

Borough Clerk

From: Brenda Troup [rechhaben@gmail.com]
Sent: Tuesday, September 25, 2018 6:18 PM
To: Borough Clerk
Subject: Re: October 2018 Vacancy Inspection Schedule

People on 11 and 15 NEED scheduled? I don't have telephone numbers,....

On Tue, Sep 25, 2018, 11:29 Borough Clerk <boroughclerk@apollopa.org> wrote:

Here you go!

Jamie

Jamie Johnston

Apollo Borough Administrative Assistant

P. O. Box 306

Apollo, PA 15613

Phone: 724-478-4201 x 1

Fax: 724-478-4923

Email: boroughclerk@apollopa.org

Website: www.apollopa.org

Inspection Date	time	Property Address	Owner's Name	waiver	fee paid
Monday Oct 15	8:00am	413 N. 2nd Street	Hilty Property Rentals, LLC		
Monday Oct 15	8:30am	622 N. 2nd Street	James and/or Marion Sherbaugh		
Monday Oct 15	9:00am	424 A & B N. 4th Street	Kenneth Rosenberger		
Monday Oct 15	9:30am	501 N. 4th Street	Patrick Milliren		
Monday Oct 15	10:00am	629 N. 4th Street	Michael and/or Gladys Bash		
Monday Oct 15	10:30am	727 N. 5th Street	Kevin Kowalewski		
Monday Oct 15	11:00am	500 N. 6th Street	Phillips Property Rentals		
Monday Oct 15	11:30am	402 N. 10th Street	Timothy Brueggeman		
Monday Oct 15	12:00pm	417 N. Warren Avenue	Kiski Real Estate		
Monday Oct 15	12:30pm	732 N. Warren Avenue	Bryan Soles		
Monday Oct 15	1:00pm	409 S. Warren Avenue	Capenos Properties		

Brenda, the inspections on October 8, 9 and 10th.....all submitted vacancy paperwork
the ones on October 11 & 15.....did not respond, so scheduled inspections for them. They have to submit paperwork.

Inspection Date	time	Property Address	Owner's Name	waiver	fee paid
Tuesday, Oct 9	8:00am	723 N. Warren Avenue	Estate of Mary Lou Persoski/S. King		
Tuesday, Oct 9	8:30am	900 N. Warren Avenue	Keith Davis		
Tuesday, Oct 9	9:00am	1003 N. Warren Avenue	John and/or Linda Steele		
Tuesday, Oct 9	9:15am	1005 N. Warren Avenue	John and/or Linda Steele		
Tuesday, Oct 9	9:45am	1015 N. Warren Avenue	John and/or Linda Steele		
Tuesday, Oct 9	10:00am	213 River Avenue	Jason Cecchini		
Tuesday, Oct 9	10:30am	320 S. 3rd Street	Patrick Zelinka		

Inspection Date	time	Property Address	Owner's Name	waiver	fee paid
Wed. Oct 10	8:00am	322 S. 4th Street	David and/or Susan Marinelli		
Wed. Oct 10	8:30am	417 S. Pennsylvania Avenue	Brad Broman		
Wed. Oct 10	9:00am	111 Terrace Avenue	Joseph Levdansky		
Wed. Oct 10	9:30am	500 A & B Terrace Avenue	Steve and/or Leslie Dollman		
Wed. Oct 10	10:00am	403 Woodward Avenue	Estate of Rosensteel/ William Rosensteel		

Inspection Date	time	Property Address	Owner's Name	waiver	fee paid
Thursday Oct 11	8:00am	323 1st Street	Clarks & Recreation, LLC		
Thursday Oct 11	8:30am	400 N. 2nd Street (Tiger Gym)	One Apollo Square, LLC		
Thursday Oct 11	9:00am	400 1st Street	Joseph Wright		
Thursday Oct 11	9:30am	702 Armstrong Avenue	David Musgrove		
Thursday Oct 11	10:00am	804 A & B Armstrong Avenue	Hattie and/or Ralph Johnson		
Thursday Oct 11	10:30am	1110 Clark Avenue	William Atkinson		

Inspection Date	time	Property Address	Owner's Name	waiver	fee paid
Monday, Oct 8	8:00am	318 A & B 1st Street	David Klingensmith		
Monday, Oct 8	8:30am	509 Armstrong Avenue	Candice Clark		
Monday, Oct 8	9:00am	412 Armstrong Avenue	Kenneth Polka		
Monday, Oct 8	9:30am	413 Grove Street	Sheila Cloud-Woods		
Monday, Oct 8	10:00am	205/207 Kiski Avenue	Bruce Walker		
Monday, Oct 8	10:30am	306 N. 2nd Street	Apollo Realty c/o Dan McAdoo		
Monday, Oct 8	11:00am	309 N. 2nd Street	Apollo Historical Society		
Monday, Oct 8	11:30am	616 N. 2nd Street	Debra Schrecengost		
Monday, Oct 8	12:00pm	416 N. 4th Street	Brian and/or Julie Anne Spencer		
Monday, Oct 8	12:30pm	515 N. 5th Street	Nicholas Libengood		
Monday, Oct 8	1:00pm	414 N. 6th Street	Yvonne Painter		
Monday, Oct 8	1:30pm	106 N. Plaza	Yvonne Painer and/or Christine Wolverton		
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Monday, Oct 8	2:30pm	309 N. Pennsylvania Avenue	Apollo Faith Chapel c/o Michael Hritz		
Monday, Oct 8	3:00pm	222/226 N. Warren Avenue	Zhen Chu Weng and/or Ya Yun Zheng		
Monday, Oct 8	3:30pm	517 N. 5th Street	First National Bank of Pennsylvania		
Monday, Oct 8	4:00pm	517 N. Warren Avenue	Jarrod Steele		
Monday, Oct 8	4:30pm	705 N. Warren Avenue	Stephen Kloc		
Monday, Oct 8	5:00pm	716 N. Warren Avenue	Patricia Hazlett		
Monday, Oct 8	5:30pm	719 N. Warren Avenue	Janet and/or Scott Brunenmer		

Apollo Borough Manager

From: Brenda Troup <rechhaben@gmail.com>
Sent: Wednesday, September 26, 2018 1:59 AM
To: boroughmanager@apollopa.org
Subject: new vacancy inspection form
Attachments: VACANCY ORDINANCE INSPECTION REPORT 2018.doc

Cindee:

I just completed changing the vacancy inspection forms to: (1) combine both forms since they were repetitive, (2) moved things around a bit to make them easier to interpret and (3) to remove the part about the property being a vacation or summer home for the owner. All the information we need to have is still there, except I put all the things you and Jamie need to look at under the CONSIDERATIONS portion near the bottom of the report and the owner now signs the reppt. Please let me know if you think I should change any of the wording. I like the new form.

:) :) :)
Bren

VACANCY ORDINANCE INSPECTION REPORT FOR THE YEAR: _____

DATE _____ TIME _____ INSPECTION COMPELTED BY: _____

ADDRESS OF SUSPECTED VACANCY: _____

OWNER NAME _____

OTHER REPRESENTATIVE PRESENT/RELATIONSHIP TO OWNER: _____

OPERABLE UTILITIES: _____ HEAT SOURCE _____ SEWAGE _____ GARBAGE _____ WATER _____ ELECTRIC

OPERABLE: KITCHEN _____ BATHROOM _____

PER ORDINACNE DEFINITION, IS THE PROTPERTY: _____ HABITABLE _____ NOT HABITABLE
_____ VACANT _____ ABANDONED

OTHER:
_____ WEEDS _____ GRAFITTI _____ VERMIN/INSECTS _____ JUNK/GARBAGE/REFUSE/RUBBISH/UNSANITARY CONDITIONS
_____ POOL/SPA IS _____ OPERABLE _____ INOPERABLE
_____ SECURE FROM ENTRY _____ ROOF GOOD _____ FOUNDATION GOOD
_____ FIRE HAZARD(S) IN- OR OUTSIDE _____ TOXIC HAZARDOUS SUBSTANCES IN- OR OUTSIDE
_____ OTHER UNSAFE/HAZARDOUS CONDITION _____ THREAT TO NEIGHBORING PROPERTY/NUISANCE ATTRACTANT

_____ OTHER NOTES: _____

COMMENTS:

CONSIDERATIONS:

_____ CONSIDER FOR TEMPORARY ONE YEAR WAVIER
_____ INTENDED FOR RESELL/OR IS LISTED WITH AGENCY (NAME): _____
_____ FOR SALE BY OWNER
_____ ASKING PRICE _____
_____ INTENDED FOR RENTAL (OWNER TO REGISTER AS A LANDLORD)
_____ HAS _____ WILL _____
_____ CONSIDER FOR TEMPORARY 90-DAY WAIVER FOR THE FOLLOWING REPAIRS:

CURRENT YEAR VACANT REGISTRATION FEE (PER OWNER OR REPRESENTATIVE):

_____ NOT PAID _____ PAID (INSPECTION FEE WAIVED):

INSPECTION DETERMINATION:

_____ OWNER DID NOT APPEAR FOR INSPECTION
_____ ORDINANCE APPLIES _____ ORDINANCE NOT APPLICABLE
PROPERTY: (COMMERCIAL _____ \$40 RESIDENTIAL _____ \$35) _____ PAID

BY SIGNING THIS INSPECTION FORM, THE OWNER OR AUTHORIZED REPRESENTATIVE IS ATTESTS THAT ALL INFORMAITON ON THIS INSPECTION REPORT IS ACCURATE AND TRUTHFUL:

OWNER OR REPRESENTATIVE SIGNATURE: _____ DATE: _____

Borough Clerk

From: Borough Clerk [boroughclerk@apollopa.org]
Sent: Wednesday, September 26, 2018 9:08 AM
To: 'Brenda Troup'
Subject: RE: October 2018 Vacancy Inspection Schedule

Not sure what you are asking.....same as we did last time....they have vacant properties.....but did not submit paperwork.....but we scheduled them anyway because they are vacant. And they are to submit paperwork to us.... All mailed out yesterday.

Jamie

Jamie Johnston
Apollo Borough Administrative Assistant
P. O. Box 306
Apollo, PA 15613
Phone: 724-478-4201 x 1
Fax: 724-478-4923
Email: boroughclerk@apollopa.org
Website: www.apollopa.org

From: Brenda Troup [mailto:rechhaben@gmail.com]
Sent: Tuesday, September 25, 2018 6:18 PM
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P. O. Box 306
Apollo, PA 15613
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Fax: 724-478-4923

Borough Clerk

From: Brenda Troup [rechhaben@gmail.com]
Sent: Wednesday, September 26, 2018 11:48 AM
To: Borough Clerk
Subject: Re: October 2018 Vacancy Inspection Schedule

ok. now i got it. What is the status of toland at 411 4th, it was in process not yet for sale? Thompson 405 n Penna is vacant and hasn't been connected to sewer, she should have gone to court? Steele 908 n warren is the same as his prop at 1015 n warren but its not on the list? Wenckowski 422 grove was in process construction and for sale, did it sell? Walnut capital 517 n 5th was for sale, did it sell? And i think the adress is 415 n 4th...name unknown, I never got into it.

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Brenda, the inspections on October 8, 9 and 10th.....all submitted vacancy paperwork
the ones on October 11 & 15.....did not respond, so scheduled inspections for them. They have to submit paperwork.

Apollo Borough Manager

From: Brenda Troup <rechhaben@gmail.com>
Sent: Wednesday, October 3, 2018 1:25 PM
To: Apollo Borough Manager
Subject: Re: Brunnermer hearing

I guess so...cant wait for her bullshit.

On Wed, Oct 3, 2018, 13:16 Apollo Borough Manager <boroughmanager@apollopa.org> wrote:

The hearing has been changed to October 25, 2018 at 11:30 AM.

Can you be there?

Cynthia McDermott

Apollo Borough Manager

P. O. Box 306

Apollo, PA 15613

Phone: 724-478-4201 x 1

Fax: 724-478-4923

Email: boroughmanager@apollopa.org

Website: www.apollopa.org

Apollo Borough Manager

From: Brenda Troup <rechhaben@gmail.com>
Sent: Thursday, October 18, 2018 1:12 PM
To: boroughmanager@apollopa.org
Attachments: IMG_20181017_142837132.jpg

DO

ra Schreckengost	616 N. 2nd St.	—	—
1 Julie Ann Spencer	416 N. 4th St.	—	10/31/18 - 8AM
id Kirkman	403 N. 7th St.	—	—
1 Steele	517 N. Warren	—	—
mer	719 N. Warren	—	10/26/18 - 8AM
1 Linda Steele	908 N. Warren	—	10/23/18 - 9 30
	1003		
	1005		
	1015		
1 Ralph Johnson	804 A/B Armstrong	—	—

Apollo Borough Manager

From: Brenda Troup <rechhaben@gmail.com>
Sent: Friday, October 19, 2018 7:43 PM
To: boroughmanager@apollopa.org
Subject: Re: 719 north warren

On Fri, Oct 19, 2018, 19:40 Riverside DI Theatre <riversidedi@yahoo.com> wrote:
https://www.zillow.com/homes/for_sale/719-N-Warren-Ave.-Apollo,-PA-15813_rb/?fromHomePage=true&shouldFireSellPageImplicitClaimGA=false&fromHomePageTab=buy

Apollo Borough Manager

From: Apollo Borough Manager <boroughmanager@apollopa.org>
Sent: Monday, October 29, 2018 2:09 PM
To: 'Brenda Troup'
Subject: RE: Brunermer conundrums

They have really complicated a simple procedure for vacant properties in Apollo.

From: Brenda Troup [mailto:rechhaben@gmail.com]
Sent: Monday, October 29, 2018 1:52 PM
To: boroughmanager@apollopa.org
Subject: Brunermer conundrums

It was a church. She claims to be living in it, which we all know she isn't and she probably doesn't get her residential mail there. She claims she is making soap out of there so she has a business but doesn't really have a business because veritas hasn't done the change of occupancy as such and therefore it's not permitted within the borough...so...she can't get a waiver IF an inspection ever occurs. Am I wrong? Told you I'd wait til Monday to pester you again.

Apollo Borough Manager

From: Scott Andreassi <scott@charltonlawyers.com>
Sent: Tuesday, March 26, 2019 12:57 PM
To: Jake Oresick
Cc: Brenda Troup; Apollo Borough Manager
Subject: Brunermer Letter to Oresick
Attachments: Brunermer Letter to Oresick.docx

Jake,

Please find attached a letter in the Brunermer matter, Thank you.

Scott



August 4, 2020

Jake Oresick, Esq.
Creenan & Baczkowski, PC
Town Square Professional Bldg.
Suite 304
3907 Old William Penn Highway
Murrysville, Pa. 15688

Re: *Commonwealth V. Brunermer*
No. CP-03-SA-0000075-2018
Your File No. 18767

Dear Mr. Oresick,

I am writing as a follow up to our telephone conversation of March 21 and your email letter regarding the same. After consulting with the Apollo Borough Zoning Officer, I would advise that while a single inspection can be done, it will be required for two separate purposes. The first would be for the vacancy inspection and the second would be for the Change of Use application inspection. In addition, and as noted in my letter to the Brunermers and during our telephone conversation, the vacancy inspection must be completed within sixty (60) days of the summary hearing, as per the agreement reached that day.

In addition, there appears to be an outstanding issue regarding the citation, fine and agreement reached separately last year. I'm advised by the Borough that an agreement was reached wherein the Brunermers would pay a fine of \$135.00 (\$35.00 for an inspection and \$100.00 for two "no shows" for inspections). This was for the vacancy inspection that was required for 2017/2018. Another vacancy inspection would then be necessary for 2018/2019. The vacancy inspections are necessary to avoid paying the required \$250 fee to the Borough for having an empty building.

With regard to Bureau Veritas (BV), I am advised that the change in use request must be approved prior to the actual change of use. I am further advised that a representative from BV advised the Brunermers of this at the time they purchased the property. Finally, I am advised that a prior change of use request was made to BV by the Brunermers, and that request was denied. As this was a decision by BV, I cannot speculate as to why the request was denied.

With regard to the parking issue, I am advised that if the Brunermers intend to conduct a retail/manufacture operation at the site, changes to the current lot will be necessary. I will contact the Zoning Officer to determine what those changes would be.

Given the scope of the issues, it may be helpful for the parties (you, me, Apollo Borough and Bureau Veritas) to meet and discuss what is needed going forward. This may avoid any future misunderstandings or issues. Please let me know your thoughts on this. Thank you and I look forward to hearing from you.

Yours Very Truly,

Scott J. Andreassi

cc: Apollo Borough
Brenda Troup, Zoning Officer
Bureau Veritas

Scott Andreassi

From: Rich Craft <rcraft@olsencraft.com>
Sent: Friday, April 5, 2019 12:43 PM
To: Apollo Borough Manager; Brenda Troup
Subject: Apollo Borough - OCA#201918A

Deanna,

I spoke with Brenda earlier today. She invited me to a meeting on Tuesday April 9, 2019 at 9:30am at the Apollo Borough building regarding the old Shiloh Baptist Church redevelopment. I will be on hand to talk about the land development procedures. If you could have a copy of the Borough's subdivision and land development application so that Mrs. Brunnermer can take with her that would be great.

My opinion is that this would be a pre-application meeting and my time would be billable to the applicant as part of the review and approval process. Please let me know if there are any questions.

Richard W. Craft, P.E.

Apollo Borough Manager

From: Apollo Borough Manager <boroughmanager@apollopa.org>
Sent: Monday, April 8, 2019 11:13 AM
To: 'Rich Craft'
Subject: RE: Apollo Borough - OCA#201918A

Hi Rich

I'm sorry but the things you are asking me for are foreign to me. I am not familiar with the copy of the Borough's subdivision and land development application. I would normally ask Jamie for this info but she is not here today and it is to be determined whether or not she will be in tomorrow. I am trying to fix banking issues and do payroll right now. I can try to look for that info once I finish payroll.

Deanna

From: Rich Craft [mailto:rcraft@olsencraft.com]
Sent: Friday, April 5, 2019 12:43 PM
To: Apollo Borough Manager <boroughmanager@apollopa.org>; Brenda Troup <rechhaben@gmail.com>
Subject: Apollo Borough - OCA#201918A

Deanna,

I spoke with Brenda earlier today. She invited me to a meeting on Tuesday April 9, 2019 at 9:30am at the Apollo Borough building regarding the old Shiloh Baptist Church redevelopment. I will be on hand to talk about the land development procedures. If you could have a copy of the Borough's subdivision and land development application so that Mrs. Brunnemer can take with her that would be great.

My opinion is that this would be a pre-application meeting and my time would be billable to the applicant as part of the review and approval process. Please let me know if there are any questions.

Richard W. Craft, P.E.

Borough Clerk

From: Brenda Troup [rechhaben@gmail.com]
Sent: Monday, June 10, 2019 7:27 PM
To: Borough Clerk
Subject: Re: vacancy 2019

Looks good to me. We went Iver a lot if properies. I still have to contact thise other three. Would it be a safe assumption that anyone who has very little water useage should also be inspected as vacant?

On Mon, Jun 10, 2019, 11:57 Borough Clerk <boroughclerk@apollopa.org> wrote:

Brenda,

I am working on the vacancy info.....am I missing someone or someone should not be on there? I used the list we worked on.....then went off of 0 Water Usage for 2018.....a few that had 0 usage....I know they just sold the property the end of 2018 or the beginning of 2019.....so did not add them.

This is as far as I have done.....I have not done the owner info yet....wanted to make sure what I had before I do all the work for it.....)

Jamie

Jamie Johnston

Apollo Borough Assistant Secretary

P. O. Box 306

Apollo, PA 15613

Phone: 724-478-4201 x 1

Fax: 724-478-4923

Email: boroughclerk@apollopa.org

Website: www.apollopa.org

Borough Clerk

From: Brenda Troup [rechhaben@gmail.com]
Sent: Monday, June 10, 2019 7:29 PM
To: Borough Clerk
Subject: Re: vacancy 2019

Also, if they sold the end of 2018 or beginning of 2019, that's been or will be 6 months by the time the paperwork comes back. They should also be inspected:

On Mon, Jun 10, 2019, 11:57 Borough Clerk <boroughclerk@apollopa.org> wrote:

Brenda,

I am working on the vacancy info.....am I missing someone or someone should not be on there? I used the list we worked on.....then went off of 0 Water Usage for 2018.....a few that had 0 usage....I know they just sold the property the end of 2018 or the beginning of 2019.....so did not add them.

This is as far as I have done.....I have not done the owner info yet....wanted to make sure what I had before I do all the work for it.....:)

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Borough Clerk

From: Borough Clerk [boroughclerk@apollopa.org]
Sent: Tuesday, June 11, 2019 12:15 PM
To: 'Brenda Troup'
Subject: vacancy years
Attachments: 2019 Vacancy years.xlsx

Please let me know if your numbers match.....they start all blending together at times.

I know with 705 Woodward....Tim Brueggeman writes on his paper that that is his address....but no water usage
Yvonne Painter dld a landlord for 413 N. 6th....saying her daughter-in-law lives there.....but no water usage
520 N. 7th.....going to check on that one again....had all this paperwork stating it was going to HUD.....but no verification
on that yet.

There could be others that I have no clue about.....

Jamie Johnston
Apollo Borough Assistant Secretary
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Apollo, PA 15613
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Email: boroughclerk@apollopa.org
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house #	Street Address	Owners	yrs vacant
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318 A&B	1st Street	David Klingensmith	5
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629	N. 4th Street	Michael/Glady Bash	5
416	N. 4th Street	Brian/Julie Anne Spencer	5
414	N. 6th Street	Yvonne Painter	5
403	N. 7th Street	Donald Kirkman	5
106	N. Plaza	Yvonne Painter/Christine Wolverton	5
732	N. Warren Avenue	Bryan Soles	5
908	N. Warren Avenue	John/Linda Steele	5
1005	N. Warren Avenue	John/Linda Steele	5
320	S. 3rd Street	Patrick Zelonka	5
403	Woodward Avenue	Estate of Cynthia Rosensteel	5
622	N. 2nd Street	James/Marion Sherbaugh	4
213	River Avenue	Jason Cecchini	4
417A	S. Pennsylvania Ave	Brad Broman	4
400	1st Street	Joseph Wright	3
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424 A&B	N. 4th Street	Kenneth Rosenberger	2
111	Terrace Avenue	Joseph Levdansky	2
315	1st Street	Dory Barr	1
505	Crowe Street	Hilty Rental Properties	1
807	N. 11th Street	Katrina Tassos-White (skipped town)	1
517	N. 5th Street	Jeremi Gregory	1
413	N. 6th Street	Yvonne Painter	1
505	N. 6th Street	Capenos Properties	1
500	N. 6th Street	VFS ARTOS	1
520	N. 7th Street	US Bank	1
405	N. Pennsylvania Ave	Ryan Zeiler	1
809	N. Warren Avenue	Adelphoi Inc	1
221	N. Warren Avenue	Thomas Raymond Thompson	1
312	S. 2nd Street	Hilty Rental Properties	1
705	Woodward Avenue	Tim Brueggeman	1

Borough Clerk

From: Brenda Troup [rechhaben@gmail.com]
Sent: Tuesday, June 11, 2019 3:54 PM
To: Borough Clerk
Subject: Re: vacancy 2019

I don't know. Twenty gallons a year or less?

On Tue, Jun 11, 2019, 08:24 Borough Clerk <boroughclerk@apollopa.org> wrote:

What is considered very little water usage? I will need to go thru MAWC thing again.

Jamie Johnston

Apollo Borough Assistant Secretary

P. O. Box 306

Apollo, PA 15613

Phone: 724-478-4201 x 1

Fax: 724-478-4923

Email: boroughclerk@apollopa.org

Website: www.apollopa.org

From: Brenda Troup [mailto:rechhaben@gmail.com]
Sent: Monday, June 10, 2019 7:27 PM
To: Borough Clerk
Subject: Re: vacancy 2019

Looks good to me. We went Iver a lot if properies. I still have to contact thise other three. Would it be a safe assumption that anyone who has very little water usage should also be inspected as vacant?

On Mon, Jun 10, 2019, 11:57 Borough Clerk <boroughclerk@apollopa.org> wrote:

Brenda,

Borough Clerk

From: Borough Clerk [boroughclerk@apollopa.org]
Sent: Wednesday, June 26, 2019 8:45 AM
To: 'Brenda Troup'
Subject: FW: Property Consolidation

Help.

Jamie Johnston
Apollo Borough Assistant Secretary
P. O. Box 306
Apollo, PA 15613
Phone: 724-478-4201 x 1
Fax: 724-478-4923
Email: boroughclerk@apollopa.org
Website: www.apollopa.org

-----Original Message-----

From: Apollo Borough Manager [mailto:boroughmanager@apollopa.org]
Sent: Wednesday, June 26, 2019 8:53 AM
To: boroughclerk@apollopa.org
Subject: FW: Property Consolidation

-----Original Message-----

From: Joseph Kerr [mailto:josephkerr@kerrmanufacturing.com]
Sent: Tuesday, June 25, 2019 2:04 PM
To: Apollo Borough Manager <boroughmanager@apollopa.org>
Subject: Re: Property Consolidation

The property we have that has a building on it is at 704 North 11th Street. The second property that is only land is located directly behind 704 N. 11th.

The tax map # for 704 N.11th is 227.07-01-05

The tax map # for the land behind 704 N.11th is 227.07-01-04

On 6/25/2019 2:17 PM, Apollo Borough Manager wrote:

> Hello

>

> Do you have the address of the two properties?

>

>

>

> -----Original Message-----

> From: Joseph Kerr [mailto:josephkerr@kerrmanufacturing.com]

> Sent: Tuesday, June 25, 2019 12:59 PM

> To: Apollo Borough Manager <boroughmanager@apollopa.org>

> Subject: Property Consolidation

>

> Hello,

>

> I am working with an attorney to combine 2 properties that I own that are right next to each other and he mentioned that In Westmoreland county you have to do a reverse subdivision to combine two parcels of land. Is that the case in the Apollo Borough?

>

> We just need to know whether we need to get a surveyor involved or if I can just do it from the deeds.

>

> Thank you,

>

> ~Joe

>

Apollo Borough Manager

From: Scott Andreassi <scott@charltonlawyers.com>
Sent: Tuesday, July 2, 2019 6:50 AM
To: Apollo Borough Manager
Cc: Brenda Troup
Subject: RE: Xerox Scan

Good Morning Deanna,

To the extent we can, we will need to respond to and comply with the RTK request made by the Brenermers. While it would appear that some of the information is not available, I would assume that some would be. When you are able, please go through the list and let me know what we have what we do not have. For the items we do not have, please let me know why. Once we have gathered the information, I will review it and make a determination as to what we need to provide per the RTK. I will copy Brenda on this email for her assistance as well. Thank you.

Scott

Scott J. Andreassi, Esq.
Charlton Law
617 S. Pike Road
Sarver, PA 16055
724-540-1161
www.charltonlawyers.com

-----Original Message-----

From: Apollo Borough Manager <boroughmanager@apollopa.org>
Sent: Friday, June 28, 2019 1:40 PM
To: Scott Andreassi <scott@charltonlawyers.com>
Subject: FW: Xerox Scan

I scanned the documents so that you can review them. Please advise if there is anything I should/should not mail to her? She will be paying 25 cents a page for anything we mail to her.

-----Original Message-----

From: boroughmanager@apollopa.org [mailto:boroughmanager@apollopa.org]
Sent: Friday, June 28, 2019 10:14 AM
To: boroughmanager@apollopa.org
Subject: Xerox Scan

Please open the scanned attachment

Number of Images: 5
Attachment File Type: PDF

Device Name: VersaLink C7030
Device Location:

Apollo Borough Manager

From: Apollo Borough Manager <boroughmanager@apollopa.org>
Sent: Wednesday, July 17, 2019 1:27 PM
To: rechhaben@gmail.com
Subject: FW: Brunermer v. Apollo Borough: AP 2019-1162
Attachments: 2019-1162_Brunermer-ApolloBoro.pdf

1

From: DC, OpenRecords [mailto:RA-OpenRecords@pa.gov]
Sent: Wednesday, July 17, 2019 10:44 AM
To: sloppysoap@windstream.net; boroughmanager@apollopa.org
Subject: Brunermer v. Apollo Borough: AP 2019-1162

Dear Parties,

Please see the attached appeal that has been filed with the Office of Open Records. This matter has been assigned to an Appeals Officer (contact information can be found on page 3 of the attachment).

Please forward all future correspondence directly to the Appeals Officer and all other parties.

Sincerely,



Michele Kusery-Grant
Administrative Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | <https://openrecords.pa.gov>

Confidentiality Notice: This electronic communication is privileged and confidential and is intended only for the party to whom it is addressed. If received in error, please return to sender.

Apollo Borough Manager

From: Apollo Borough Manager <boroughmanager@apollopa.org>
Sent: Wednesday, July 17, 2019 1:27 PM
To: rechhaben@gmail.com
Subject: FW: Brunermer v. Apollo Borough: AP 2019-1163
Attachments: 2019-1163_Brunermer-ApolloBoro.pdf

2

From: DC, OpenRecords [mailto:RA-OpenRecords@pa.gov]
Sent: Wednesday, July 17, 2019 10:48 AM
To: sloppysoap@windstream.net; boroughmanager@apollopa.org
Subject: Brunermer v. Apollo Borough: AP 2019-1163

Dear Parties,

Please see the attached appeal that has been filed with the Office of Open Records. This matter has been assigned to an Appeals Officer (contact information can be found on page 3 of the attachment).

Please forward all future correspondence directly to the Appeals Officer and all other parties.

Sincerely,



Michele Kusery-Grant

Administrative Officer

Office of Open Records

333 Market Street, 16th Floor

Harrisburg, PA 17101-2234

(717) 346-9903 | <https://openrecords.pa.gov>

Confidentiality Notice: This electronic communication is privileged and confidential and is intended only for the party to whom it is addressed. If received in error, please return to sender.

Street #	Address	request	reason	paid
719	N. Warren Avenue	wants off list	says Mrs. Brunermer lives there	
403	Woodward Avenue	asked for waiver		
1005	N. Warren Avenue	wants off list	says primary residence	
908	N. Warren Avenue	wants off list	storage	
622	N. 2nd Street	wants off list	says permanent residence	
318 A & B	1st Street	asked for waiver		
809	N. Warren Avenue			500.00
403	N. 7th Street	asked for waiver		
111	Terrace Avenue	asked for waiver		
413	Grove Street	asked for waiver		
414	N. 6th Street	asked for waiver		
106	N. Plaza	asked for waiver		
323	1st Street			2000.00
400	N. 2nd Street			500.00
406	N. 6th Street	asked for waiver		
505	N. 6th Street	asked for waiver		
205	Kiski Avenue	asked for waiver	storage	
207	Kiski Avenue	asked for waiver	storage	
629	N. 4th Street	asked for waiver		
405	N. Pennsylvania Avenue	asked for waiver		500.00
416	N. 4th Street	asked for waiver		
723	N. Warren Avenue	asked for waiver		
515	N. 5th Street			250.00
417A	S. Pennsylvania Avenue	asked for waiver		
221	N. Warren Avenue	asked for waiver		

No response as of 8/29/19

was due 7/15/19

street #	Address	
400	1st Street	
315	1st Street	process of selling
804 A & B	Armstrong Avenue	
702	Armstrong Avenue	
412	Armstrong Avenue	
1110	Clark Avenue	
413	N. 2nd Street	
501	N. 4th Street	
424 A & B	N. 4th Street	
517	N. 5th Street	
520	N. 5th Street	
900	N. Warren Avenue	
732	N. Warren Avenue	
517	N. Warren Avenue	
213	River Avenue	
312	S. 2nd Street	
320	S. 3rd Street	
705	Woodward Avenue	Chief Kler said vacant

Borough Clerk

From: Borough Clerk [boroughclerk@apollopa.org]
Sent: Thursday, September 19, 2019 8:35 AM
To: 'Brenda Troup'
Subject: RE: vacancy 2019

Ok....I will get the envelopes and letters ready today and tomorrow. I won't print the letters out until I hear from you.....but I personalize each letter.....so that will take a little bit. Just let me know when you know!
Thanks!

No breaks on the 14th? Want me to schedule each ½ hr (Tiger Gym exception)? Well, guess you have time on no-shows to pee.....:)

Jamie

Jamie Johnston
Apollo Borough Assistant Secretary
P. O. Box 306
Apollo, PA 15613
Phone: 724-478-4201 x 1
Fax: 724-478-4923
Email: boroughclerk@apollopa.org
Website: www.apollopa.org

From: Brenda Troup [mailto:rechhaben@gmail.com]
Sent: Wednesday, September 18, 2019 3:36 PM
To: Borough Clerk
Subject: Re: vacancy 2019

I'm looking at week of 14th. 14th all day 8am til end at 7pm. 15th through 18th 8am til end at 1030 am. That's 21 hours...enough to so them all at half hour each except for tiger gum at one hour. Scott never got back to me.

On Wed, Sep 18, 2019, 13:19 Borough Clerk <boroughclerk@apollopa.org> wrote:

Brenda,

I started working on the vacancy schedule.....when you know your availability, I can fill in the days/times.....hope this order is okay. I tried finding as many phone numbers as I could.....not sure if you have the ones I don't have. If you want a column gone and replaced with something else.....let me know. I figured marking if waiver approved....if they paid for the inspection? I don't think I can fit another column in there with my basic knowledge of Excel.....:) if you want to make any changes.....send back as you want it.....I have no problem with that....Then I can send back to you when you are certain it is finalized. I will try working on envelopes/addresses tomorrow.....and once the letter is approved.....that will take a while to do them individually....so, should get sent out next week.

This is everyone we all talked about today.

Let me know.....

Jamie

Jamie Johnston

Apollo Borough Assistant Secretary

P. O. Box 306

Apollo, PA 15613

Phone: 724-478-4201 x 1

Fax: 724-478-4923

Email: boroughclerk@apollopa.org

Website: www.apollopa.org

Inspection Date	time	Property Address	Owner's Name	waiver	fee paid	phone number
Monday, Oct 14	8:00pm	313 1st Street	Candise Clark			
Monday, Oct 14	8:30am	400 N. 2nd Street	Candise Clark			
Monday, Oct 14	9:30am	318 A & B 1st Street	David Klingensmith			
Monday, Oct 14	10:00am	400 1st Street	Joseph Wright			
Monday, Oct 14	10:30am	413 N. 2nd Street	Hilty Rental Properties			
Monday, Oct 14	11:00am	312 S. 2nd Street	Hilty Rental Properties			
Monday, Oct 14	11:30am	622 N. 2nd Street	James/Marion Sherbaugh			
Monday, Oct 14	12:00pm	413 Grove Street	Sheila Cloud-Woods			
Monday, Oct 14	12:30pm	111 Terrace Avenue	Joseph Levdansky			
Monday, Oct 14	1:00pm	412 Armstrong Avenue	Kenneth Polka			
Monday, Oct 14	1:30pm	702 Armstrong Avenue	David Musgrove			
Monday, Oct 14	2:00pm	804 A & B Armstrong Avenue	Hattie & Ralph L. Johnson			
Monday, Oct 14	2:30pm	416 N. 4th Street	Brian/Julianne Spencer			
Monday, Oct 14	3:00pm	424 A & B N. 4th Street	Kenneth Rosenberger			
Monday, Oct 14	3:30pm	501 N. 4th Street	Patrick Milliren			
Monday, Oct 14	4:00pm	629 N. 4th Street	Michael/Glady Bash			
Monday, Oct 14	4:30pm	515 N. 5th Street	Nicholas Libengood			
Monday, Oct 14	5:00pm	517 N. 5th Street	Jeremi Gregory			
Monday, Oct 14	5:30pm	505 N. 6th Street	Capenos Properties			
Monday, Oct 14	6:00pm	414 N. 6th Street	Yvonne Painter			
Monday, Oct 14	6:30pm	106 N. Plaza	Yvonne Painter/Christine			
Monday, Oct 14	7:00pm	403 N. 7th Street	Donald Kirkman			

Inspection Date	Time	Property Address	Owner's Name	waiver	Fee paid	Phone number
Tuesday, Oct 15	8:00am	502 N. 7th Street	US Bank			
Tuesday, Oct 15	8:30am	405 N. Pennsylvania Avenue	Ryan Zeiler			
Tuesday, Oct 15	9:00am	221 N. Warren Avenue	Thomas Thompson			
Tuesday, Oct 15	9:30am	517 N. Warren Avenue	Jarrod Steele			
Tuesday, Oct 15	10:0am	716 N. Warren Avenue	Patricia Hazlett			
Tuesday, Oct 15	10:30am	719 N. Warren Avenue	Janet/Scott Brunermer			
Wed Oct 16	8:00am	723 N. Warren Avenue	Estate of Mary Lou Persoskie			
Wed Oct 16	8:30am	732 N. Warren Avenue	Bryan Soles			
Wed Oct 16	9:00am	809 N. Warren Avenue	Adelphoi			
Wed Oct 16	9:30am	900 N. Warren Avenue	Keith Davis			
Wed Oct 16	10:00am	908 N. Warren Avenue	John/Linda Steele			
Wed Oct 16	10:30am	1005 N. Warren Avenue	John/Linda Steele			
Thursday Oct 17	8:00am	1110 Clark Avenue	William Atkinson			
Thursday Oct 17	8:30am	403 Woodward Avenue	Rosensteel			
Thursday Oct 17	9:00am	705 Woodward Avenue	Timothy Brueggeman			
Thursday Oct 17	9:30am	213 River Avenue	Jason Cecchini			
Thursday Oct 17	10:00am	205/207 Kiski Avenue	Bruce Walker			
Thursday Oct 17	10:30am	417 A S. Pennsylvania Ave	Brad Broman			
Friday Oct 18	8:00am	320 S. 3rd Street	Patrick Zelonka			

Apollo Borough Manager

From: Scott Andreassi <scott@charltonlawyers.com>
Sent: Tuesday, January 28, 2020 12:09 PM
To: Apollo Borough Manager; Brenda Troup
Subject: Brunermer

Spoke to Ron again. He checked 16, 17, 18 and 19. No summons issued to Shiloh Baptist Church.

Scott J. Andreassi, Esq.
Charlton Law
617 S. Pike Road
Sarver, PA 16055
724-540-1161
www.charltonlawyers.com



Apollo Borough Manager

From: Scott Andreassi <scott@charltonlawyers.com>
Sent: Tuesday, January 28, 2020 12:17 PM
To: Apollo Borough Manager; Brenda Troup
Subject: Brunermer

Two other questions –

1. Does the Borough have an “official” list of those permitted to conduct inspections?
2. Is there a list of qualifications to serve as a code official for the Borough?

Again, I would anticipate that the answer is “no”, but I want to ask and have you tell me that you have checked before answering. Thank you.

Scott

Scott J. Andreassi, Esq.
Charlton Law
617 S. Pike Road
Sarver, PA 16055
724-540-1161
www.charltonlawyers.com



CHARLTON LAW
we're getting there

Apollo Borough Manager

From: Scott Andreassi <scott@charltonlawyers.com>
Sent: Tuesday, January 28, 2020 1:22 PM
To: Apollo Borough Manager; Brenda Troup
Subject: Brunermer

I have the file for 723 N. Warren. Just let me know if there is anything else for that property. Thanks.

Scott J. Andreassi, Esq.
Charlton Law
617 S. Pike Road
Sarver, PA 16055
724-540-1161
www.charltonlawyers.com



Apollo Borough Manager

From: Apollo Borough Manager <boroughmanager@apollopa.org>
Sent: Tuesday, January 28, 2020 2:09 PM
To: 'Scott Andreassi'
Subject: RE: Brunermer

Scott

We do not have a contract with Brenda. She invoices the borough... Zoning \$100 up to 5 inquiries. Over 5 inquiries we pay \$150. Vacancies - \$15/hr.

Deanna Shupe
Secretary-Treasurer
Apollo Borough
PO Box 306
Apollo PA 15613
PH: (724) 478-4201

From: Scott Andreassi [mailto:scott@charltonlawyers.com]
Sent: Tuesday, January 28, 2020 12:19 PM
To: Apollo Borough Manager <boroughmanager@apollopa.org>; Brenda Troup <rechhaben@gmail.com>
Subject: Brunermer

And one more – do we have a contract with Brenda? If we do, do we have a copy? If we don't, how do we know what to pay for inspections? Thanks,

Scott J. Andreassi, Esq.
Charlton Law
617 S. Pike Road
Sarver, PA 16055
724-540-1161
www.charltonlawyers.com



Apollo Borough Manager

From: Brenda Troup <rechhaben@gmail.com>
Sent: Tuesday, January 28, 2020 5:11 PM
To: Scott Andreassi
Cc: Apollo Borough Manager
Subject: Re: Brunermer
Attachments: Image001.jpg

No, we do not. I've been paid the same since 2012. This is getting personal.

On Tue, Jan 28, 2020, 12:20 Scott Andreassi <scott@charltonlawyers.com> wrote:

: And one more – do we have a contract with Brenda? If we do, do we have a copy? If we don't, how do we know what to pay for inspections? Thanks.

Scott J. Andreassi, Esq.

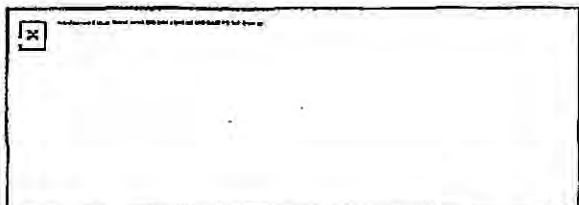
Charlton Law

617 S. Pike Road

Sarver, PA 16055

724-540-1161

www.charltonlawyers.com





CHARLTON Law
we're got this



February 3, 2020

Janet L. and R. Scott Brunner
514 Hoover Drive
Apollo, PA 15613

Re: No. 2019-1343 CIVIL
No. 2019-1402 CIVIL
No. 2019-1518 CIVIL
No. 2019-1790 CIVIL

Dear Mr. and Mrs. Brunner,

For the Order of Court dated January 15, 2020, please find enclosed, stamped and filed copy of the Berough's Attestation filed in the above matters.

Sincerely,

Scott J. Andreassi

cc: Berough of Apollo
Zachary Gordon, Esq.



COPY

**ATTESTATION THAT APOLLO BOROUGH HAS PROVIDED ALL
RESPONSIVE RECORDS**

Name of Requester: Scott and Janet Brunermer

Records Requested:

At Case No's. 2019-1343, 2019-1402 and 2019-1518:

1. Records relating to the vacancy and/or landlord applications related to 723 N. Warren Ave., Apollo, PA, 15613, owned by the Mary Persoskie Estate.
2. Files related to the property Plaintiffs own, located at 719 N. Warren Ave., Apollo, PA, be they real estate related, prior ownership of the building, etc., this shall include the following records:
 - a. Act 133 Report for 719 N. Warren Ave.
 - b. Additional notes or records related to the vacancy inspection of the property.
 - c. Dumpster Permits for the property.
 - d. Receipts related to payments made regarding the property.
 - e. Documents showing the Labor and Industry Number for the property.
 - f. Emails or other electronic records regarding the property.
3. The registry of vacant properties as of June 26, 2019.
4. The vacancy letter sent to Shiloh Baptist Church at 719 N. Warren Ave.
5. The vacancy registration paperwork for Shiloh Baptist Church at 719 N. Warren Ave. for 2016-2017.
6. The 2016-2017 findings and inspection report for Shiloh Baptist Church at 719 N. Warren Ave.
7. The vacancy payments and waiver from 2016-2017 for Shiloh Baptist Church.
8. Copy of the receipt for Brenda Troup, Zoning Officer, receipt of payments for the vacancy inspection of 719 N. Warren Ave.
9. A copy of the police summons that the property of Shiloh Baptist Church, 719 N. Warren Ave. was vacant.
10. A copy of the Change of Use of the Kerr Manufacturing building.
11. A copy of the Borough Zoning District Map.
12. Under Ordinance 272-16, Article 10 – the list of minimum requirements for inspection.
13. The list of code officials that the Borough uses to perform inspections.
14. A list of qualifications required to become a code official for Apollo Borough.
15. A copy of the following:
Uniform Commercial Code.

RECEIVED
APOLLO BOROUGH
2020 FEB -5 PM 12:51

2020 FEB -5 PM 12:51

LEFT FOR ENTRY
OR FILING

- a. Ordinance No. 190-79.
 - b. Ordinance No. 273-16.
 - c. Ordinance No. 266-81.
 - d. Financial records showing the Borough's cost to enforce the vacancy ordinance.
 - e. Any other Ordinances of borough code related to change of use zoning.
- 16. Records showing the first time Apollo Borough contracted with Bureau Veritas employee Rich McMillen.
 - 17. Ordinance No. 264-14 and any other ordinances of paperwork necessary to rent or let another business.
 - 18. All other Borough Change of Use requirements.
 - 19. Rich McMillen's qualifications to be a zoning officer, such as resume or CV.

At Case No. 2019- 1790:

- 1. Temporary Certificate of Use and Occupancy certificate issued to the Requesters on April 5, 2017 for 719 N. Warren Ave.
- 2. A copy of request by the members of the Shiloh Baptist Church to request a waiver from vacancy from 2017.
- 3. A copy of the letter from Apollo Borough to the member of Shiloh Baptist Church that they are scheduled for a vacancy inspection to be held October, 2017.
- 4. A copy of the application, sent by members of Shiloh Baptist Church, registering the building as a vacant building.
- 5. A copy of the Apollo Borough Meeting minutes and or letter to the Pennsylvania Department of Labor and Industry that the Borough has chosen to "Opt-In" from the Department of Labor and Industry.
- 6. A copy of documents sent from the Pennsylvania Department of Labor and Industry to Apollo Borough regarding the occupancy records of the property at 719 N. Warren Ave.

Case Captions:

No. 2019-1343-CIVIL

No. 2019-1402-CIVIL

No. 2019-1518-CIVIL

No. 2019-1790-CIVIL

I, Deanna Shupe, hereby declare under the penalty of perjury, pursuant to 18 Pa. C.S. § 4904, that the following statements are true and correct based upon my personal knowledge information and belief:

1. I serve as the Open Records Officer for Apollo Borough ("Agency") and I am responsible for responding to Right-to-Know requests filed with the Agency.
2. In my capacity as the Open Records Officer, I am familiar with the records of the Agency.
3. Upon receipt of the requests and Orders of Court in the above-referenced matters, I had conducted, and did conduct again, a thorough examination of files in the possession, custody and control of the Agency for records responsive to the requests underlying this matter. Specifically I searched Borough records, email archives and other paper records of the Borough. Ms. Brenda Troup was contacted regarding this request. Ms. Troup advised that she is not in possession of any of the requested documents. Officer Ron Baustert of the Apollo Borough Police Department was also contacted. In addition, third party vendors, specifically Mr. Grant Kanish of Bureau Veritas was contacted. Mr. Kanish advised that he had provided all documents in his possession to the Borough and the said records have been provided to Mr. and Mrs. Brunermer. Ms. Cynthia McDermott, former Borough Manager was also contacted. Ms. McDermott advised that she was not in possession of any Borough records.
4. Additionally, I have attempted to inquire with relevant Agency personnel, including, if applicable, relevant third-party contractors (including Ms. Troup, former Borough Manager Ms. McDermott, Chief Ron Baustert and Mr. Kanish) as to whether the requested records exist and/or are in their possession.
5. After conducting a good faith search of the Agency's files and inquiring with relevant Agency personnel, I identified all records within the Agency's possession, custody or control that are responsive to the request and have provided them to the requesters, if available, either in response to previous Right To Know requests or as contained in letters (and attachments) to the Requesters dated August 22, 2019, November 14, 2019 and January 29, 2020. If requested records were not provided, the said requested records were not in possession of the Borough or its third party contractors and therefore could not be provided.
6. Specifically, the records that could not be provided as they are not in the possession of the Borough or in the alternative, and after a good faith search do not exist, or in the alternative did not exist at all, are as follows:

- a. Act 133 Report for 719 N. Warren Ave.
 - The Borough has no "Act 133 Report".
- b. Additional notes or records related to the vacancy inspections of the property.
 - The Borough has provided all notes and/or records.
- c. Documents showing the Labor and Industry Number for the property.
 - The Borough has no "Dept. of Labor and Industry Numbers" for the property.
- d. Emails or other electronic records regarding the property.
 - All records for the property have been provided.
- e. Vacancy letter sent to Shiloh Baptist Church at 719 N. Warren Ave.
 - There exists no "Vacancy letter" for Shiloh Baptist Church, as such a letter was never sent.
- f. Vacancy registration paperwork for Shiloh Baptist Church.
 - There exists no "Vacancy registration paperwork for Shiloh Baptist Church", as such a registration was never filed and never occurred.
- g. 2016-2017 findings and inspection report for Shiloh Baptist Church.
 - There exists no "2016-2017 findings and inspection report for Shiloh Baptist Church", as such an inspection never occurred.
- h. Vacancy payments and waiver from 2016-2017 for Shiloh Baptist Church.
 - There exists no "Vacancy payments and waiver from 2016-2017 for Shiloh Baptist Church", as no waiver was ever requested.
- i. Copy of receipt from Brenda Troup, Zoning Officer, receipt of payment for the vacancy inspection of 719 N. Warren Ave.
 - There exists no copy of receipt from Brenda Troup for the vacancy inspection of 719 N. Warren Ave., as such an inspection never occurred.
- j. Copy of police summons that the property of Shiloh Baptist Church was vacant 2016-2017.
 - There exists no "copy of police summons that the property of Shiloh Baptist Church was vacant 2016-2017" as, according to a search of records by Officer Ron Baustert, Apollo Police Dept., such a summons was never issued.
- k. Copy of change of use, of the Kerr Manufacturing building going from a Tattoo Parlor, to light manufacturing.
- l. List of Code Officials the Borough uses to perform inspections.
 - The only "code official" used by the Borough to perform inspections is Brenda Troup.
- m. List of qualifications required to become a code official for Apollo Borough.
 - The Borough has no formal "list of qualifications".
- n. Financial records showing that it "costs more to enforce the vacancy ordinance in years 2-10 than it does in the first year".
 - The Borough has no financial records indicating that it would "cost more to enforce the vacancy ordinance in years 2-10 than it does the first year".

- o. Other ordinances of borough code related to change of use zoning.
- p. Records showing the first time Apollo Borough contracted with Bureau Veritas employee Rich McMillen.
 - Any Borough contract that exists is with Bureau Veritas and not Mr. McMillen, therefore there exists no "contract" with Mr. McMillen. As such, no contract exists with Mr. McMillen.
- q. Rich McMillen's qualifications to be a zoning officer.
 - The Borough has no list of qualifications for Mr. McMillen to serve as a zoning officer.
- r. Copy of a request by the members of Shiloh Baptist Church to request a waiver from vacancy from 2017.
 - There exists no "copy of a request by the members of Shiloh Baptist Church to request a waiver from vacancy for 2017", as such a request was never made.
- s. Copy of a letter from Apollo Borough to the members of Shiloh Baptist Church that they are scheduled for a vacancy inspection to be held in October, 2017.
 - There exists no "letter from Apollo Borough to the members of Shiloh Baptist Church that they are scheduled for a vacancy inspection to be held in October, 2017", as such a letter was never sent by the Borough.
- t. A copy of the application, sent by members of Shiloh Baptist Church, registering the building as a vacant building.
 - There exists no "copy of the application sent by members of Shiloh Baptist Church, registering the building as a vacant building", as such an application was never filed.
- u. A copy of the documents sent from the Pennsylvania Department of Labor and Industry to Apollo Borough regarding the occupancy records of the property located at 719 N. Warren Ave.
 - The Borough has no records from the Dept. of Labor and Industry regarding the property at 719 N. Warren Ave.

Date: February 5, 2020

Signature:



Deanna Shupe
Open Records Officer
Apollo Borough

ATTESTATION THAT AGENCY PROVIDED ALL RESPONSES PLACED

Name of Requester: Scott and Janet Brininger
Records Requested: "Additional Vacancy Inspection Checklist"
Appel Caption: No. 2019-1343-Civil
No. 2019-1402-Civil
No. 2019-1518-Civil
No. 2019-1720-Civil

APR 10 1 40 PM '20
APR 10 1 40 PM '20
APR 10 1 40 PM '20

I, Deanna Shupe, hereby declare under the penalty of perjury, pursuant to 18 P.S. § 4904, that the following statements are true and correct based upon my personal knowledge, information and belief:


1. I serve as the Open Records Officer for Apollo Borough and am responsible for responding to Right to Know requests filed with the Agency.
2. In my capacity as the Open Records Officer, I am familiar with the records of the Borough.
3. Upon receipt of the Order of Court dated March 12, 2020 in the above matter, I conducted a thorough examination of files in the possession, custody and control of the Borough for records responsive to the request underlying this appeal. Specifically I searched Borough records, email archives and contacted zoning Officer Brenda Tromp.
4. Additionally, I have attempted to inquire with relevant Borough personnel and, if applicable, relevant third party contractors as to whether the requested records exist in their possession, including Ms. Tromp.
5. After conducting a good faith search of the Borough's files and inquiring with relevant Agency personnel, including Ms. Tromp, I identified all records within the Agency's possession, custody or control that are responsive to the request and provided them to the requesters, if available. Further, and as a result of my search as described above, I have determined that there were no other "Vacancy Checklists" used by the Borough or Ms. Tromp during the relevant time period, other than those already a part of the Court's record.
6. In addition, and after a good faith search as described above, and after consulting with Ms. Tromp, it has been determined that the "Vacancy Checklist" contained in the file of Ms. Grant Kautz, was never used by the Borough. It was rather



determined by Ms. Brenda Troup that the "Vacancy Checklist" contained in the file of Mr. Grant Kanish was a draft form of a "Vacancy Checklist" that was considered for use by Ms. Troup and the Borough, however the form was never used by Ms. Troup or the Borough.

7. To the best of my knowledge, the only "Vacancy Checklist" utilized by the Borough was the "Vacancy Checklist" referred to by Ms. Brenda Troup during her deposition testimony on December 13, 2019.

Date: March 30, 2020

Signature: 
Deanna Shupe
Open Records Officer
Apollo Borough

ATTESTATION THAT AGENCY PROVIDED ALL RESPONSIVE RECORDS

Name of Requester: Scott and Janet Brunermer

Records Requested: "Email addresses searched"

Appeal Caption: No. 2019-1343-Civil
No. 2019-1402-Civil
No. 2019-1518-Civil
No. 2019-1790-Civil

2020 JUN - 1 PM 1:40
BRENDA S. GEORGE
PROthonotary AND
CLERK OF COURTS
AMSTERDAM COUNTY, PA
LEFT FOR ENTRY
OR FILING

I, Deanna Shupe, hereby declare under the penalty of perjury, pursuant to 18 Pa.C.S. § 4904, that the following statements are true and correct based upon my personal knowledge information and belief:

1. I serve as the Open Records Officer for Apollo Borough ("Agency") and am responsible for responding to Right-to-Know requests filed with the Agency.
2. In my capacity as the Open Records Officer, I am familiar with the records of the Agency.
3. Upon receipt of the consent Order of Court dated March 12, 2020 in the above matters, I conducted a thorough examination of files in the possession, custody and control of the Agency for records responsive to the request underlying this appeal, specifically I searched Borough records, email archives and contacted Zoning Officer Brenda Troup, and Mr. Grant Kanish.
4. Additionally, I have attempted to inquire with relevant Agency personnel and, if applicable, relevant third-party contractors as to whether the requested records exist in their possession, including Ms. Troup and Mr. Kanish.
5. After conducting a good faith search of the Agency's files and inquiring with relevant Agency personnel, including Ms. Troup and Mr. Kanish, I identified all records within the Agency's possession, custody or control that are responsive to the request and provided them to the requesters, if available. Further, and as a result of my search as described above, the following is a listing of email addresses searched as part of providing records to the Requesters and in response to the Court's Consent Order dated March 12, 2020:
 - a. rechhaben@gmail.com - Brenda Troup
 - b. boroughmanager@apollopa.org - Cindee McDermott, Deanna Shupe and general Borough business.

- c. grant.kanish@us.bureauveritas.com – Mr. Grant Kanish
 - d. Grant.Kanish@bureauveritas.com – Mr. Grant Kanish
 - e. mayor.virostek@gmail.com – Email address for Mayor Virostek. This email address was not in operation in 2018/2019. I have been advised that this email address did not become functional until 2020.
 - f. mayor.virostek@apollopa.org – This email address was assigned to the mayor, however it appears that it did not function, as noted by the mayor in her deposition.
 - g. contact@thefishbowltoo.com - This email address was associated with Zoning Officer Brenda Troup, however, except for the emails listed below, it was not used for Borough business relating to the Requester/Plaintiffs, Scott and Janet Brunermer.
 - h. apollomanager@yahoo.com – The Borough is not aware of this email address and does not believe to be a functioning address.
6. To the best of my knowledge, the only additional documents/emails discovered are attached hereto as Ex. A as follows:
- a. Email dated 3/30/2017 from Cynthia McDermott to G. Kanish
 - b. Email dated 5/15/2017 from Cynthia McDermott to G. Kanish
 - c. Email dated 5/17/2017 from Scott Brunermer to Cynthia McDermott
 - d. Email chain dated 5/17/2017 to/from Cynthia McDermott and Scott Brunermer
 - e. Email chain dated 7/19/2017 to/from Scott Brunermer and Jamie
 - f. Email dated 1/26/2018 from Scott Brunermer to "Cindee" (presumably then Borough Manager Cynthia McDermott).
 - g. Email chain dated 1/26-1/30/2018 to/from Scott Brunermer and Cynthia McDermott
 - h. Email chain dated 2/8/2018 to/from Scott Brunermer and Cynthia McDermott
 - i. Email chain beginning 2/27/2018 to/from Cynthia McDermott and Scott Brunermer
 - j. Email chain dated 2/28/2018 to/from Scott Brunermer and Cynthia McDermott
 - k. Email dated 8/21/2018 from Cynthia McDermott to Tim Miller
 - l. Email dated 10/29/2018 to/from "Apollo Borough Manager" and B. Troup

To the best of my knowledge, there are no other responsive documents to be filed as a result of this search at this time.

Date: May 8, 2020

Signature:

A handwritten signature in black ink, appearing to read "Deanna Shupe", written over a horizontal line.

Deanna Shupe
Open Records Officer
Apollo Borough

From: Apollo Borough Manager [mailto:boroughmanager@apollopa.org]
Sent: Thursday, March 30, 2017 3:03 PM
To: grant.kanish@us.bureauveritas.com
Subject: Inspection

Please add 717-719 N. Warren Avenue to your Wednesday schedule next week at 9:30. This is two street numbers, one building. It was used as a church, so they will probably have to talk to you about a change of occupancy permit as well.

Thank you,
Cindee

Cynthia McDermott
Apollo Borough Manager
P. O. Box 306
Apollo, PA 15613
Phone: 724-478-4201 x 1
Fax: 724-478-4923
Email: boroughmanager@apollopa.org
Website: www.apollopa.org

From: Apollo Borough Manager [mailto:boroughmanager@apollopa.org]

Sent: Monday, May 15, 2017 11:56 AM

To: grant.kanish@us.bureauveritas.com

Subject: Inspection

Grant – can you do a re-inspection at 719 N. Fifth Street next Thursday, May 25th at 10:30 AM?

Cynthia McDermott

Apollo Borough Manager

P. O. Box 306

Apollo, PA 15613

Phone: 724-478-4201 x 1

Fax: 724-478-4923

Email: boroughmanager@apollopa.org

Website: www.apollopa.org

From: Scott Brunermer [mailto:scott@ksloandirect.com]
Sent: Wednesday, May 17, 2017 2:07 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: 723 N Warren Ave, Apollo

Hi Cindee,

I called earlier and spoke with whomever was answering the phone as well as Jared. Do you have any contact information for 723 N. Warren Ave.? Unfortunately, they have a tree that is growing into my roof and has taken some of the soffit/fascia with it. I understand Mrs. Persoskie passed in 2014 and I am trying to track down a relative.

Thanks!
Scott Brunermer

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Wednesday, May 17, 2017 3:41 PM
To: 'Scott Brunermer' <scott@ksloandirect.com>
Subject: RE: 723 N Warren Ave, Apollo

She might know, but didn't think of any reason to tell us up here! Most people have estates that they settle and properties get transferred, and then we all know about it!

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Wednesday, May 17, 2017 3:05 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: RE: 723 N Warren Ave, Apollo

I'll contact Jarred in a couple of days, I see him around town. I'm surprised Brenda didn't know. It's funny how people just vanish!

Thanks again,
Scott

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Wednesday, May 17, 2017 2:57 PM
To: 'Scott Brunermer'
Subject: RE: 723 N Warren Ave, Apollo

Hi Scott – We didn't know that Mrs. Persoskie had passed away! Jarred did speak with someone at the house and he is trying to figure out who lives there and get something done about the tree for you.

Hopefully, they are relatives and not squatters!

Let me know if you do not hear from him.

Thanks!

Cindee

I opened up our sewer bill tonight, and was surprised to find 2. Why are we paying for sewage on a vacant lot that doesn't even have a tap? Am I going to have to pay an additional sewage bill for 715 N Warren when the purchase of that property is complete? It is vacant as well.

Thanks!
Scott Brunermer

From: Scott Bruniermer [mailto:scott@ksloandirect.com]

Sent: Wednesday, July 19, 2017 9:09 AM

To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>

Subject: RE: Sewage Bill or Bills?

Good morning, Jamie,

The dumpster was removed yesterday. The Church is still vacant, though we continue to work on it. Thanks for the info!

Scott

From: Apollo Borough Manager [mailto:boroughmanager@apollopa.org]

Sent: Wednesday, July 19, 2017 8:39 AM

To: 'Scott Bruniermer'

Subject: RE: Sewage Bill or Bills?

Good Morning.

This is Jamie. All properties in Apollo are charged the Sewer/Storm Water Maintenance Fund. If it a vacant property and/or a vacant lot, then the fee is ½ rate (\$14). Even parking lots are charged this fee. So the building you purchased (Shiloh Church) if it will be vacant during the quarter represented on the bill (July-September), all you need to do is write VACANT on it and pay ½ rate on it. As soon as it is occupied, then you will need to pay the \$28 per quarter.

Just a reminder, the dumpster permit expired yesterday. If you still will be using a dumpster, you will need to fill out another form and payment. The dumpsters permits are for 21 days per dumpster.

This week the borough office is open til 1:00pm.

Thanks!

Jamie

From: Scott Bruniermer [mailto:scott@ksloandirect.com]

Sent: Tuesday, July 18, 2017 8:58 PM

To: boroughmanager@apollopa.org

Subject: Sewage Bill or Bills?

Hi Cindee,

Thanks,
Scott

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Friday, January 26, 2018 3:19 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: Inspection

Hi Cindee,

If I am granted a vacancy waiver for my building, am I still going to be subject to an Inspection next week?

Thanks,
Scott

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Tuesday, January 30, 2018 11:34 AM
To: rechhaben@gmail.com
Subject: FW: Inspection

This is the email from yesterday.
Cindee

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Monday, January 29, 2018 9:51 AM
To: 'Scott Brunermer' <scott@ksloandirect.com>
Subject: RE: Inspection

No, it is with Brenda Troup. She decides the waivers.

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Monday, January 29, 2018 9:24 AM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: RE: Inspection

Would that be with Karen?

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Monday, January 29, 2018 9:09 AM
To: 'Scott Brunermer'
Subject: RE: Inspection

Scott,
You have to allow the inspection to get the waiver.
Cindee

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Friday, January 26, 2018 3:19 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: Inspection

Hi Cindee,

If I am granted a vacancy waiver for my building, am I still going to be subject to an inspection next week?

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Thursday, February 8, 2018 2:25 PM
To: 'Scott Brunermer' <scott@ksloandirect.com>
Subject: RE: Dept of Labor & Industry LNI File Number

That's what I assumed it was. We tried to find one with the state when the borough was looking into that church on Pennsylvania Avenue and they did not have one. These church buildings are so old they would probably be hand written records.

However, your office building was probably built in the sixties – I would think that one would be available.

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Thursday, February 8, 2018 2:16 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: RE: Dept of Labor & Industry LNI File Number

It's a state certification for building occupancies.

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Thursday, February 08, 2018 2:09 PM
To: 'Scott Brunermer'
Subject: RE: Dept of Labor & Industry LNI File Number

No.....I am not sure what that is. Do you know what that stands for?

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Thursday, February 8, 2018 11:46 AM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: Dept of Labor & Industry LNI File Number

Hi Cindee,

Got off the phone with the Department of Labor & Industry, and they told me to ask you if the Borough had a copy of our LNI file number for both 719 N. Warren Ave and 108 North Plaza, Apollo.

Thanks,
Scott

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Monday, January 29, 2018 9:09 AM
To: 'Scott Brunermer'
Subject: RE: Inspection

Scott,

You have to allow the inspection to get the waiver.

Cindee

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Friday, January 26, 2018 3:19 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: Inspection

Hi Cindee,

If I am granted a vacancy waiver for my building, am I still going to be subject to an inspection next week?

Thanks,

Scott

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Tuesday, February 27, 2018 10:52 AM
To: 'Scott Brunermer' <scott@ksloandirect.com>
Subject: RE: Inspection

Scott – you missed a second inspection yesterday. We did not receive any requests to re-schedule. We have your request for a waiver to process.

Please advise.

Thanks

Cindee

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Monday, January 29, 2018 9:24 AM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: RE: Inspection

Would that be with Karen?

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Monday, January 29, 2018 9:09 AM
To: 'Scott Brunermer'
Subject: RE: Inspection

Scott,

You have to allow the inspection to get the waiver.

Cindee

From: Scott Brunermer [mailto:scott@ksloandirect.com]
Sent: Wednesday, February 28, 2018 12:03 AM
To: Apollo Borough Manager <boroughmanager@apollopa.org>
Subject: Re: Inspection

Cindee,

It is best that any questions asked about the property located at 719 North Warren Avenue, go to sloppysoap@windstream.net.

Thank you,

Scott

On 27.02.2018 10:51, Apollo Borough Manager wrote:

Scott – you missed a second inspection yesterday. We did not receive any requests to re-schedule. We have your request for a waiver to process.

Please advise.

Thanks

Cindee

From: Scott Brunermer [mailto:scott@ksloandirect.com]
Sent: Monday, January 29, 2018 9:24 AM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: RE: Inspection

Would that be with Karen?

From: Apollo Borough Manager [<mailto:boroughmanager@apollopa.org>]
Sent: Monday, January 29, 2018 9:09 AM
To: 'Scott Brunermer'
Subject: RE: Inspection

Scott,

You have to allow the inspection to get the waiver.

Cindee

From: Scott Brunermer [<mailto:scott@ksloandirect.com>]
Sent: Friday, January 26, 2018 3:19 PM
To: 'Apollo Borough Manager' <boroughmanager@apollopa.org>
Subject: Inspection

Hi Cindee,

If I am granted a vacancy waiver for my building, am I still going to be subject to an inspection next week?

Thanks,

Scott

From: Apollo Borough Manager [mailto:boroughmanager@apollopa.org]
Sent: Tuesday, August 21, 2018 9:42 AM
To: 'Timothy Miller' <tmiller@damdpc.com>
Subject: RE: Brunnermer

I was just reviewing that. I do not understand why they are claiming that the property is not vacant when it clearly is. April of 2017 they purchased the building – it is still not occupied as of today. Therefore, it is a vacant property.

Under definitions in the ordinance it states that a vacant building is a property or structure that is unoccupied for more than sixty days, and a vacant storefront shall be deemed vacant if no person or persons currently conducts a lawfully licensed business there. This property has been vacant for the entire time that the Brunnermers have owned it.

The ordinance also requires registration after 180 days of being vacant or ownership of a vacant building. We did not send them the vacancy registration information until after they had owned the property over 180 days.

We have never said it was a public nuisance of any kind. The Brunnermers sent in their application for a waiver for 2017-2018. They were scheduled for an inspection on January 30, 2018 (which is required to obtain a waiver). There were a no show – so they were re-scheduled for another inspection on February 26th. Again, they were a no show. This is clearly a violation of the ordinance.

The inspection would have been done by Brenda Troup, zoning officer, and she has the authority to grant the waivers. I am almost positive she would have granted them waivers as they have done an awesome job of renovating that property. However, for whatever reason they will not allow an inspection. Therefore, without a waiver of fees, they would be required to pay the registration fee.

The citations that were recently filed were per Chief Kier because Brenda asked him when their hearing was, and he had not filed it yet, so he wrote it after her inquiry. There was no retaliation involved as he was unaware of the questions being posed by this attorney.

We have received in July another request for a waiver of fees for 2018-2019. We have not scheduled any inspections yet (Brenda has not given us her availability). The Brunnermers will be sent a notification for an inspection as soon as that is scheduled, and if they do not allow that inspection they will again be in violation for the 2018-2019 vacancy year.

I will scan you copies of the notices.

Cindee

From: Apollo Borough Manager [mailto:boroughmanager@apollopa.org]
Sent: Monday, October 29, 2018 2:09 PM
To: 'Brenda Troup' <rechhaben@gmail.com>
Subject: RE: Brunermer conundrums

They have really complicated a simple procedure for vacant properties in Apollo.

From: Brenda Troup [mailto:rechhaben@gmail.com]
Sent: Monday, October 29, 2018 1:52 PM
To: boroughmanager@apollopa.org
Subject: Brunermer conundrums

It was a church. She claims to be living in it, which we all know she isn't and she probably doesn't get her residential mail there. She claims she is making soap out of there so she has a business but doesn't really have a business because veritas hasn't done the change of occupancy as such and therefore it's not permitted within the borough...so...she can't get a waiver IF an inspection ever occurs. Am I wrong? Told you I'd wait til Monday to pester you again.

Charlton & Charlton Attorneys at Law
 617 South Pike Road
 Sayreville, PA 16033 USA

Ph. 724-540-1161

Fax 724-540-1164

Apollo Borough
 PO Box 306
 Apollo, PA
 15613 USA

June 11, 2019

Attention:

File #: 2337-
 Inv #1 3941

RE: Apollo Borough Solicitor Services

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
May-03-19	email - Hudak/Urbansky property	0.40	32.00	SJA
	email re Urbansky property w/Atty. Mike Pater	0.20	26.00	SJA
	email w/ESWA Rep. Dave Gallo	0.20	26.00	SJA
	email re Urbansky/Shafesolin	0.20	26.00	SJA
	email - Shupe/Urbansky property	0.20	N/C	SJA
	email Shupe re Urbansky	0.20	N/C	SJA
May-06-19	email Shupe/Urbansky	0.20	26.00	SJA
May-09-19	email - Borough Mgt. re Brunermer FOIA Request	0.40	32.00	SJA
May-10-19	email Hudak re Urbansky	0.20	26.00	SJA
	email w/Atty. Pater re Urbansky matter	0.20	45.00	SJA
	email from Atty. Oresick re Brunermer	0.20	26.00	SJA
May-13-19	email Troupe re Brunermer	0.20	26.00	SJA



May-14-19	email Atty. Oresick re: Brunermer	0.20	26.00	SJA
	email Atty. Oresick re: Brunermer	0.20	26.00	SJA
	email w/Atty. Oresick re: Brunermer	0.20	26.00	SJA
	email Troup re: Brunermer	0.20	N/C	SJA
	email w/Troup re: Brunermer	0.20	N/C	SJA
May-15-19	Review documents from Atty. Larry Loperfito re: Stanley Matthews matter	0.50	65.00	SJA
	email re: Brunermer matter	0.20	26.00	SJA
	email Troup re: Brunermer	0.20	26.00	SJA
	email re: Brunermer matter	0.20	N/C	SJA
	email Troup re: Brunermer	0.20	N/C	SJA
May-16-19	Preparation of file for Brunermer appeal hearing on 5/20/2019	1.00	130.00	SJA
	email re: Matthews matter	0.20	26.00	SJA
May-17-19	Brunermer matter - review of file, witness preparation	1.00	130.00	SJA
	email Troup re: Brunermer	0.20	26.00	SJA
	Correspondence to former solicitor Tim Miller re: Matthews	0.20	26.00	SJA
May-18-19	email Troup re: Brunermer	0.40	52.00	SJA
	email re: Ordinance issue	0.20	N/C	SJA
May-19-19	email re: Ordinance issue	0.20	N/C	SJA
	email Troup re: Brunermer	0.20	N/C	SJA
May-20-19	Telephone conf. re: DCED matter	0.40	52.00	SJA
	email to/from borough sec/treas.	0.20	26.00	SJA

	email to/from borough sec/treas	0.20	26.00	SJA
	email re:Ordinance question	0.20	N/C	SJA
	email to/from borough sec/treas	0.20	N/C	SJA
May-21-19	Review additional documents re:Matthews matter	0.50	65.00	SJA
	email to/from borough sec/treas re:Andring	0.20	37.00	SJA
	email re:Breznican	0.20	26.00	SJA
	Misc. email to/from borough sec/treas	0.20	N/C	SJA
May-22-19	Review documents re:Paul Breznican workers comp case	0.40	52.00	SJA
	email to/from borough sec/treas re:Matthews	0.20	N/C	SJA
May-23-19	Review additional documents re:Breznican, Matthews	0.75	97.50	SJA
May-24-19	Review additional documents re:Brumermer	0.40	52.00	SJA
	Draft letter to McDermott re:Severance	0.50	65.00	SJA
	Draft letter to Andring re:Severance	0.50	65.00	SJA
	Revise letter to Andring re:Teamsters Settlement agreement	0.40	52.00	SJA
May-28-19	Draft settlement/release agreements for Andring/McDermott	0.50	65.00	SJA
	Review additional documents re:Breznican/Matthews	0.40	52.00	SJA
	email to/from borough sec/treas	0.20	26.00	SJA
	email to/from borough/Rich Craft re:DCED matter	0.20	26.00	SJA
	email re:Andring matter	0.20	26.00	SJA

	email re:Breznican matter	0.20	26.00	SJA
May-29-19	Review correspondence and releases	0.40	52.00	JVC
	email re:MS4 matter	0.20	N/C	SJA
May-30-19	Preparation for council meeting - review extensive documents re:MS4 program	1.75	227.50	SJA
	Attendance at monthly council meeting.	3.50	455.00	SJA
	Revise and finalize McDermott/Andring Letters	0.50	65.00	SJA
May-31-19	Continued review of Storm Water Ordinance	1.50	195.00	SJA
	Totals	23.70	<u>\$2,747.00</u>	

Total Fee & Disbursements\$2,747.00

Previous Balance

1,729.00

Previous Payments

1,729.00**Balance Now Due**\$2,747.00

TAX ID Number 27-4166908

PAYMENT DETAILS

Jun-11-19 1,729.00

Total Payments\$1,729.00



County of Armstrong

Recorder of Deeds
Register of Wills
Clerk of Orphans' Court

Sandra L. Romanowski, First Deputy

Leah A. Hest, Second Deputy

600 Market Street, Kittanning, PA 16131
724.543.3220 Phone / 724.543.3230 Fax
email: mhlaman@co.armstrong.pa.us

Marianne Hileman | Recorder of Deeds
Register of Wills | Clerk of Orphans' Court

Instrument Number - 201611583

Recorded On 11/16/2016 At 10:07:18 AM

*Total Pages - 4

*Instrument Type - DEED

Invoice Number - 225771

User - JAH

*Grantor - STEELE, JOHN H

*Grantee - KERR LIGHT MANUFACTURING LLC

*Custodian - JAMES R ANTONIONO

*Fees

STATE TRANSFER TAX	\$300.00
STATE SPLIT TAX	\$0.50
STATE J.C.S. / A.T.S	\$40.25
COUNTY RECORDING FEE	\$13.00
AFFORDABLE HOUSING - 15%	\$1.95
AFFORDABLE HOUSING - 65%	\$11.05
DEMOLITION FUND	\$15.00
COUNTY IMP FUND	\$2.00
RECORDER IMP FUND	\$3.00
APOLLO RIDGE SCHOOL DISTRICT	\$150.00
APOLLO BOROUGH	\$50.00
TOTAL PAID	\$585.75

This is a certification page

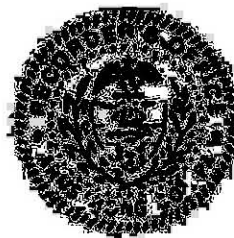
DO NOT DETACH

This is now part
of this legal document.

COPIES

RETURN DOCUMENT TO:
JAMES ANTONIONO
NORTH MAIN STREET
GREENSBURG, PA 15601

I hereby CERTIFY that this document is recorded in the
Recorder's Office of Armstrong County, Pennsylvania.



Marianne Hileman
Marianne Hileman, Recorder of Deeds

*Information derived by an asterisk may change during
the verification process and may not be reflected on this page.



GENERAL WARRANTY DEED

MADE the 13 day of November, 2018,

BETWEEN

JOHN H. STEELE AND LINDA S. STEELE, husband and wife,

hereinafter called "Grantors",

A

N

D

KERR LIGHT MANUFACTURING, LLC., a Pennsylvania Limited Liability Company,

hereinafter called "Grantee".

WITNESSETH, that the said Grantors in consideration of the sum of **THIRTY THOUSAND (\$30,000.00) DOLLARS** paid to the Grantors by the Grantee, receipt of which is hereby acknowledged, do grant, bargain, sell and convey unto the said Grantee, its successors and assigns, all of the Grantors' right, title and interest in and to the following property:

ALL that certain property sold at the 2007-370 Judicial Sale located in the Apollo Borough, Armstrong County, Pennsylvania and identified by Map No. 227.07-01-05 and Control No. 01-0-000451.

BEING Tax Map No. 01-227.07-01-05.

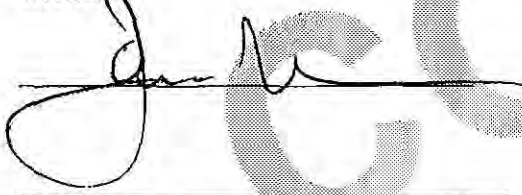
BEING the same piece or parcel of land sold to the above Grantors by deed of Arthur A. Steele, single, and John H. Steele and Linda S. Steele, husband and wife, by their deed dated March 20, 2014 and recorded in Record Book Volume 4575, page 241, in the Recorder of Deeds Office of Armstrong County, Pennsylvania.

UNDER AND SUBJECT TO coal and mining rights and all rights and privileges incident to the mining of coal heretofore conveyed, excepted, or reserved by instruments of record; the right of surface, lateral, or subjacent support; or any surface subsidence; oil and gas and minerals and all rights incident to the extraction or development of oil and gas or minerals heretofore conveyed, leased, excepted, or reserved by instruments of record; and all easements, rights of way, and restrictions as contained in prior instruments of record and/or as installed or located on the premises and all other matters of record appearing prior hereto.

With the appurtenances thereto: **TO HAVE AND TO HOLD** the same to and for the use of the said Grantee, its successors and assigns forever, and the Grantors for their heirs and assigns hereby covenant and agree that they will *generally* warrant title to the property hereby conveyed.

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966, AS AMENDED 1980, OCT. 10, P.L. 874, NO. 156 § 1.

WITNESS:



Kerr Light Manufacturing, LLC

By:

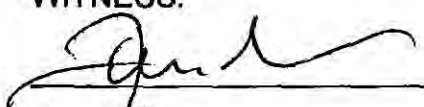



By:

NOTICE- -THIS DOCUMENT MAY NOT (DOES NOT) SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE (HAVE) THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended and is not intended as notice of unrecorded instruments, if any.

WITNESS the hand and seal of the said Grantors the day and year first above written:

WITNESS:



John H. Steele (SEAL)
Linda S. Steele (SEAL)

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF ARMSTRONG)

ss:

On this, the 13 day of November, 2018, before me, a Notary Public, the undersigned officer, personally appeared, **JOHN H. STEELE and LINDA S. STEELE**, husband and wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS THEREOF, I hereunto set my hand and official seal.


Notary Public

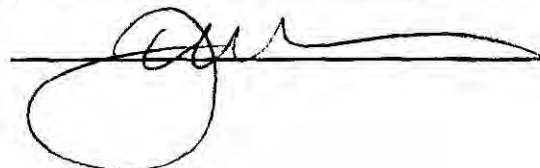
My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
James R. Antonione, Notary Public
City of Greensburg, Westmoreland County
My commission expires October 15, 2019

CERTIFICATE OF RESIDENCE

I, James R. Antonione, do hereby certify that the precise residence of the within Grantee is: 704 North 11th Street, Apollo, Pennsylvania, 15613.

Witness my hand this 13 day of November, 2018.



RECORD BOOK

PAGE

5159

U393

VERIFICATION

Plaintiff verifies that the foregoing Petition is based upon information which she has furnished to her counsel and information which has been gathered by her counsel. The language of the Petition is that of counsel and not of Plaintiff. Plaintiff has read the Petition and to the extent that the Petition is based upon information which she has given to her counsel, it is true and correct to the best of her knowledge, information and belief. To the extent that the content of the Petition is that of counsel, she has relied upon counsel in making this verification. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Date 3/11/11


Date

VERIFICATION

Plaintiff verifies that the foregoing Petition is based upon information which he has furnished to his counsel and information which has been gathered by his counsel. The language of the Petition is that of counsel and not of Plaintiff. Plaintiff has read the Petition and to the extent that the Petition is based upon information which he has given to his counsel, it is true and correct to the best of his knowledge, information and belief. To the extent that the content of the Petition is that of counsel, he has relied upon counsel in making this verification. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Scott Brummett


Defendant

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY

JANET AND SCOTT BRUNERMER,	:	
	:	
Plaintiffs/Petitioners,	:	
	:	
v.	:	No. 2019-1343-CIVIL
	:	No. 2019-1402-CIVIL
APOLLO BOROUGH,	:	No. 2019-1518-CIVIL
	:	No. 2019-1790-CIVIL
Defendant/Respondent	:	

PROPOSED ORDER OF COURT

AND NOW, this ____ day of _____, 2020, upon consideration of Plaintiffs' Petition for Civil Contempt, Sanctions, and Other Relief in the above captioned cases, and upon review of the Borough's Answer thereto, and the hearing held on the ____ day of _____, 2020, it is hereby, ORDERED, ADJUDGED, and DECREED as follows:

1. The Borough shall provide all other records required by Paragraph 1(a) of this Court's January 15, 2020 Order related to 723 N. Warren Ave., Apollo, PA 15613. The Borough shall also provide an affidavit attesting that the Borough has no other records or that after further search the records previously provided included every responsive record.

2. The Borough provided many records required by Paragraph 1(b) of this Court's January 15, 2020 Order on September 2, 2020. The Borough should have provided those records by January 29, 2020 or 217 days earlier. See Paragraph 11 regarding per day penalties under Section 1305(b) of the Right-to-Know-Law. The Borough shall provide appropriate affidavits explaining how its searches in response to this Court's January 15, 2020 Order and March 12, 2020 failed to uncover the emails provided on September 2, 2020 as described in Paragraphs 45 and 50 of the Petition. The Borough shall also provide appropriate affidavits explaining its efforts to locate any

additional records responsive to the March 12, 2020 Order and Paragraph 1(b) of the January 15, 2020 Order. If any other records are found, the Borough shall provide them. If no other records are found, the Borough shall so certify in its affidavits.

3. The Borough shall provide an affidavit explaining how it searched for the vacancy inspection checklist attested to in its March 30, 2020 affidavit (Exhibit H to the Petition and filed with the Borough's Brief). The Borough must also provide all documents used as the vacancy inspection checklist 2016 and 2017 and verify it has provided all other vacancy inspection checklists for 2016-2019.

4. The Borough shall provide all lists of vacant properties in existence as of June 26, 2019 for inspection year 2019 and verify by affidavit that it has no other vacancy lists in existence as of June 26, 2019.

5. The Borough shall provide the 2018 water usage report showing water usage for 719 N. Warren Avenue.

6. The Borough shall provide the change of use for Kerr Manufacturing and provide an affidavit explaining why the Borough alleged the change of use occurred in 2015.

7. The Borough shall provide all documents described in Paragraph 20 to the Petition and the sub-paragraphs of Paragraph 20. For any document or category of document the Borough maintains it has already provided all documents or has no further responsive documents, the Borough shall provide a verified affidavit specifically certifying that fact for each allegation in Paragraph 20.

8. The Borough shall provide all additional records and affidavits required by this Order within fourteen (14) days of the date of this Order.

9. A contempt purge hearing will be held on the ____ day of _____, 202__, in Courtroom No. ____, at _____ a.m./p.m.

a. At the contempt purge hearing, this Court will review the Borough's compliance with this Order and may award additional fees and penalties under the RTKL based upon the evidence provided, including additional per day fees for not providing records as previously ordered to be disclosed pursuant to the authority in Section 1305(b) of the RTKL. See Paragraph 12.

b. **Borough Manager, Deanna Shupe and Borough Zoning Officer Brenda Troup shall appear at the contempt purge hearing. If the Borough is found to still be in violation of this Court's prior Orders at the contempt purge hearing, those officials may face additional punishment for disobeying this Court's Orders, including further monetary sanctions and/or imprisonment.**

10. Plaintiffs are awarded counsel fees of \$_____.

11. Plaintiffs are awarded penalties under Section 1305(b) of the RTKL for the Borough's failure to comply with this Court's Orders requiring production of public records through September 2, 2020 of \$_____. By way of further explanation, this Court awards the Requesters the full \$500 per day penalty of \$108,500 under 65 P.S. § 67.1305(b) for 217 day delay described in Paragraphs 45 and 50 of the Petition and another full \$500 per day penalty of \$108,500 for the 217 day delay described in Paragraph 87 of the Petition.

12. This Court finds that additional penalties under Section 1305 (a), Section 1305(b), and counsel fees under Section 1304 of the RTKL are warranted, but that the extent of the penalties and fees could vary depending upon the Borough's response to this Order. **This Court will address**

those claims at the hearing scheduled in Paragraph 9 of this Order. Plaintiffs shall file and serve a summary of their request for penalties and attorneys' fees along with their position as to any records or affidavits that have not been provided within ten (10) days of receiving the Borough's records and affidavits required by this Order. **The Borough shall file and serve any response contesting Plaintiffs' summary of the outstanding records and affidavits and the request for penalties and attorneys' fees at least five 5 days before the hearing in scheduled in Paragraph 9 of this Order or the Borough will be deemed to have consented to Plaintiffs' summary.**

13. The Borough shall make all payments required by this Order within fourteen (14) days of the date of this Order.

BY THE COURT:

_____, J.

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY

JANET AND SCOTT BRUNERMER,

Plaintiffs/Petitioners,

v.

APOLLO BOROUGH,

**vs.
vs.
vs.
vs.
vs.
vs.
vs.**

No. 2019-1343 CIVIL

No. 2019-1402 CIVIL

No. 2019-1518 CIVIL

No. 2019-1794 CIVIL

CERTIFICATE OF SERVICE
(Civil Division Matter)

I, the undersigned, hereby certify that I caused a copy of the attached Petition to be served upon:

Name of Person

Method of Service

Date of Service

**Scott J. Andreassi
Counsel for Defendant/
Respondent Apollo Borough**

**U.S. Mail to:
Charlton Law
617 South Pike Road
Sarver, PA 16055
Electronic Mail to:
scott@charltonlawyers.com**

September 17, 2020

Zachary N. Gordon

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Counsel for Plaintiffs/Petitioners

Signature:

Name: Zachary N. Gordon

Attorney No.: 318898

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY

JANET AND SCOTT BRUNERMER,	:	
	:	
Plaintiffs/Petitioners,	:	
	:	
v.	:	No. 2019-1343-CIVIL
	:	No. 2019-1402-CIVIL
APOLLO BOROUGH,	:	No. 2019-1518-CIVIL
	:	No. 2019-1790-CIVIL
Defendant/Respondent	:	

ORDER OF COURT ON ISSUANCE OF A RULE TO SHOW CAUSE

AND NOW, this _____ day of _____, 2020, upon consideration of the foregoing Petition for Civil Contempt, Sanctions, and Other Relief, it is hereby ORDERED that:

- 1) A rule is issued upon the respondent, Apollo Borough to show cause why the Petitioners are not entitled to the relief requested;
- 2) The respondent shall file an Answer to the Petition within twenty 20 days of service upon the respondent;
- 3) The petition shall be decided under Pa. R.C.P. No. 206.7;
- 4) An evidentiary hearing on disputed issues of material fact shall be held on the ____, day of _____, 20__, at _____ a.m./p.m. in Courtroom No. ____ of the Armstrong County Courthouse in Kittanning, Pennsylvania;
- 5) Notice of the entry of this Order shall be provided to all parties by the Prothonotary.

BY THE COURT:

_____, J.

EXHIBIT

“F”

COPY

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA
CIVIL

SCOTT and JANET BRUNERMER,

Plaintiffs,

v.

APOLLO BOROUGH,

Defendant.

Nos.: 2020-1343
2020-1402
2020-1518
2020-1790

Type of Pleading:

**APOLLO BOROUGH'S
RESPONSE TO PETITION
FOR CIVIL CONTEMPT,
SANCTIONS AND OTHER
RELIEF**

2020 NOV -5 AM 10:22

LETTER ENTRY
CIVIL

Filed on Behalf of:
Apollo Borough

Counsel of Record:

Scott J. Andreassi, Esquire
Pa. Id. No.: 56910

Charlton Law
617 South Pike Road
Sarver, PA 16055
Telephone: 724.540.1161
Facsimile: 724.540.1164

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA
CIVIL

SCOTT and JANET BRUNERMER,

Plaintiffs,

v.

APOLLO BOROUGH,

Defendant.

:
:
: Nos.: 2020-1343
: 2020-1402
: 2020-1518
: 2020-1790
:
:
:
:
:

**APOLLO BOROUGH'S RESPONSE TO PETITION FOR
CIVIL CONTEMPT, SANCTIONS AND OTHER RELIEF**

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted. It is admitted that the Exhibits are reproductions of the Courts Consent Orders in this matter.
3. Paragraph 3 is a summary recitation of the Orders of Court and as such require no response.
4. Paragraph 4 is summary recitation of the Order of Court and as such requires no response.
5. Paragraph 5 is admitted. It is admitted that the Borough provided and the Plaintiff's accepted an un-redacted copy of the Bureau Veritas file in this matter, as requested. It is averred that the file was hand delivered to Plaintiff's counsel by Borough counsel.
6. Paragraph 6 is denied. It is denied that the Borough has not "fully complied" with the Court's Order. It is admitted that the Plaintiff's filed another Motion for Sanctions and Relief.
7. Paragraph 7 is admitted.
8. Paragraph 8 is a summary recitation of the Court's Order and as such requires no response.
9. Paragraph 9 is admitted. It is admitted that the parties have filed their briefs in this matter. It is averred that by Order dated October 9, 2020, this Court decided the issue of Counsel fees by denying the Plaintiff's motion.

10. Paragraph 10 is denied. It is specifically denied that the Borough has failed to produce any records as requested or as agreed to by the parties.
11. Paragraph 11 is denied. It is specifically averred that the Borough has, in good faith, worked to provide all documents as requested under the Right-to-Know Act, or as agreed to between the parties as part of this litigation.
12. Paragraph 12 is admitted. It is admitted that the Plaintiffs have file an action at No. 2020-0779.
13. Paragraph 13 is admitted. It is admitted that after an additional search of the records by the Borough as part of the action at 2020-0779, additional records were discovered and provided to the Plaintiffs.
14. Paragraph 14 is denied. It is specifically averred that at the time the affidavits were prepared and filed, the affidavits were accurate based on the information available at the time of filing.
15. Paragraph 15 is admitted insofar as it asks the Court to schedule a hearing. The remainder of the paragraph is a statement of opinion and requires no response. To the extent a response is required, it is denied that the Borough has engaged in any "blatant disregard" of the Court's Orders.
16. Paragraph 16 is a statement of position and as such requires no response. To the extent a response is required, it is admitted that the paragraph seeks to require the Borough to act.
17. Paragraph 17 is a statement of law and as such requires no response.
18. Paragraph 18 is a statement of current law and as such requires no response.
19. Paragraph 19 is a reference to a "proposed order", as such it requires no response.
20. Paragraph 20 is denied. It is specifically averred that the Borough has in fact provided the requested records. Specifically, the Borough denies that it has failed to provide the following records to the Plaintiffs through the OOR or through agreement between the parties and specifically avers that the following records have been provided either through the OOR process or through the agreed to Court Orders:
 - a. The un-redacted Bureau Veritas file for 719 N. Warren Ave.
 - b. "All records" related to 723 N. Warren Ave.
 - c. The "August 2017" notification.

- d. The Borough either has provided or is not in possession of the records sought in paragraph 2 of the Court's March 12, 2020 Order.
 - e. Vacancy records for 2016-2019 in the format maintained by the Borough.
 - f. The Borough provided a response that the "Change of Use" sought did not exist as both uses were "commercial properties". The Borough further stated that it would not have such records as the transfer of the property and any related "change of use" issues would be with the Pa. Dept. of Labor and Industry.
 - g. The Borough has responded to the request for records contained in sub-paragraphs i – vi respectively and has provided the Plaintiff's with the documents or stated that such documents do not exist. In addition, many of the requested items were addressed by the Borough during depositions taken by the Plaintiffs in December, 2019.
 - h. The Borough has provided all documentation in its possession regarding the "Temporary Certificate of Use and Occupancy" dated April 5, 2017.
 - i. The Borough has provided all documentation in its possession regarding the "Opt-In" issue, Apollo Borough meeting minutes and/or letter to the Pa. Dept. of Labor and Industry, or in the alternative has indicated that such documents do not exist.
21. Paragraph 21 is admitted. It is admitted that affidavits have not been prepared or filed in these cases. It is averred, however, that all of the individuals involved in the search for the records requested were deposed under oath by the Plaintiffs and were subject to questioning and were available for testimony at all times during the litigation. In addition, it is noted that shortly after the Court's Order, the Armstrong County Court system, the offices of Charlton Law and indeed the State of Pennsylvania were effectively closed due to the Coronavirus Pandemic. While the Borough had no intention to disregard the Court's Orders, it is surmised that due to the shutdown, the obligation to provide the affidavits was unintentionally overlooked.
22. Paragraph 22 is admitted in part. It is admitted that the Borough entered in the Consent Orders as noted. It is specifically denied that the Borough failed to provide the documentation as agreed to, except for the affidavits as referenced in paragraph 21 above.
23. Paragraph 23 is admitted in part. It is admitted that the brief provides additional information and verifications. Such information and verifications were provided as the Borough recognizes an ongoing obligation to provide information to the Plaintiffs, as it has since the beginning of the Right-to-Know requests and the ongoing litigation.
24. Paragraph 24 is denied. It is denied that the Borough's submissions at case No. 2020-0779 contradicts any of its prior positions. To the extent additional information was provided, it was provided in recognition of the Borough's ongoing duty to provide information as it is discovered and was provided in good faith. The referenced records were discovered by the Borough Secretary/Treasurer as the result of an additional search.

25. Paragraph 25 is denied. It is denied that new records provided contradict the Borough's prior position nor are they dispositive of the case before the court.
26. Paragraph 26 is not a statement of fact but rather an argument. As such, it requires no response. To the extent a response is required, the paragraph is denied.
27. Paragraph 27 is not a statement of fact, but rather an opinion of the Plaintiff. As such, it requires no response. To the extent a response is required, the paragraph is admitted in that a Motion for Sanctions has been filed and is denied insofar as it is "further evidence" of anything.
28. Paragraph 28 is admitted. It is averred that the Borough has provided to the Plaintiffs the records requested.
29. Paragraph 29 apparently is a recitation of Plaintiff's Reply Brief. As such, no response is required. To the extent the paragraph is a recitation of Plaintiff's Reply Brief, it is admitted.
30. Paragraph 30 is admitted. It is admitted that the Borough has not filed the affidavits. As noted in the response to paragraph 21 above, it is the Borough's averment that it has never intentionally disregarded any Court Order or agreement.
31. Paragraph 31 is admitted in part and denied in part. While it is admitted that an email dated January 28, 2020 was sent, it is denied that such an email is indicative that the Borough solicitor "was not entirely convinced" of the averment. Rather, it is averred that the statement was made in an attempt to make sure that the Plaintiffs had received all documents that the Borough had in its possession, which they had.
32. Paragraph 32 is denied. It is averred that the Borough, as it has from the very beginning of the Plaintiff's first Right-to-Know filing, has worked to make sure that the Plaintiffs had received every document in the Borough's possession.
33. Paragraph 33 is admitted in part and denied in part. It is admitted that there are no specific references to "723 Warren Ave." in the affidavit filed. It is specifically averred however that paragraph 5 of the said affidavit specifically states as follows:

"After conducting a good faith search of the Agency's files and inquiring with relevant Agency personnel, I identified all records within the Agency's possession, custody or control that are responsive to the request and have provided them to the requesters, if available, either in response to previous Right To Know requests or as contained in letters (and attachments) to the Requesters dated August 22, 2019, November 14, 2019 and January 29, 2020. If requested records were not provided, the said requested

records were not in possession of the Borough or its third party contractors and therefore could not be provided.”

As such, any records relating to 723 N. Warren would have been included by reference in paragraph 5 of the referenced affidavit.

34. Paragraph 34 is denied. It is specifically averred that the referenced email simply shows a Borough working, in good faith, to make sure it has provided all documents in its possession.
35. Paragraph 35 is statement of position and not an averment of fact. As such, it requires no response. To the extent a response is required, the Borough would aver that it will provide an affidavit.
36. Paragraph 36 is a statement of position and as such requires no response. To the extent a response is required, it is averred that while an affidavit may be required, an Order for Contempt is unnecessary for the production of such an affidavit.
37. Paragraph 37 is denied. It is specifically averred that the Borough has at all times acted in good faith and has provided records as requested and as discovered. It is further denied that any newly discovered evidence “makes clear that the Borough has failed to meet its burden...” Rather, any newly produced emails show evidence of a Borough, acting and working in good faith, to provide all documents and records in its possession.
38. Paragraph 38 is denied. It is specifically denied that the Borough failed to comply with the Court’s order. It is specifically averred that the information listed in the order was provided to the Plaintiff’s and was referenced in the affidavit previously filed.
39. Paragraph 39 is a restatement of the Order. As such, it requires no response. To the extent a response is required, the Borough avers that all documents have been provided.
40. Paragraph 40 is denied. It is specifically denied that the recent productions “expressly contradict” documents previously produced. It is specifically averred that any new documents were the result of a good faith search of records by Borough personnel in an effort to make sure that the Plaintiffs had all documents and records possible.
41. Paragraph 41 is admitted. It is specifically averred that at the time of the filing, Ms. Shupe stated in good faith the facts as she knew them at the time of the filing of the affidavit.
42. Paragraph 42 is an assertion of the Plaintiff’s Motion for Sanctions and Relief and as such requires no response. To the extent a response is required, the Borough would

aver that there existed no “false certification”. Rather, “after discovered” records were found, produced and provided to the Plaintiffs in the Borough’s ongoing good faith effort to make sure all records were produced. The Borough would further aver that the Borough searched diligently when it filed all initial affidavits, and that its state position was accurate at the time any such affidavits were filed.

43. Paragraph 43 is admitted. It is admitted that additional emails were provided as part of the Borough’s brief. As noted in paragraph 21 above, it would appear that due to the closings as related to the Coronavirus Pandemic, the requirements of the Order dated March 20, 2020 were overlooked, however unintentionally. The Borough has never – and would never – intentionally ignore any Court Order.
44. Paragraph 44 is admitted. After a search of the filings in this and other related matters, it would appear that no affidavit was filed.
45. Paragraph 45 is a statement of fact and as such requires no response. To the extent a response is required, it is admitted that the 10/19/2018 email appears to be a link containing the words “Zillow” and “719-N-Warren-Ave-Apollo”.
46. Paragraph 46 is denied. It is averred that the email referenced is not a “discussion”, but rather is a purported link to another website. Any conclusion beyond that is mere speculation.
47. Paragraph 47 is admitted in part and denied in part. It is admitted that the March 20, 2020 Order of Court does list “Documentation of the property being listed for sale in October, 2018”. It is denied in that the Borough did not provide the email as the Borough did not have the email at the time of the response. It is further averred that the Borough provided the email when it was discovered after an additional search by the Borough.
48. Paragraph 48 is denied. It is denied that the Borough “waited” to provide the email to the Plaintiffs. It is specifically averred that the email was provided when it was discovered and made part of the Borough’s response.
49. Paragraph 49 is admitted in part and denied in part. It is admitted that the January 29th Order references the subject matter. It is specifically denied that the Borough “waited” 217 days to provide the email. It is further averred that the Borough provided the said email when it was discovered after an additional search by the Borough.
50. Paragraph 50 appears to be a summary/recitation of emails provided to the Plaintiffs. To the extent the summary/recitations are accurate reflections of the emails provided, the paragraph is admitted. To the extent the said summary/recitations are not accurate reflections of the actual email, they are denied. It is further averred that the emails

were provided as the result of an additional search performed by the Borough. When the emails were discovered, the said emails were provided to the Plaintiffs. Footnote 3 is specifically denied as the Borough did not “withhold” emails for any reason.

51. Paragraph 51 is admitted to the extent that some of the documents were “newly provided” to the Plaintiffs. It is averred that the said documents were “newly provided” as they were discovered by the Borough during an additional search. It is further averred that the affidavit previously filed and referred to in paragraph 51 was accurate to the best of the filer’s knowledge at the time it was filed.
52. Paragraph 52 is admitted in part and denied in part. It is admitted that the documents provided were potentially a part of the Court’s Orders. It is denied that the said documents were withheld from the Plaintiffs until September 20, 2020 as the said documents were not discovered by the Borough until an additional search was performed and further that they were provided to the Plaintiffs when discovered.
53. To the extent the referenced emails were sent or received by the Apollo Borough Manager, the paragraph is admitted. It is averred, however, that the Defendant is not aware of what the term “most” refers to.
54. Paragraph 54 is admitted. It is admitted that the referenced affidavit indicated that Ms. Shupe had searched the email archives. It is specifically denied that the search yielded the emails in question or that the said emails were ever withheld from the Plaintiffs. It is further averred that the emails were provided when they were discovered by Ms. Shupe, after the filing of the affidavit.
55. Paragraph 55 is a summary recitation of a portion of the Court’s March 12, 2020 Order and as such it requires no response. To the extent a response is required, it is admitted that the referenced part was a portion of the Court’s Order.
56. Paragraph 56 is denied. It is averred that the affidavit provided by Ms. Shupe was in compliance with the Court’s Order of March 12, 2020 and was not “minimal” in any way. In addition, the Borough is not aware of what meaning the Plaintiffs are attributing to the word “minimal”.
57. Paragraph 57 is a summary recitation of part of the Borough’s brief and as such, requires no response. To the extent a response is required, it is admitted that the Borough’s brief contained an affidavit signed by Ms. Shupe with emails attached.
58. Paragraph 58 is denied. It is specifically averred that the Borough, in an attempt to provide all requested records, conducted an additional search that produced the records that were provided to the Plaintiffs. It is further averred that any prior searches were done in good faith and were in no way an attempt to withhold records as requested by

the Plaintiffs. The Borough would aver that evidence of the Borough's good faith efforts in this regard are the fact that additional records were produced and provided.

59. Paragraph 59 is denied. It is averred that the production of records by the Borough is proof positive of the Borough's ongoing good faith efforts to comply with the Plaintiff's requests for records and with the Court's Orders.
60. Paragraph 60 is denied. It is averred that the Borough, rather than be "punished", should be recognized for its ongoing good faith and exhaustive efforts to provide the Plaintiff's with all requested records and for its transparency in these proceedings.
61. Paragraph 61 is denied. It is averred that essentially the Plaintiffs are requesting the Borough to prove a negative assertion. It is further averred that the record is replete with examples, testimony (in court and through depositions) and affidavits that show how the Borough has spent countless hours and resources attempting, in good faith, to comply with the numerous and many requests for documents requested in this and other matters.
62. Paragraph 62 is admitted to the extent that a "vacancy inspection checklist" was requested by the Plaintiffs. It is averred, as is evidenced by exhibits, testimony and responses to the Plaintiffs that the said "vacancy inspection checklist" has been provided.
63. Paragraph 63 is admitted. It is admitted that the August 22, 2019 letter references the said "vacancy inspection checklist". It is averred that, as represented by the 8/22/19 letter, that the document provided was the "vacancy inspection checklist" utilized by the Borough.
64. Paragraph 64 is admitted. It is admitted that this was the testimony of Ms. Troup at the deposition on December 13, 2019.
65. Paragraph 65 is a restatement of paragraph 64. As such, it requires no response. To the extent a response is required, it is admitted that this was the testimony of Ms. Troup, assuming that the referenced Hearing Exhibit is the "vacancy inspection checklist".
66. Paragraph 66 is admitted in part and denied in part. It is admitted that a "checklist" was provided by Ms. Troup to Mr. Kanish. It is specifically denied that the said "checklist" was ever used by the Borough. It is further averred that the said "checklist" referenced in the email was only a draft and was never used by the Borough. It is further averred that the "vacancy inspection checklist" provided to the Plaintiffs and testified to by Ms. Troup was the only "vacancy inspection checklist" used by the Borough.

67. Paragraph 67 is admitted.
68. Paragraph 68 appears to be a summary recitation of the Borough's brief and attached exhibit and as such requires no response. To the extent a response is required, the Borough would incorporate its response above at paragraph 66 with regard to the "second" checklist.
69. Paragraph 69 is admitted in that the referenced affidavit by Ms. Shupe states as follows:

"to the best of my knowledge, the only "Vacancy Checklist" referred to by Ms. Brenda Troup during her deposition testimony on December 13, 2019."

It is averred that the said statement contained in Ms. Shupe's affidavit was and is consistent with her understanding.

70. Paragraph 70 is denied. It is denied that the "vacancy inspection checklist" was modified. It is averred that the email represents a *proposed modification* sent for review by the Borough, rather than a modification that was utilized by the Borough. As earlier averred, the only inspection checklist utilized by the Borough was the checklist provided to the Plaintiffs, as testified to by Ms. Troup.
71. Paragraph 71 is denied. It is specifically denied that the referenced email "shows" any such assertion made by the Plaintiffs. It is averred, as it has been stated by the Borough in its filings and affidavits, that the only "vacancy inspection checklist" used by Apollo Borough was the "vacancy inspection checklist" provided to the Plaintiffs.
72. Paragraph 72 is denied. Again, it is averred that the referenced email only refers to a *proposed revision* to the "vacancy inspection checklist" and not to a checklist revised and used by the Borough.
73. Paragraph 73 is denied. It is specifically denied that the Borough changed the "vacancy inspection checklist" form. As noted in earlier paragraphs, it is specifically averred that the only checklist used by the Borough was the checklist previously provided to the Plaintiffs and testified to by Ms. Troup.
74. Paragraph 74 is denied. It is averred that the Borough has provided ample proof in the form of affidavits, documents and testimony verifying that the "vacancy inspection checklist" provided to the Plaintiffs was the only "vacancy inspection checklist" used by the Borough during the relevant time period.

75. Paragraph 75 is denied. It is denied, as noted through affidavits, documents and testimony that the Borough has in fact provided the "vacancy inspection checklist" as requested by the Plaintiffs.
76. Paragraph 76 is denied. It is denied that the Borough failed to "adequately search" for "all inspection checklists" during the relevant time periods. It is specifically averred that the Borough did in fact search and did in fact provide a copy of the "vacancy inspection checklist" as requested.
77. Paragraph 77 is denied. It is specifically denied that the Borough has failed to comply with the OOR Orders or that it has "falsely represented" what forms it used.
78. Paragraph 78 is an argument and not an averment of fact and as such requires no response. To the extent a response is required, it is denied that the Borough should be required to provide anything other than the "vacancy inspection checklist" it has averred was used during the relevant time period and has already been provided.
79. To the extent paragraph 79 is a summary recitation of Item No. 4 of Appendix 1 of the Plaintiff's Reply Brief, the paragraph is admitted.
80. Paragraph 80 is denied. It is specifically averred that the Plaintiffs testified at the referenced hearing that in fact they had received "vacant property" lists from the Borough for 2017, 2018 and 2019.
81. To the extent paragraph 81 is a summary recitation of the referenced letter, paragraph 81 is admitted. It is averred, however, that the Plaintiffs testimony, as previously described" established that they had been provided with copies of the relevant "vacant property" lists as requested.
82. Paragraph 82, to the extent that the referenced Exhibits do not specifically reference the 2019 vacancy list is admitted. It is averred however, that the said vacancy list, along with those for 2017 and 2018 were provided to the Plaintiffs, as was admitted by the Plaintiffs during testimony.
83. Paragraph 83 is denied. It is specifically denied that the Borough maintained "many different vacancy lists".
84. Paragraph 84 is denied. It is specifically averred that the "newly disclosed records" are not in fact a "vacancy list", but rather is a schedule of inspection dates for vacant properties. It is further averred that the schedule of inspection dates is a document created to ensure that the vacancy inspector was aware of the inspection dates. It is further averred that the Plaintiffs are conflating the Borough's official "Vacancy List" with a vacancy inspection scheduling document.

85. Paragraph 85 is denied. It is averred that the Borough did not “keep the same information for 2019”, therefore, such an allegation was not necessary.
86. To the extent paragraph 86 is a summary recitation of Exhibit F, pages 34-35, the paragraph is admitted. It is averred however, that the attached list was not the Borough’s Vacancy List, but rather was a ministerial/working document shared by Borough employees and a Borough contractor in an attempt to determine what vacant properties actually existed in the Borough and the inspection dates for the said properties.
87. To the extent paragraph 87 is a summary recitation of the Court’s Order of January 15, 2020, paragraph 3(a), the paragraph is admitted. It is averred however that the Plaintiffs were provided with the Borough’s Vacancy list for the years 2017, 2018 and 2019 as testified to by the Plaintiffs. It is denied that ongoing “work product” documents used by the Borough to establish the official Vacancy list were part of the Court’s Order.
88. To the extent paragraph 88 is a summary recitation of Exhibit F, pages 43-44, the paragraph is admitted.
89. Paragraph 89 is denied. It appears that the paragraph is a supposition of “what might be” based on the Plaintiffs interpretation of documents provided. The said paragraph requires the Borough to deny a negative and provide proof thereof. As such, the paragraph is denied.
90. To the extent paragraph 90 is a summary recitation of Exhibit F, pages 45-48, the paragraph is admitted.
91. Paragraph 91 is denied. Again, it appears that the paragraph is a supposition of “what might be” based on the Plaintiffs interpretation of documents provided. The said paragraph requires the Borough to deny a negative and provide proof thereof. As such, the paragraph is denied.
92. Paragraph 92 is admitted in part and denied in part. It is admitted that the documents provided differ in format from the Vacancy List provided to the Plaintiffs and testified as having been provided to the Plaintiffs. It is specifically denied that the said documents were the Borough’s Vacancy list.
93. Paragraph 92 is denied. It is averred that the Vacancy List previously provided to the Plaintiffs was – and is – the Borough’s Vacancy List. It is further averred that the documents characterized as “multiple vacancy Lists” were in fact working documents used by the Borough to track the scheduling of vacancy inspections, as well as

attempting to internally keep track of vacant properties in anticipation of creating the final Vacant Property List.

94. Paragraph 94 is denied. It is averred that the Borough has provided the Vacancy Lists as required and further avers that proof thereof is the testimony of the Plaintiffs at trial.
95. Paragraph 95 is denied. It is averred that the information referenced (2019 Vacancy List) has been provided to the Plaintiffs.
96. To the extent that paragraph 96 is a summary recitation of the March 12, 2020 Court Order, the paragraph is admitted.
97. Paragraph 97 is admitted to the extent that Borough employees had access to water reports in general.
98. Paragraph 98 is admitted in part and denied in part. It is admitted that Borough employees had access to water reports. It is denied that Borough employee used water reports to "determine vacancy" for any property. Rather, it is averred that water usage was one item looked at by the Borough to determine vacancy.
99. Paragraph 99 is denied. It is specifically denied that the Borough "ignored" the referenced Court Order, or any other Court Order. As noted earlier, it is the position of the Borough that the emergency closures effectuated by the Emergency Declaration as a result of the pandemic caused the Borough to inadvertently missed providing the said report.
100. Paragraph 100 is not an averment, but rather is a statement of position and as such requires no response. To the extent a response is required, the Borough would admit that it owes the Plaintiffs a copy of the water report for the 719 N. Warren Ave. property.
101. Paragraph is not an averment and as such requires no response. To the extent a response is required, it is averred that while the OOR did notify the Borough regarding its failure to respond through the OOR process, the Borough did in fact respond to the requests for information (see the 8/22/2019 and 11/14/2019 letters) and further that the Borough has more than adequately demonstrated its good faith attempts to comply with the many and numerous requests for information filed by the Plaintiffs after the filing of the claims at issue in this case. The Borough, through documents and testimony, has shown in every instance its ongoing efforts to comply with the Plaintiffs requests for documents and information.
102. Paragraph 102 is denied. It is specifically denied that the Borough has exhibited "bad faith" in these matters. It is specifically averred that the Borough, through its employees, third party contractors and countless hours spent searching for and

providing documents and emails to the Plaintiffs, has attempted to comply with each and every request made by the Plaintiffs. While the Borough admits that there were "deficiencies" in its response from time to time, the record shows a Borough attempting, with limited staff and resources, to comply with all requests made by the Plaintiffs.

103. Paragraph 103 is denied. It is denied "that the Borough received the requests and was aware it had to respond". It is specifically averred that the newly disclosed records were discovered as a result of an additional search of records conducted by the Borough and were provided to the Plaintiffs when discovered and were not, as is implied by the Plaintiff's averment, an attempt to withhold requested information.
104. Paragraph 104 is admitted to the extent that it appears to be a recitation summary of the referenced emails provided to the Plaintiffs. It is averred that the emails indicate that the Borough was "working on" responding to requests made by the Plaintiffs.
105. Paragraph 105 is admitted. It is admitted that the first response to the Plaintiffs was the letter dated August 22, 2019, as has been exhaustively testified to during these proceedings.
106. Paragraph 106 is admitted. It is admitted that the August 22, 2019 letter was dated after the deadline set by the OOR. It is averred, however, that such a statement is not relevant to the purpose of the Plaintiffs motion, but is rather a continuation of the Plaintiffs original claim and Reply Brief.
107. Paragraph 107 is admitted in part and denied in part. It is admitted that the invoice provided does reference a "FOIA" request on the May 9. It is denied that the reference is evidence of any prior request for information.
108. Paragraph 108 is a statement of argument and as such requires not response. To the extent a response is required, the paragraph is denied. The Borough (and the Plaintiff) have addressed this issue in great detail in their Brief and in the Reply Brief. The averment is nothing more than a recitation of the Plaintiff's previously stated position. It is averred, as it has been all along by the Borough that it has worked to provide the requested information to the Plaintiffs.
109. Paragraph 109 is denied. It is specifically denied that the Borough "waited until it was subject to a Court Order" before providing information to the Plaintiffs. It is specifically averred that the Borough has, and will continue to, search for records that are responsive to any and all requests made by the Plaintiffs. As noted in the Borough's brief and testimony, the Borough has worked tirelessly to provide all documents to the Plaintiffs and will continue to do so.

110. Paragraph 110 is admitted in part and denied in part. It is admitted that the referenced email indicates that the Borough checked with the police department for records. It is specifically denied that the referenced email is an indication that the Borough waited until January 28, 2020 to search for the said record. It is further averred that the Borough had in fact searched its records and that the referenced email was nothing more than a confirmation of the said search.
111. Paragraph 111 is denied. It is denied that the referenced email is an indication that the Borough "waited until January 28, 2020 to search for records". It is specifically averred that the meaning attributed to the email is erroneous on the part of the Plaintiffs. It is averred that, as noted in earlier paragraphs, the email was nothing more than an attempt to confirm searches previously performed by the Borough and in anticipation of a response by the Borough.
112. Paragraph 112 is denied. It is denied that the referenced email is evidence of the Borough "investigating" the financial information requested. It is averred that the email is, as has been previously noted, an attempt, by the Borough to ensure that the information previously provided to the Plaintiffs was complete and accurate. It is further averred, that the Borough employees and third party contractors were available for and subject to deposition and testimony by the Plaintiffs on this and many other matters.
113. Paragraph 113 is denied. It is specifically denied that the Borough waited until a Court Order was issued to search for items responsive to the request. It is specifically averred that the Borough had and - will continue to - search for any and all items that are responsive to the request, that the Borough conducted an initial search and that a subsequent search revealed the provided documents. It is further specifically averred that the Borough had conducted a search as requested, and provided the information in its possession at the time. It is further averred that a subsequent search revealed the provided documents and that such documents were provided as soon as they were discovered.
114. Paragraph 114 is admitted insofar as it is a summary recitation of the referenced email. It is averred that the requested information was provided to the Plaintiffs, as has been noted extensively in both the Borough's brief and the Plaintiff's Reply Brief.
115. Paragraph 115 is admitted in that the Borough did provide the requested information to the Plaintiffs in the August 22 and November 19, 2019 letters and attachments, as has been extensively argued by both the Borough and the Plaintiffs in this matter. It would appear paragraph 115 is a continuation of the arguments previously posited by the parties in this litigation.

116. Paragraph 116 is denied. It is specifically denied that any of the previous assertions supports the assertion that the Borough has acted in "bad faith". It is specifically averred that the voluminous documents, testimony and briefs filed in this matter supports the Borough's position that it has attempted to comply with each and every of the numerous requests for information filed by the Plaintiff's. Again, this paragraph is nothing more than Plaintiff's re-arguing their previously stated position.
117. Paragraph 117 is denied. It is specifically denied that the "deeds of record" in any way conflict with the prior statements of the Borough regarding Kerr Manufacturing.
118. Paragraph 118 is admitted to the extent that it is a summary recitation of the record regarding the requested information.
119. Paragraph 119 is admitted to the extent that it is a summary recitation of the record regarding the Borough's response to the record request.
120. Paragraph 120 is admitted to the extent that it is a summary recitation of the hearing transcript regarding the testimony of Mr. Grant Kanish.
121. Paragraph 121 is neither admitted nor denied. The Borough is without information sufficient to formulate a response to the averment as there is no citation to testimony provided.
122. Paragraph 122 is admitted to the extent that the referenced Exhibit appears to be a photocopy of a deed from John and Steele to Kerr Light Manufacturing, LLC dated November 13, 2018. It is believed after discussion with the Steeles and therefore averred that the transfer of the property from the Steeles to Kerr Manufacturing occurred in 2013 (or earlier) and that the Steeles held the note of Kerr Manufacturing for the purchases. It is further believed and therefore averred that the deed was recorded on the referenced date when Kerr Manufacturing made the final note payment to the Steeles.
123. Paragraph 123 is admitted to the extent that it represents that the Borough did not have records of the transfer referenced in the deed Exhibit. It is averred that the Borough did believe that the "change of use", to the extent there even existed a change of use, referenced had occurred prior to 2015.
124. Paragraph 124 is denied. It is specifically denied that the Borough "should have discovered this had it in fact performed a search". The averment presupposes that the Borough had a duty to search deed records, for which it does not. It is further averred that the Borough searched its records, as required by law and discovered no "change of

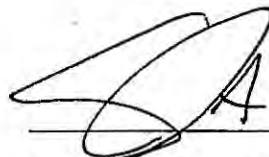
use” documents as it relates to Kerr Manufacturing, to the extent that there was a change of use.

125. Paragraph 125 is admitted in part and denied in part. It is admitted that there are a number of affidavits that were inadvertently missed by the Borough. It is specifically denied that the referenced affidavits cover “many” records.
126. Paragraph 126 is denied. It is specifically denied that the Borough’s prior responses were either “misleading” or “false”. It is averred that the Borough’s prior responses were complete and filed to the best of the Borough’s knowledge at the time the responses were filed. It is admitted that additional records were subsequently discovered, however such records were provided to the Plaintiffs.
127. Paragraph 127 is denied. It is specifically denied that the subsequently produced records show that “many items” still have not been produced. It is specifically averred that the allegation contained in the Plaintiff’s averment are conclusions reached by the Plaintiffs and not factual statements.
128. Paragraph 128 has been addressed by the Courts Order dated October 9, 2020 and is a matter of record.
129. Paragraph 129 is a summary of penalties sought. As such, it requires no response. To the extent a response is required, the paragraph is denied. It is averred that the records either have been produces by the Borough, or in the alternative were inadvertently missed. It is further averred that the Borough has acted at all times in “good faith” in an effort to provide the requested records in these and numerous other requests made by the Plaintiffs.
130. Paragraph 130 is a statement of fact and a matter of record as the Court has scheduled a hearing in this matter. It is denied that such a hearing is necessary to “require the Borough to comply with it orders, be subject to further penalties, and face possible imprisonment”.
131. Paragraph 131 is a statement of law and as such requires no response.
132. Paragraph 132 is a summary of case law and as such requires no response.
133. Paragraph 133 is admitted insofar as the paragraph references prior Court Orders. The paragraph is denied insofar as it avers that the Borough “continues to disobey” prior Orders.
134. Paragraph 134 is denied. It is specifically denied that “sanction, penalties and attorney’s fees” are necessary to compel compliance. It is averred that the Borough

has and will continue to comply with any and all Court Orders, agreements and other Orders as they may arise. The Borough further avers that it has acted at all times in good faith in its attempts to provide information with these and numerous other requests for information filed by the Plaintiffs.

135. Paragraph 135 is denied. It is averred that the Plaintiffs continue to incur fees due to its repeated and vexacious litigation. The record is clear that the Borough has attempted at every turn to comply with the requests for information filed by the Plaintiffs and will continue to do so.
136. Paragraph 136 is denied. The Borough has worked diligently to provide any and all requested records and has provided the records when discovered. The averment of the paragraph is speculative at best as the Plaintiffs have offered no evidence of any "time sensitive" records.
137. Paragraph 137 is admitted. It is averred in the alternative that the Borough has always attempted to provide the records requested and will continue to do so. It is further averred that although the Borough had in some cases identified records as being protected, it nonetheless provided those records to the Plaintiffs in an attempt to comply with the Plaintiffs requests for records.
138. Paragraph 138 is at best a speculative statement and as such is denied. It is specifically averred that the Borough has never "simply refused" to provide records and in the alternative has always worked diligently to provide any and all records requested.
139. Paragraph 139 is denied. It is specifically denied that the Borough has delayed the public access to records in any manner.


WHEREFORE, the Borough of Apollo respectfully requests this Honorable Court to deny the Plaintiff's Petition for Civil Contempt, Sanctions and Other Relief.



Scott J. Andreassi, Esquire
Pa. Id. No.: 56910
Charlton Law
617 South Pike Road
Sarver, PA 16055

VERIFICATION

I, Scott J. Andreassi, Esquire, do hereby verify that the statements contained in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



Scott J. Andreassi, Esquire, Solicitor for
Apollo Borough

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY

SCOTT and JANET BRUNERMER,

Plaintiffs,

v.

APOLLO BOROUGH,

Defendant.

:
:
Nos.: 2020-1343
:
2020-1402
:
2020-1518
:
2020-1790
:
:
:
:
:

CERTIFICATE OF SERVICE

I, Scott J. Andreassi, Esquire, hereby certify that on the 5 day of NOVEMBER, 2020 a true and correct copy of the foregoing Defendant's Response to Petition for Civil Contempt, Sanctions and Other Relief was served via U.S. First Class Mail upon the following:

Zachery N. Gordon, Esquire
Del Sole Cavanaugh Stroyd LLC
Three PPG Place
Suite 600
Pittsburgh, Pa. 15222




Scott J. Andreassi, Esquire
Pa. Id. No. 56910

CHARLTON LAW
617 South Pike Road
Sarver, PA 16055
724-540-1161
724-540-1164 facsimile
scott@charltonlawyers.com

EXHIBIT

“G”

Office of Open Records Appeals: Brunermer v. Apollo Borough; AP 2019-1242, 1244, and 1245

From : Edris, Angela <aedris@pa.gov> Thu, Aug 15, 2019 01:19 PM
Subject : Office of Open Records Appeals: Brunermer v. Apollo Borough; AP 2019-1242, 1244, and 1245  1 attachment
To : Scott Andreassi <scott@charltonlawyers.com>
Cc : sloppysoap@windstream.net, Deanna Shupe <boroughmanager@apollopa.org>

Dear Mr. Andreassi,

The OOR is not responsible for providing responsive records to a requester during the course of an appeal or otherwise. It is an agency's responsibility to provide a requester with responsive records in the medium and format requested. When an agency provides records to a requester during the course of an appeal, it still remains the agency's burden to prove that all records responsive to a request have been provided to a requester, and/or that any records withheld or redactions made were proper. An agency's position must be supported by sufficient facts stated in an affidavit or attestation made under penalty of perjury. Sometimes, in its evidentiary submission to the OOR, an agency will, along with its affidavit and position statement, include copies of the records it provided to a requester; however, whether or not to include such copies as part of its evidentiary submission to the OOR, is at the discretion of the agency.

Hopefully, the above information is helpful.

As for the instant appeals, the deadline for evidentiary submissions from the parties was yesterday, August 14th. Is the Borough indicating that it has provided responsive records to the Requesters in these matters?

Sincerely,



Angela Edris

Attorney

Pennsylvania Office of Open Records

333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

(717) 346-9903 | **Fax** (717) 425-5343

<https://openrecords.pa.gov>

[@OpenRecordsPA](#)

Confidentiality Notice: This electronic communication is privileged and confidential and is intended only for the party to whom it is addressed. If received in error, please return to sender.

From: Scott Andreassi [mailto:scott@charltonlawyers.com]

Sent: Monday, August 12, 2019 1:40 PM

To: Edris, Angela <aedris@pa.gov>

Subject: Re: [External] Re: Office of Open Records Appeals: Brunermer v. Apollo Borough;
AP 2019-1242, 1244, and 1245

Ms. Idris,

Thank you for your response. In that we intend to provide the information as requested, should that information be provided through your office or directly to the Brunermer's with a copy to you?

Thank you.

Scott J. Andreassi

Sent from my iPhone