

02-614-CD
CLEARFIELD COUNTY -vs- DARRELL BRADY et al

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

CLEARFIELD COUNTY,
Plaintiff

vs.

DARRELL BRADY,
RICHARD KEPHART and CAROL
KEPHART,
Defendants

: No. 02-614-CD
:
: Type of Case: Civil
:
:
: Type of Pleading: Complaint in Equity
:
: Filed on Behalf of: Plaintiff
:
: Counsel of Record for this Party:
:
: Kim C. Kesner, Esquire
: Supreme Ct. I.D. 28307
:
: 23 North Second Street
: Clearfield, PA 16830
:
: 814-765-1706
: 814-765-7006 – facsimile
:
:

FILED

APR 19 2002

William A. Shaw
Prothonotary

Tues- 5-14-02-morning
Wed- 5-15-02-morning
Mon- 5-20-02-afternoon
Mon- 7-1-02-morning

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

CLEARFIELD COUNTY,	:	No. 02-	-CD
Plaintiff	:		
	:		
vs.	:		
	:		
DARRELL BRADY,	:		
RICHARD KEPHART and CAROL	:		
KEPHART,	:		
Defendants	:		

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may process without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET HELP.

Court Administrator's Office
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830
Telephone: (814) 765-2641

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

CLEARFIELD COUNTY,	:	No. 02-	-CD
Plaintiff	:		
	:		
vs.	:		
	:		
DARRELL BRADY, RICHARD	:		
RICHARD KEPHART and CAROL	:		
KEPHART,	:		
Defendants	:		

COMPLAINT

1. Plaintiff is Clearfield County a sixth class county of the Commonwealth of Pennsylvania with its principal office at Courthouse, 230 East Market Street, Suite 101, Clearfield, Clearfield County, Pennsylvania, 16830.

2. Defendant is Darrell Brady an adult individual residing in Chest Township, Clearfield County, Pennsylvania with a mailing address of R.D. #1, Box 147, LaJose, Pennsylvania, 15753 ("Defendant Brady").

3. Defendants Richard and Carol Kephart are adult individuals, husband and wife, residing in Chest Township, Clearfield County, Pennsylvania with a mailing address of R.D. #1, Box 412, LaJose, Pennsylvania, 15753 ("Defendants Kepharts").

4. Defendant Brady owns a sixty-five (65) acre parcel in Chest Township identified by Clearfield County Assessment Map No. 109-D14-31 described in that Deed to Defendant Brady dated August 22, 1977 appearing of record in the Office of the Recorder of Deeds of Clearfield County in Deeds and Records Book Volume 746, page 196. ("Premises")

5. The Premises are subject to and governed by the Clearfield County Subdivision and Land Development Ordinance ("County Ordinance") enacted on September 5, 1996.

6. Presently there are three (3) mobile homes on the Premises.

7. One mobile home was obtained by Darrell Brady in 1997. ("Mobile Home #1").

8. In 1998, Defendant Brady, without a sewage permit from Chest Township in violation of the Pennsylvania Sewage Facilities Act, connected Mobile Home #1 to an existing on-lot sewage system and rented it.

9. By letter dated October 3, 1998, the Chest Township Sewage Enforcement Officer notified Defendant Brady of the unlawful connection and the tenants vacated the mobile home in July of 1999.

10. A second mobile home ("Mobile Home #2") was located on the premises on September of 1997 and rented by Defendant Brady to Defendants Kepharts.

11. No application was filed at that time or since with the Clearfield County Planning Department requesting subdivision and/or land development approval.

12. A third mobile home ("Mobile Home #3) was located on the Premises in July of 1999 and connected to Mobile Home #2.

13. Since July of 1999, Mobile Home #2 and Mobile Home #3 have been occupied by Defendants Kepharts as their residence.

14. Mobile Home #2 and Mobile Home #3 were connected by Defendants Kepharts to a septic tank without a sewage permit from Chest Township in violation of the Pennsylvania Sewage Facilities Act.

15. Chest Township since at least October of 1998 has advised Defendant Brady and Defendants Kepharts that Defendants Kepharts occupation of Mobile Homes #2 and #3 and/or connection to an unlawful, unpermitted septic system is a violation of the Pennsylvania Sewage Facilities Act.

16. Chest Township sent Defendant Brady a Notice of Continuing Violation by certified mail on January 21, 2002. That Notice directed vacation and/or removal of the mobile homes occupied by the Kepharts within forty-five (45) days as well as pumping and removal of the septic tank within fifteen (15) days from vacation or removal of the mobile homes.

17. To date, Defendant Brady and/or Defendants Kepharts have failed or refused to vacate and/or remove the mobile homes as directed by Chest Township.

18. Subdivision is defined by the County Ordinance as “(t)he division or redivision of any lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other division of land...for the purpose...of lease...”

19. Land Development is defined as:

A. The improvements of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

1. A group of two (2) or more residential or non-residential buildings whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or
2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominium, building groups or other features.

20. Land development under the Ordinance includes creation of a mobile home park which is defined as “a parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of manufactured housing.”

21. The location of three (3) mobile homes on the Premises since 1997 constitutes subdivision and land development of the Premises under the County Ordinance which may not occur until after an application for subdivision and/or land development approval is filed with the Clearfield County Planning Department.

22. Upon filing an application, one requirement of the County Ordinance for approval is proof of compliance with sewage disposal and treatment requirement.

23. Clearfield County sent a Notice of Violation of the County Ordinance to Defendant Brady by certified mail on February 7, 2002.

24. That Notice directed vacation and/or removal of the mobile homes occupied by the Kepharts within thirty (30) days as well as pumping and removal of the septic tank within fifteen (15) days from vacation or removal of the mobile homes.

25. A copy of the Notice of Violation with a copy of the return receipt executed by Defendant Brady confirming delivery on February 8, 2002 is annexed hereto as Exhibit "A".

26. To date, Defendant Brady and Defendants Kepharts have failed or refused to vacate or remove the mobile homes and their individual and collective violation of the County Ordinance continues.

27. Since the Notice of Violation was received by Defendant Brady on February 8, 2002, Mobile Home #1 has been occupied by a son of Defendants Kepharts.

28. Section 1406.1(A) of the County Ordinance provides:

In addition to other remedies, the County may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises.

29. The Pennsylvania Municipalities Planning Code, 53 P.S. §10101, et seq. by authority of which the County Ordinance was enacted provides:

In addition to other remedies, the municipality may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises.

53 P.S. §105.5.1

30. The continuing violation of the County Ordinance by Defendant Brady and Defendants Kepharts constitutes a public nuisance and/or creates an unreasonable risk of harm to public health, safety and welfare.

WHEREFORE, Plaintiff respectfully requests your Honorable Court in accordance with Pa. R.Civ.P. Rule 1501-1550 to:

- a. Issue a preliminary injunction in accordance with Pa. R.Civ. P. Rule 1531, to be made permanent after hearing, enjoining Defendant Brady and Defendants Kepharts to remove the three mobile homes from the Premises;
- b. In the alternative, to enter such an injunction as is necessary and appropriate to restrain, correct and abate Defendants' violations including the full and complete cessation of any further illegal occupancy of the mobile homes and/or the Premises;
- c. To enter judgment against the Defendants, jointly and severally, for Plaintiff by authority of 53 P.S. §10515.3 in an amount assessed by the Court of up to \$500.00 per defendant per each day of the continuing violation, plus Plaintiff's court costs and its reasonable attorney's fees incurred as a result of Defendants' violations;
- d. Such other relief as the Court deems just and proper.

Respectfully submitted,



Kim C. Kesner, Esquire
Clearfield County Solicitor
Supreme Ct. I.D. 28307

Commonwealth Of Pennsylvania :
: S. S.

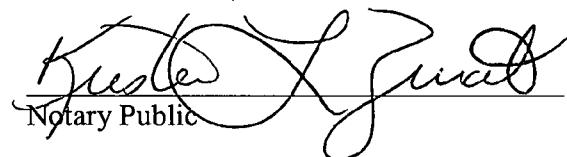
County Of Clearfield :

On this the 16th day of April, 2002, before me the undersigned authority personally appeared JOHN SUGHRUE who acknowledged himself to be the Chairman of the Board of Commissioners of Clearfield County, and that as such, according to law deposes and says that the facts and averments set forth in the foregoing Complaint are true and correct to the best of his knowledge, information, and belief.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and official seal.


John Sughrue, Chairman
Clearfield County Board of Commissioners

Sworn to and subscribed before me this 16th day of April, 2002.

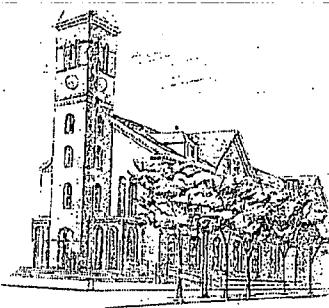

Kristen L. Zurat
Notary Public

My Commission Expires:

NOTARIAL SEAL KRISTEN L. ZURAT, NOTARY PUBLIC CLEARFIELD BORO, CLEARFIELD CO., PA MY COMMISSION EXPIRES, MAY 7, 2005

Gene T. Lunsford
John Sughrue
Michael R. Lytle
County Commissioners

Kim C. Kesner
Solicitor
Lisa McFadden
Chief Clerk



Clearfield County

Court House
230 East Market Street
Suite 101
Clearfield, Pennsylvania 16830
PHONE (814) 765-2641
FAX (814) 765-2640

February 7, 2002

Mr. Darrell Brady
R.D. #1
LaJose, PA 15753

RE: Notice of Violation of Clearfield County Subdivision and Land Development Ordinance

Dear Mr. Brady:

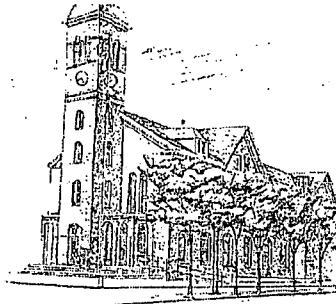
I serve as Solicitor to the Board of Commissioners of Clearfield County. The Board at its regular meeting on Tuesday, February 5, 2002, authorized and instructed me to deliver this Notice to you that you are presently in violation of the Clearfield County Subdivision and Land Development Ordinance ("County Ordinance"). This conclusion is based upon materials and information submitted to the Clearfield County Planning Department by Gerald M. Weakland and after consultation with Wilson Fisher, Hess & Fisher Engineers, the Sewage Enforcement Officer (SEO) for Chest Township and the Clearfield County Assessment Office.

The finding is based upon the following facts:

1. You own a sixty-five (65) acre parcel in Chest Township identified by Clearfield County Assessment Map Number 109-D14-31 ("Premises").
2. The Premises are subject to and governed by the County Ordinance enacted on September 5, 1995, effective January 1, 1996.
3. Presently there are three (3) mobile homes on the Premises.
4. One was obtained by you in 1997. In 1998, you, without a permit, in violation of the Pennsylvania Sewage Facilities Act, connected the mobile home to an existing on-lot sewage system and rented it to a Corson family. By letter dated October 3, 1998, the SEO notified you of the unlawful connection. The Corson family moved out of the trailer in July of 1999. The SEO has advised me that Chest Township confirmed on September 17, 2001 that sewage and water had been disconnected to the mobile home.
5. A second mobile home was located on the Premises in September of 1997 and rented to Richard Kephart. No application was filed then or since requesting subdivision and/or land development approval.
6. A third mobile home was located on the Premises in July of 1999 and connected to the second mobile home.

Gene T. Lunsford
John Sughrue
Michael R. Lytle
County Commissioners

Kim C. Kesner
Solicitor
Lisa McFadden
Chief Clerk



Mr. Darrell Brady
February 7, 2002
Page 2

7. The two connected mobile homes occupied by the Kepharts are connected to an unlawful, unpermitted septic system. Chest Township and its SEO since at least October of 1998 has advised you and the Kepharts that the system is unlawful. The SEO sent you a Notice by Certified Mail dated January 21, 2002 of the continuing violation of the unpermitted on-lot sewage system. That Notice directed vacation and/or removal of the mobile homes occupied by the Kepharts within forty-five (45) days as well as pumping and removal of the septic tank within fifteen (15) days from vacation or removal of the mobile homes.

As indicated above, the County Ordinance was enacted on September 5, 1995, effective January 1, 1996. It is applicable to Chest Township as Chest Township does not have a separate subdivision or land development ordinance.

Subdivision is defined by the County Ordinance as "(t)he division or redivision of any lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other division of land...for the purpose...of lease..."

Land Development is defined as:

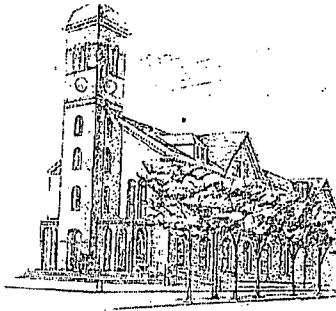
- A. The improvements of one (1) lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:
 1. A group of two (2) or more residential or non-residential buildings whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or
 2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominium, building groups or other features.

Land development under the Ordinance includes creation of a mobile home park which is defined as "a parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of manufactured housing." Article XI of the Ordinance sets requirements for mobile home parks.

The location of three (3) mobile homes on the Premises since 1997 constitutes subdivision and land development of the Premises under the County Ordinance which may not occur until after an application for subdivision and/or land development approval is filed with the Clearfield County Planning Department. Upon filing an application, one requirement of the County Ordinance for approval is proof of compliance with sewage disposal and treatment requirements. Your failure or refusal to file applications for subdivision and/or land development approval in 1997 when

Gene T. Lunsford
John Sughrue
Michael R. Lytle
County Commissioners

Kim C. Kesner
Solicitor
Lisa McFadden
Chief Clerk



Mr. Darrell Brady
February 7, 2002
Page 3

the second mobile home was moved onto the premises and 1999 when the third mobile home was brought in are violations of the County Ordinance.

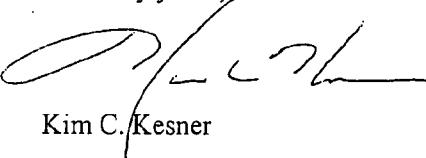
It is hereby requested that you cease, restrain, correct and abate your violations as follows:

1. Within thirty (30) days from the date of this letter, have the Kepharts remove or abandon their multiple trailers which constitute their dwelling.
2. Within fifteen (15) days of the removal or abandonment have the septic tank pumped by a certified septic hauler and the septic tank removed or filled with inert material (sand, shale or dirt). Otherwise comply with all requirements of Chest Township set by it under the Pennsylvania Sewage Facilities Act.
3. Communicate to me within five (5) days from the date of this letter your position on the facts set forth herein, the finding that you are in continuing violation of the County Ordinance and your plan for compliance with the request to correct and abate the violations.

Please be aware that the County Ordinance provides "preventative" and "enforcement" remedies for any violation. With regard to the latter, you may be ordered in an enforcement proceeding before a district justice to pay up to \$500.00 plus court costs and the County's reasonable attorney's fees incurred. Moreover, each day that a violation exists and continues may constitute a separate violation.

I trust that you will give this matter your immediate attention.

Sincerely yours,



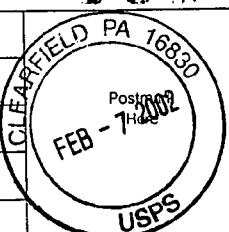
Kim C. Kesner

KCK/klz

cc: Clearfield County Commissioners
Jodi McCluskey, Director
Clearfield County Planning Department
Wilson Fisher, Hess & Fisher Engineers
Chest Township Board of Supervisors
Mr. Gerald M. Weakland

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
(No. 7000 1670 0002 4682 5602)**

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

4682 5602	Postage \$ 34
0002	Certified Fee 2.10
0000	Return Receipt Fee (Endorsement Required) 1.50
1670	Restricted Delivery Fee (Endorsement Required) 5
7000	Total Postage & Fees \$ 3.94
	
Sent To Mr. Darrell Brady Street, Apt. No. or PO Box No. R.O. 1 City, State, ZIP+4 LaJose, PA 15753	

PS Form 3800, May 2000. See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

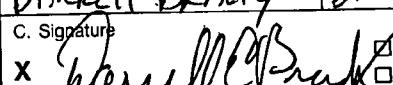
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Darrell Brady
R.O. # 1
LaJose, PA
15753

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **DARRELL BRADY** B. Date of Delivery **2-08-02**

C. Signature 

Agent Addressee

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number (Copy from service label)

7000 1670 0002 4682 5602

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 02- -CD

CLEARFIELD COUNTY, Plaintiff

vs.

DARRELL BRADY, RICHARD KEPHART,
and CAROL KEPHART,
Defendants

COMPLAINT

FILED 5cc

APR 19 2002

Atty
Kesner
No fee

cc
William A. Shaw
Prothonotary

CLEARFIELD COUNTY
COURTHOUSE
CLEARFIELD PA 16830
KIM C. KESNER, ESQUIRE
SOLICITOR

(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

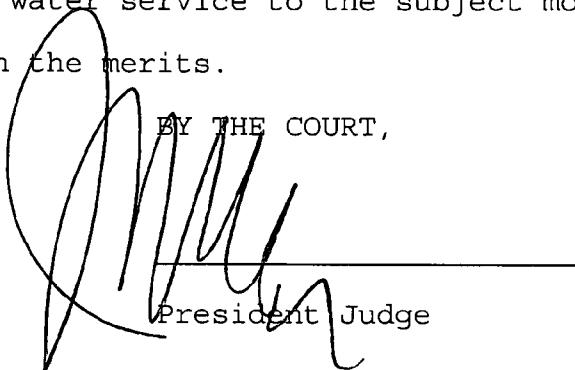
CLEARFIELD COUNTY : :

VS. : NO. 02-614-CD

DARRELL BRADY, et al : :

O R D E R

NOW, this 13th day of May, 2002, upon consideration of Plaintiff's Motion for Preliminary Injunction, it is the ORDER of this Court that said Motion be and is hereby granted; the Defendants are hereby enjoined from occupying said premises and directed to curtail water service to the subject mobile homes pending hearing on the merits.

BY THE COURT,

President Judge

FILED

MAY 13 2002

William A. Shaw
Prothonotary

FILED

MAY 13 2002

William A. Shaw
Prothonotary

RENT TO KEPHAM & ASSESSMENT
&

D. Brady

R. KEPHAM
&

Carol KEPHAM At
ADDRESS ON AFFIDAVIT.

(P)

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

CLEARFIELD COUNTY, : No. 02-614-CD
Plaintiff :
vs. :
:

DARRELL BRADY,
RICHARD KEPHART and CAROL
KEPHART,
Defendants :
:

To: Honorable John K. Reilly, Jr., President Judge

FILED

AUG 26 2003

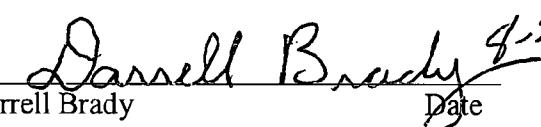
William A. Shaw
Prothonotary

STIPULATION

Plaintiff, Clearfield County, and Defendants Darrell Brady, Richard Kephart and Carol Kephart stipulate and respectfully request this Honorable Court to enter the following Final Decree in full and final disposition of this equity action.

Clearfield County
By:


Kim C. Kesner, Solicitor


Darrell Brady
Date


Richard Kephart 8-20-03
Richard Kephart
Date


Carol Kephart 8-20-03
Carol Kephart
Date

FINAL DECREE

Upon the foregoing Stipulation, it is hereby ORDERED and DECREED that:

1. The Preliminary Injunction issued and granted by this Court on May 13, 2002 be and is hereby made permanent.

2. Therefore, Defendants are hereby permanently enjoined from occupying the premises being the subject of this Court's Order of May 13, 2002 unless or until they, jointly or individually, apply for and are granted approval to do so by Clearfield County under its Subdivision and Land Development Ordinance.

3. Furthermore, Defendants are permanently enjoined from reconnecting utility service, including by way of illustration but not limitation, electric and water to the subject mobile homes unless or until such approval is granted.

4. This Final Decree is intended to remedy Defendant's admitted previous violations of the Clearfield County Subdivision and Land Development Ordinance. It is not intended to prohibit or limit actions or conduct of the Defendants, their heirs or assigns which is lawful and permissible under the Clearfield County Subdivision and Land Development Ordinance and/or other applicable law.

BY THE COURT:

John K. Reily, Jr., President Judge

FILED

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AUG 26 2003
SAC
FBI

William A. Shaw
Prothonotary

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

CLEARFIELD COUNTY,
Plaintiff

vs.

DARRELL BRADY,
RICHARD KEPHART and CAROL
KEPHART,
Defendants

: No. 02-614-CD
:
: Type of Case: Civil
:
:
: Type of Pleading: Motion for Preliminary
: Injunction
: Filed on Behalf of: Plaintiff
:
: Counsel of Record for this Party:
:
: Kim C. Kesner, Esquire
: Supreme Ct. I.D. 28307
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: 23 North Second Street
: Clearfield, PA 16830
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: 814-765-1706
: 814-765-7006 – facsimile
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FILED

APR 26 2002
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William A. Shaw
Prothonotary

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

CLEARFIELD COUNTY,	:	No. 02-614-CD
Plaintiff	:	
	:	
vs.	:	
	:	
DARRELL BRADY,	:	
RICHARD KEPHART and CAROL	:	
KEPHART,	:	
Defendants	:	

MOTION FOR PRELIMINARY INJUNCTION

1. Movant is Clearfield County, Plaintiff in this action.
2. Respondents are Darrel Brady, Richard Kephart and Carol Kephart, Defendants in this action.
3. The allegations contained in Plaintiff's Complaint in Equity are hereby incorporated by reference as if set forth verbatim.
4. Defendant Brady continues to locate three mobile homes on the Premises described in Plaintiff's Complaint which constitutes a continuing violation of the Clearfield County Subdivision and Land Development Ordinance ("Ordinance").
5. The Defendants Kephart continue to occupy the three mobile homes on the premises which constitutes a continuing violation of the Ordinance. The Ordinance and the Pennsylvania Municipal Planning Code authorizes movant to maintain an action in equity "to restrain, correct or abate violations...and to prevent illegal occupancy of a building, structure or premises."
6. Defendants continued violation constitutes a present and substantial threat to the public health, welfare and safety as none of the three mobile homes is served by a permitted sewage disposal system.

7. A continuing violation of the Ordinance satisfies the immediate and irreparable harm requirements for a preliminary injunction.

WHEREFORE, in accordance with Pa.R.Civ.P. Rule 1531, Movant respectfully requests this Honorable Court to:

- a. Schedule a hearing on this Motion to be conducted after written notice to the Respondents.
- b. Enter a preliminary injunction prohibiting occupation of any or all of the three mobile homes pending further proceedings.
- c. Such other preliminary relief as the Court deems just and proper after hearing.

Respectfully submitted,



Kim C. Kesner, Esquire
Clearfield County Solicitor
Supreme Ct. I.D. 28307

Commonwealth Of Pennsylvania

:

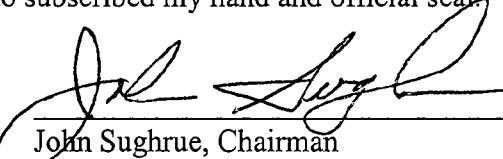
: S. S.

County Of Clearfield

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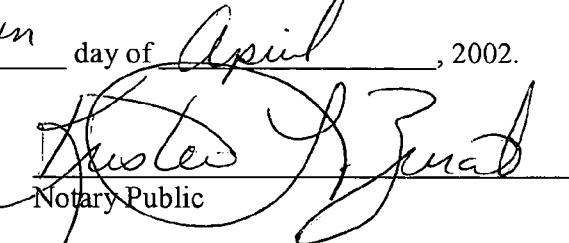
On this the 26th day of April, 2002, before me the undersigned authority personally appeared JOHN SUGHRUE who acknowledged himself to be the Chairman of the Board of Commissioners of Clearfield County, and that as such, according to law deposes and says that the facts and averments set forth in the foregoing Motion for Preliminary Injunction are true and correct to the best of his knowledge, information, and belief.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and official seal.


John Sughrue, Chairman

Clearfield County Board of Commissioners

Sworn to and subscribed before me this 26th day of April, 2002.


Notary Public

My Commission Expires:

NOTARIAL SEAL
KRISTEN L. ZURAT, NOTARY PUBLIC
CLEARFIELD BORO, CLEARFIELD CO., PA
MY COMMISSION EXPIRES, MAY 7, 2005

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 02-614-CD

CLEARFIELD COUNTY, Plaintiff

vs.

DARRELL BRADY, RICHARD KEPHART,
and CAROL KEPHART,
Defendants

MOTION FOR PRELIMINARY
INJUNCTION

CLEARFIELD COUNTY
COURTHOUSE
CLEARFIELD, PA 16839
KIM C. KESNER, ESQUIRE
SOLICITOR
(814) 765-2641

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

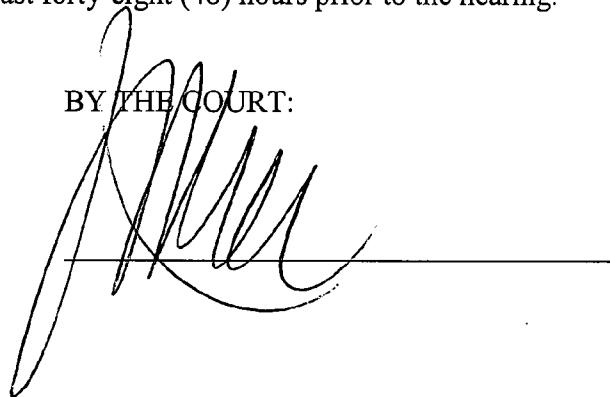
CLEARFIELD COUNTY, : No. 02-614-CD
Plaintiff :
: vs.
: :
DARRELL BRADY, :
RICHARD KEPHART and CAROL :
KEPHART, :
Defendants :
:

ORDER

AND NOW this 29th day of April, 2002, upon consideration of the Motion for Preliminary Injunction filed by the Plaintiff, it is hereby ORDERED and DECREED that hearing on the Motion shall be held on the 8th day of May, 2002 at 9:30 o'clock A. M. in Courtroom No. 1 of the Clearfield County Courthouse.

Movant is hereby directed to serve a copy of this Order upon the Respondents by personal service as soon as practicable but at least forty-eight (48) hours prior to the hearing.

BY THE COURT:



FILED

APR 29 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 02-614-CD

CLEARFIELD COUNTY, Plaintiff

vs

DARRELL BRADY, RICHARD KEPHART,
CAROL KEPHART,
Defendants

ORDER

FILED
0/3:31 AM
APR 29 2002
5cc
Atty Kesner
E. Kesner

William A. Shaw
Prothonotary

CLEARFIELD COUNTY
COURT HOUSE
CLEARFIELD, PA 16830
KIM C. KESNER, ESQUIRE
SOLICITOR
(814) 765-2641

AFFIDAVIT OF PROCESS SERVER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

(NAME OF COURT)

CLEARFIELD COUNTY

DARRELL BRADY, RICHARD KEPHART

PLAINTIFF/PETITIONER

vs. and CAROL KEPHART

No. 02-614-CD

DEFENDANT/RESPONDENT

CASE #

I declare that I am a citizen of the United States, over the age of eighteen and not a party to this action. And that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Darrel Brady

FILED

with the (documents)

MAY 06 2002 EK

by serving

NAME

at Home RR 1 Box 147 LaJoye Pa 15763 at 6:55 P.M.

REASON FOR SERVICE

William A. Shaw
Prothonotary

Business

on May 3, 2002, Friday

Thereafter copies of the documents were mailed by prepaid, first class mail on

DATE

CITY

STATE

Manner of Service: By personally delivering copies to the person/authorized agent of entity being served.

By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof.

By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household 18 or older and explaining the general nature of the papers.

By posting copies in a conspicuous manner to the address of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s).

Unknown at Address

Evading

Moved, Left no Forwarding

Other

Address Does Not Exist

Service Cancelled by Litigant

Unable to Service in a Timely Fashion

Service Attempts:

Service was attempted on ()

DATE

TIME

()

DATE

TIME

Description:

Age 50s

Sex M

Race W

Hgt. 5'10"

Wgt. 400

Hair Gray

Glasses

I declare under penalty of perjury that the information contained herein is true and correct and this affidavit was executed on

at CITY STATE

DATE

State of Pennsylvania
County of Clearfield

Sworn to and subscribed before me this 6th
day of May, 2002

SIGNATURE OF PROCESS SERVER

Lou RADZYMINSKI

Earl E. Butler

NOTARY PUBLIC

Notarial Seal
Earl E. Butler, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires Nov. 19, 2003
Member, Pennsylvania Association of Notaries

AFFIDAVIT OF PROCESS SERVER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

(NAME OF COURT)

CLEARFIELD COUNTY

DARRELL BRADY, RICHARD KEPHART

vs. and CAROL KEPHART

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

No. 02-614-CD

CASE #

I declare that I am a citizen of the United States, over the age of eighteen and not a party to this action. And that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Richard Kephart

FILED

with the (documents)

m30b1cc att knox
MAY 08 2002
E
K8

by serving CAROL Kephart

WIFE
RELATIONSHIP
William A. Shaw
Prothonotary

NAME

at Home RR1 Box 412 Limestone Pa 15753

Business

on May 8, 2002, Friday at 6:45 pm

Thereafter copies of the documents were mailed by prepaid, first class mail on _____

CITY STATE

DATE

Manner of Service: By personally delivering copies to the person/authorized agent of entity being served.
 By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof.
 By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household 18 or older and explaining the general nature of the papers.
 By posting copies in a conspicuous manner to the address of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s).

Unknown at Address Evading
 Address Does Not Exist Service Cancelled by Litigant Moved, Left no Forwarding Other
 Unable to Service in a Timely Fashion

Service Attempts: Service was attempted on () DATE () TIME () DATE () TIME () DATE () TIME

Description:

Age _____ Sex _____ Race _____ Hgt. _____ Wgt. _____ Hair _____ Glasses _____

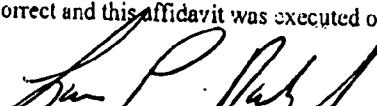
I declare under penalty of perjury that the information contained herein is true and correct and this affidavit was executed on
at _____

CITY STATE

DATE

State of Pennsylvania
County of Clearfield

Sworn to and subscribed before me this 6th
day of May, 2002


SIGNATURE OF PROCESS SERVER

Notarial Seal
Earl E. Butler, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires Nov. 19, 2003

Member, Pennsylvania Association of Notaries


NOTARY PUBLIC

AFFIDAVIT OF PROCESS SERVER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

(NAME OF COURT)

CLEARFIELD COUNTY

DARRELL BRADY, RICHARD KEPHART

vs. and CAROL KEPHART

PLAINTIFF/PETITIONER

No. 02-614-cD

DEFENDANT/RESPONDENT

CASE #

I declare that I am a citizen of the United States, over the age of eighteen and not a party to this action. And that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Carol Kephart

FILED

with the (documents)

by serving

NAME

at Home RR1 Box 412 LaJoye Rd 15753 RELATIONSHIP William A. Shaw
Prothonotary

Business

on May 3, 2002, Friday at 6:45 PM

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
from _____

DATE

CITY

STATE

Manner of Service: By personally delivering copies to the person/authorized agent of entity being served.

By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof.

By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household 18 or older and explaining the general nature of the papers.

By posting copies in a conspicuous manner to the address of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s).

Unknown at Address

Evading

Moved, Left no Forwarding

Other

Address Does Not Exist

Service Cancelled by Litigant

Unable to Service in a Timely Fashion

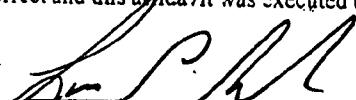
Service Attempts: Service was attempted on () _____ DATE _____ TIME _____ () _____ DATE _____ TIME _____
() _____ DATE _____ TIME _____ () _____ DATE _____ TIME _____

Description:

Age 40s Sex F Race W Hgt. 5'4" Wgt. 100 Hair Ba Glasses Y

I declare under penalty of perjury that the information contained herein is true and correct and this affidavit was executed on _____
at _____

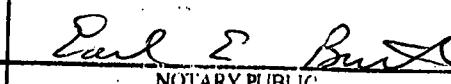
CITY _____ STATE _____

 SIGNATURE OF PROCESS SERVER

State of Pennsylvania
County of Clearfield

Sworn to and subscribed before me this 6th day of May, 2002

Notarial Seal	
Earl E. Butler, Notary Public	
Lawrence Twp., Clearfield County	
My Commission Expires Nov. 19, 2003	
Member, Pennsylvania Association of Notaries	

 Earl E. Butler

NOTARY PUBLIC

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 12413

CLEARFIELD COUNTY

02-614-CD

VS.

BRADY, DARRELL; KEPHART, RICHARD & CAROL

COMPLAINT IN EQUITY; MOTION FOR PRELIMINARY INJUNCTION & ORDER

SHERIFF RETURNS

NOW MAY 3, 2002 RETURN THE WITHIN COMPLAINT IN EQUITY/MOTION FOR PRELIMINARY INJUNCTION & ORDER "NOT SERVED" AS TO DARRELL BRADY, RICHARD KEPHART and CAROL KEPHART, DEFENDANTS. COMPLAINTS WERE GIVEN BACK TO ATTORNEY KIM KESNER'S OFFICE AT HIS REQUEST.

Return Costs

Cost	Description
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24.34	SHFF. HAWKINS PAID BY: CLFD. CO.
-------	----------------------------------

30.00	SURCHARGE PAID BY: CLFD. CO.
-------	------------------------------

FILED

MAY 07 2002

010:35

William A. Shaw
Prothonotary

Sworn to Before Me This

7th Day Of May 2002
William A. Shaw

So Answers,

Chester A. Hawkins
My Marty Harris
Chester A. Hawkins
Sheriff

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA