted to the zoning officer and come before the Board only if the zoning officer's decision is appealed.

Section 701.2.1 of the Zoning Ordinance grants the zoning officer the authority to '[r]eceive applications for and issue zoning permits.' In explaining the role of the zoning officer, this Court has stated: 'Zoning officers generally act in a gatekeeper-type capacity, sheltering zoning hearing boards from the duty to render preliminary decisions as to zoning compliance.' *Borough of Jenkintown v. Bd. of Comm'rs of Abington Twp.*, 858 A.2d 136, 140 (Pa.Cmwlt.2004). If, on appeal from the zoning officer's decision, an applicant was required to make out their entire zoning permit application to the Board and establish that each aspect of the proposed use was not prohibited under any provision in the applicable zoning ordinance—regardless of the basis for the zoning officer's decision—the zoning officer's function would essentially become a nullity, and appeals from the determination of the zoning officer would become the virtual equivalent of applications for variances and special exceptions. We find such an interpretation at odds with the statutory language, and it is unlikely that this was the General Assembly's intent in enacting the MPC.

*Id.* (internal footnotes omitted). Thus, the Commonwealth Court observed that the zoning hearing board does not sit as an alternate forum for zoning officer's determinations, but only an appellate reviewing body generally, unless the matter falls within its original evidentiary jurisdiction.

Case law makes clear that deference must be afforded to the interpretation of a zoning officer and that the zoning hearing board's mandate is to review whether such action was "clearly erroneous." *See Kohl v. New Sewickley Township Zoning Hearing Board*, 108 A.3d 961, 968-69 (Pa. Commw. 2015); *McIntyre v. Board of Supervisors of Shohola Township*, 150 Pa. Commonwealth Ct. 15, 20, 614 A.2d 335, 337 (1992). We find that the Board properly applied the "clearly erroneous" standard in this instance.

Appellants also aver that the Zoning Officer erred by ignoring Appellants' characterization of the proposed use and by performing outside research to justify her conclusion that the proposed use was not permitted. Appellants take issue with the fact that the Zoning Officer reviewed materials that were not included in the application, including the relevant laws and regulations governing the licensing of medical facilities, and sought the input of other City officials. *See Board Decision 2/1/19 at p. 23.* We find this argument to be of no consequence because, as more fully described below, Appellants made a record before the Board and presented evidence concerning whether the proposed use was a "Hospital." The Board made

a determination, supported by the record, that the proposed use was not a “Hospital” as defined by the Ordinance. We address that testimony herein.<sup>6</sup>

*Whether the Proposed Use Falls Under the Use of a “Hospital or Surgery Center or Related Testing and Treatment Facilities”*

The central question in this appeal is whether the proposed use is a “Hospital or Surgery Center or Related Testing and Treatment Facilities” within the meaning of the Ordinance. No specific definition or criteria exists for the “Hospital or Surgery Center or Related Testing and Treatment Facilities” use in the Ordinance. Only the word “Hospital” is defined in Section 1302.54 of the Ordinance, and it is defined as follows:

*Hospital.* A building(s) which is licensed by the Pennsylvania Department of Health as a Hospital, and which involves the diagnosis and treatment of human ailments.

See Index of Record 3/28/19 at Ex. “A-9,” Ordinance §1302.54. None of the other facets of this use—including a “Surgery Center,” “Testing ... Facilities” that are related to a Hospital or Surgery Center or “Treatment Facilities” that are related to a Hospital or Surgery Center—are defined in the Ordinance.

In this regard, the Board concluded:

The Board recognized and found persuasive that Appellants did not in its Zoning Permit Application nor through its expert witnesses at the hearing clearly establish that the facility meets the definition of ‘Hospital’, because it will not be licensed as a hospital by the Department of Health.

Board Decision 2/1/19 at p. 22.

Appellants assert that the Board disregarded evidence from its witnesses and experts on the eventual status of such licensure. Our review of the record, however, reveals that the Board did not disregard such evidence. Rather, it concluded that none of Appellants’ witnesses definitively testified that the facility would be licensed by the Department of Health, but instead, a psychiatric hospital would be approved by the Department of Human Services. *Id.* at p. 23.

Dr. Dominic Marfisi, a psychiatrist who assisted in preparing the licensing applications for the facility, testified that a facility cannot be licensed

<sup>6</sup> Appellants argue that the Board disregarded evidence based on objections made by the City Solicitor about the admissibility of information presented for the first time to the Board. However, the record does not reveal, and Appellants do not point to, any specific evidence which was excluded to the detriment of the Appellants. To the contrary, as documented in its written decision, the Board provided a detailed description of the testimony of Appellants’ witnesses, and the Board considered that testimony. The Board’s conclusion was that the testimony of Appellants’ witnesses, even if found credible, did not support the critical issue herein: whether the facility was a “Hospital” as defined by the Ordinance, such that it was licensed by the Department of Health.

until it is built. N.T. (9/6/18) at p. 178. The Department of Health must be consulted during the design process, and “must approve the plans for any building structure related to the health and safety of others.” *Id.* at pp. 178-79. Depending on the structure, programming, and services being offered, the proposed hospital may be licensed by the Department of Health, in addition to other state agencies. *Id.* Dr. Marfisi stated:

This being a primary psychiatric hospital, given all of the medical services that would be provided there, certainly the Department of Health would have to give approval. And whether or not the Department of Health felt that they needed to give a license in addition to the Department of Human services, would not be known until the time of the Application.

*Id.* at p. 179. Dr. Marfisi testified that depending on the structure, programming and services being offered, the proposed facility “could be” licensed by the Department of Health in addition to the Department of Human Services. *Id.*

On cross-examination, Dr. Marfisi was again asked whether the proposed psychiatric hospital would be licensed by the Department of Health. He again stated that “it *could* be licensed by the Department of Health in addition to the Department of Human Services.” *Id.* at p. 201 (emphasis added).

*It will depend* after the certificate of occupancy has been obtained, and the program submits their operating package when they then go for their license. That would make the determination of which licenses they get.

*Id.* at p. 201 (emphasis added); *see also, id.* at pp. 210-11 (testimony relating to whether the psychiatric hospital was distinguishable from a general hospital).

Dr. Marfisi detailed the steps for obtaining a license. He explained that the first step is to submit a Land Development Plan to the Department of Health. *Id.* p. 215. The Department of Health then asks questions about the plan. *Id.* at pp. 216-17. Hearings are then conducted where appellants would have an opportunity to provide more detail about the services being offered. *Id.* He further testified that:

Once the—once the facility is built and zoning provides a Certificate of Occupancy, if they agree with all the Building Codes have been satisfied and safety measure, life safety measures. And at that point, the organization submits an Operating Plan with a request for license to the Department of Health.

*Id.* at pp. 218-19.

In sum, Dr. Marfisi’s testimony was that the Department of Health may issue a license for the proposed psychiatric hospital depending on the structure, programming and services being offered. However, at an early stage in the approval and licensing process, it cannot be known whether



the Department of Health would license the facility until a Certificate of Occupancy is issued by the City.

Dr. Muhammad Aly Rifai, a licensed physician and certified psychiatrist, testified that the facility could be licensed by the Department of Health, along with a number of other state licensing agencies. He explained:

There are multiple agencies that licenses [sic] health care facilities in the Commonwealth of Pennsylvania. Department of Public Welfare, the Pennsylvania Department of Health, the Pennsylvania Department of Drug and Alcohol Programs, Pennsylvania Department of Aging.

N.T. (11/29/18) at p. 18. Dr. Rifai indicated that he has participated in the licensing process for several other facilities and they have required licenses from multiple state departments. *Id.* at p. 19. Dr. Rifai testified on cross-examination to his belief that the proposed psychiatric hospital will need to be licensed by the Department of Health based on at least one specific service that would be offered:

Q: Okay. Will the Pennsylvania Department of Health be issuing a license for this facility?

A: Yes.

Q: When?

A: Depends on which stage of development, in terms of the construction and the specialized services that would be provided from the facility.

Q: Okay. What in the application is driving the need for a license from the Pennsylvania Department of Health? Where is it? What link?

A: It's a psychiatric hospital, so it may have a small suite to provide what we call neuromodulation treatment, which may require a license from the Pennsylvania Department of Health, which is a new treatment in the field of psychiatry to treat depression and anxiety.

*Id.* at pp. 46-47. Dr. Rifai explained where on the plans this service would be provided and what the treatment, "transcranial magnetic stimulation," would entail:

[T]he treatment involves applying a helmet to the head, that exposes the brain to a magnetic field. And that is a treatment that is approved by the Food and Drug Administration for the treatment of depression and anxiety. And is paid for by Medicare and private insurances. And requires the approval, as a machinery in an inpatient psychiatric unit, involves the approval of the Pennsylvania Department of Health. And a license from the Pennsylvania Department of Health. I do have a YouTube video for those who are interested to see what this treatment is and what it involves.

*Id.* at pp. 50-51.

**To Be Continued**

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