

FILED

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

JUN 04 2003

William A. Shaw
Prefatory

IN RE: CONDEMNATION BY :
THE MUNICIPAL AUTHORITY OF : No. 03- 810 -CD
THE TOWNSHIP OF MORRIS OF :
EASEMENTS TO A PROPERTIES :
LOCATED IN MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, :
PENNSYLVANIA, IDENTIFIED BY :
CLEARFIELD COUNTY ASSESSMENT :
MAP NUMBER 124-R9-13 :
:

DECLARATION OF TAKING

NOW COMES, The Municipal Authority of the Township of Morris, Clearfield County, Pennsylvania and files the following Declaration of Taking:

1. The Condemnor is The Municipal Authority of the Township of Morris, a municipal authority with its offices in Morris Township, Clearfield County, Pennsylvania, with a mailing address of P.O. Box 121, Allport, Pennsylvania, 16821.
2. This condemnation is authorized by Section 5607(d)(15) of the Municipal Authorities Act, 53 Pa.C.S. §5607(d)(15), as amended and supplemented;
3. This Declaration of Taking was authorized by resolution duly passed by The Municipal Authority of the Township of Morris at a special meeting held on June 3, 2003. The record thereof, including a copy of the Resolution may be examined at the office of the Authority in Allport, Pennsylvania, 16821, during regular business hours.
4. The purpose of this condemnation is to acquire permanent easements for the purposes of the Authority's extension of its sewer system and related facilities.

5. The property condemned is shown on a plat thereof annexed to this Declaration of Taking as a part hereof, which property is identified by the following easement number, assessment map number and owner(s) as known to the Authority.

<u>Easement Number</u>	<u>Map Number</u>	<u>Owner(s)</u>
37	124-R9-13	Harry W. & Dolly E. Hand

A Copy of the Plat annexed hereto is also being lodged for record concurrent with the filing herewith in the Office of the Recorder of Deeds of Clearfield County in accordance with Section 404 of the Eminent Domain Code, Act of June 22, 1964, Sp. Sess., P.L. 84, Art. I Section 404, as amended, Act of December 5, 1969, P.L. 316, Section 1 and Act of December 29, 1971, P.L. 636, No. 169 Section 2, 26 P.S. Section 1-404.

6. The nature of the title acquired in and to property described in Paragraph 5 hereof are permanent, exclusive and sufficient easements, rights-of-way, rights, and privileges for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing sewage facilities over, under, across, upon and through the permanent easement areas as shown on the Plat, with the temporary right during construction to use an additional area of the surface of the property also shown on the Plat to construct and install within the permanent easement areas the facilities to be constructed with rights to do all things necessary, convenient and required to carry out the construction within the permanent easement areas.

7. The construction plans of the Authority showing the facilities to be constructed and installed as well as the condemned property may be inspected at the office of the Authority at Allport, Pennsylvania, 16821, during regular business hours.

8. Just compensation for this condemnation is secured by the Bond of the Authority, without surety, in accordance with Section 403 of the Eminent Domain Code, 26 P.S. Section 1-403(a) which is being filed contemporaneously herewith.

ATTEST:



Jeffrey T. Coval

Jeffrey Coval, Secretary/Treasurer
"Seal"

The Municipal Authority of the Township of
Morris

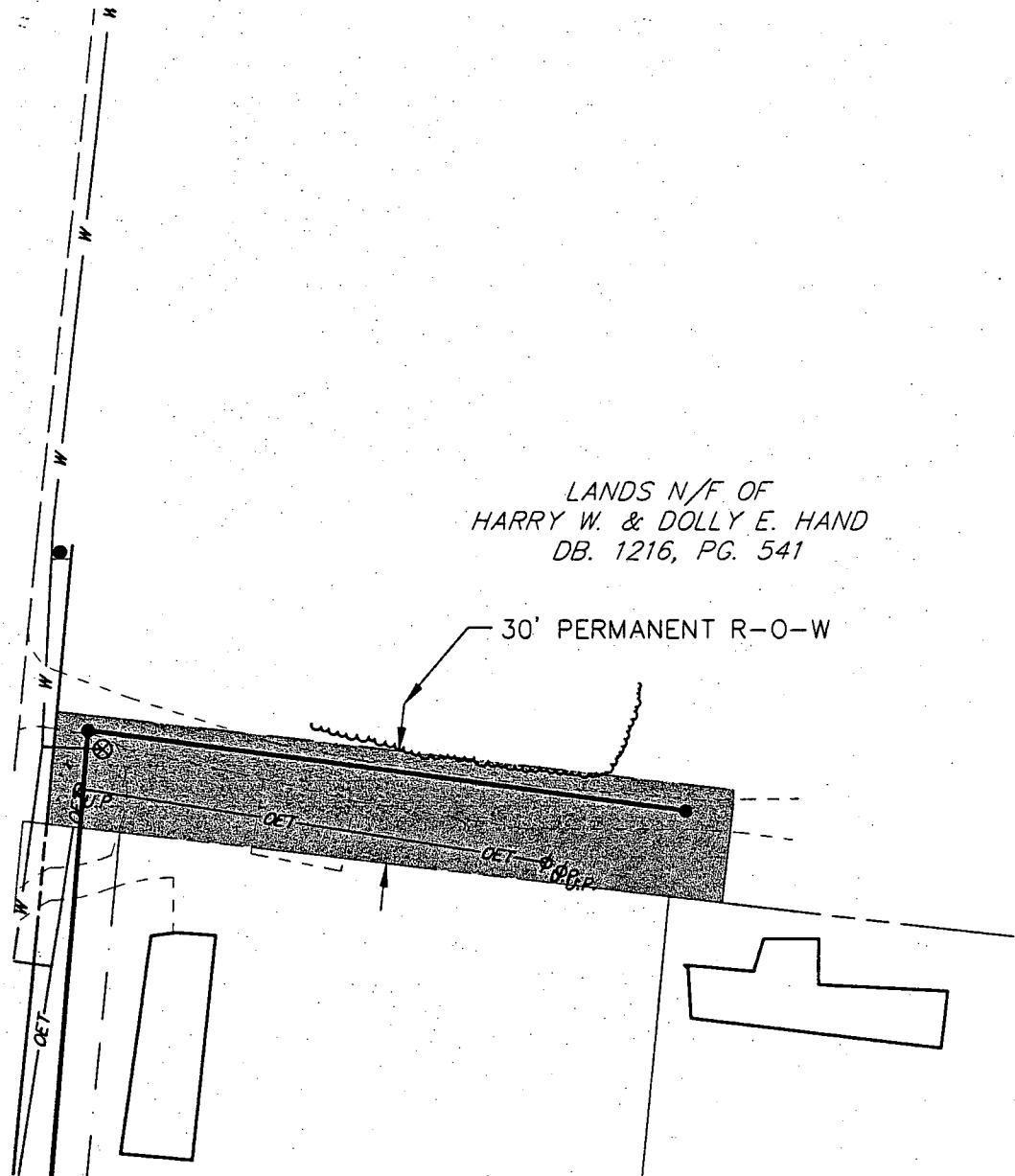
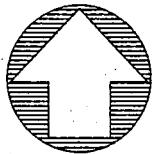
By:



Victor L. Couturiaux

Chairman

ALL PROPERTY LINE INFORMATION IS FROM TAX MAPS & DEEDS. HERBERT, ROWLAND AND GRUBIC INC. ASSUMES NO RESPONSIBILITY FOR ACCURACY OF SAID INFORMATION.



EASEMENT NO. 37

1" = 50'

<hr/> <hr/> <hr/>  SANITARY SEWER W/MANHOLE ESTIMATED PROPERTY BOUNDARY EXISTING MUNICIPAL R/W	<p>N/F LANDS OF HARRY W. & DOLLY E. HAND</p> <p>MORRIS TOWNSHIP</p> <p>CLEARFIELD CO.</p>
<p>TAX MAP NO.: 124-R9 PARCEL NO.: 13 PERMANENT R/W: 0 SQ. FT. TEMPORARY EASEMENT: 5,543 SQ. FT.</p>	<p>PERMANENT SANITARY SEWER RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FOR MUNICIPAL AUTHORITY OF THE TOWNSHIP OF MORRIS</p>

FILED UCC
Andy Klesner
Of 10:28 AM
JUN 04 2003 Atty pd. 85.00

William A. Shaw
Prothonotary

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

IN RE: CONDEMNATION BY
THE MUNICIPAL AUTHORITY OF
THE TOWNSHIP OF MORRIS OF
EASEMENTS TO A PROPERTIES
LOCATED IN MORRIS TOWNSHIP,
CLEARFIELD COUNTY,
PENNSYLVANIA, IDENTIFIED BY
CLEARFIELD COUNTY ASSESSMENT
MAP NUMBER 124-R9-13

: No. 03-810 -CD

FILED

JUN 04 2003

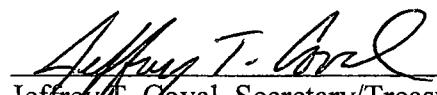
William A. Shaw
Prothonotary

BOND

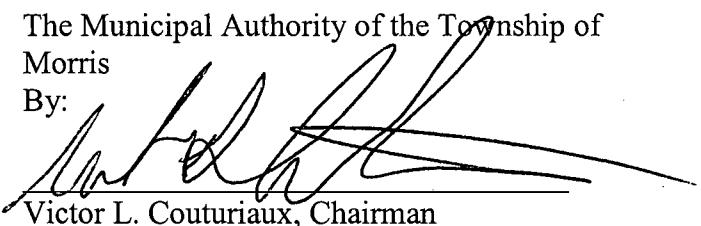
KNOW ALL MEN BY THESE PRESENTS, THAT THE MUNICIPAL AUTHORITY
OF THE TOWNSHIP OF MORRIS, CLEARFIELD COUNTY, PENNSYLVANIA, a municipal
authority, with a mailing address of P.O. Box 121, Allport, Pennsylvania, 16821, hereafter called
“OBLIGOR” is held and firmly bound unto the Commonwealth of Pennsylvania, hereinafter
called “OBLIGEE” for the use and benefit of the owner or owners of the property interests
condemned, the condition of which shall be that the OBLIGOR shall pay such damages as shall
be determined by law.

WHEREAS, the Municipal Authority of the Township of Morris, the OBLIGOR herein,
shall pay or cause to be paid such amount of damages as the said owner(s) of the property
interest(s) shall be entitled to by reason of such condemnation, after the same shall have been
agreed upon or assessed in the manner provided by law, then this obligation shall be void;
otherwise, to remain in full force and effect.

ATTEST:


Jeffrey T. Coval, Secretary/Treasurer
“Seal”

The Municipal Authority of the Township of
Morris
By:


Victor L. Couturiaux, Chairman

FILED ^{4cc}
01/10/28 2011 Atty Kisner
JUN 04 2003

William A. Shaw
Prothonotary

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

IN RE: CONDEMNATION BY :
THE MUNICIPAL AUTHORITY OF : No. 03-810-CD
THE TOWNSHIP OF MORRIS OF :
EASEMENTS TO A PROPERTIES :
LOCATED IN MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, :
PENNSYLVANIA, IDENTIFIED BY :
CLEARFIELD COUNTY ASSESSMENT :
MAP NUMBER 124-R9-13 :
:

MEMORANDUM OF RECORDING
NOTICE OF CONDEMNATION

In accordance with Section 404 of the Eminent Domain Code, 26 P.S. Section 1-404, now comes The Municipal Authority of the Township of Morris, by its solicitor, Kim C. Kesner, Esquire and files this Memorandum that on the 4th day of June, 2003, a Notice of this condemnation was recorded with the Recorder of Deeds of Clearfield County and is of the record at Instrument Number 200309619.



Kim C. Kesner, Esquire
Solicitor for The Municipal Authority of the
Township of Morris

FILED

JUN 04 2003

William A. Shaw
Prothonotary

FILED
200
6/11/00
AM
JUL 6 4 2003
Amy Kesner

William A. Shaw
Prothonotary

AFFIDAVIT OF PROCESS SERVER

In the Court of Common Pleas of Clearfield County, Pennsylvania, - Civil Division
 (NAME OF COURT)

In Re: Condemnation by the Municipal Authority ^{VS} of the Township of Morris of Easements to a
property located in Morris Township, Clearfield County, Pennsylvania, identified by Clearfield
County Assessment Map Number 124-R9-13.

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 HARRY W. HAND AND DOLLY E. HAND

with the (documents) Notice, Declaration of Taking and Bond

by serving HARRY W. HAND HUSBAND
 NAME RELATIONSHIP

at Home 530 SPRUCE ST. CLEARFIELD PA 16830

Business _____

on June 9, 2003 at 4:50 P.M.

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

CITY STATE

FILED
JUN 11 2003

William A. Shaw
Prothonotary

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 (1) 6-5-03 2:00PM (2) 6-6-03 4:00PM
 () DATE TIME () DATE TIME () DATE TIME

Description: EDDIE T. VILLI
 Age 60's Sex M Race Wh Hgt. 5'7" Wgt. 140 Hair yes Glasses yes

I declare under penalty of perjury that the information contained herein is true and correct and this affidavit was executed on June 10, 2003
 at 11000000 DATE
 CITY STATE

State of PA
 County of CLEARFIELD
 Sworn to and subscribed before me this day of 6-10, 2003

RICHARD A. IRELAND
 District Justice, State of Pennsylvania
 No. 46-3-02, Clearfield County
 Term Expires Jan. 3, 2006

John P. Mulligan
 SIGNATURE OF PROCESS SERVER

John P. Mulligan
 NOTARY PUBLIC

JUN 11 2003

William A. Shaw
Prothonotary

FILED

JUN 11 2003

0/2-42
William A. Shaw
Prothonotary

1 cc to all

JUNE 12-03

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

IN RE: CONDEMNATION BY :
THE MUNICIPAL AUTHORITY OF :
THE TOWNSHIP OF MORRIS OF :
EASEMENTS TO A PROPERTIES :
LOCATED IN MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, :
PENNSYLVANIA, IDENTIFIED BY :
CLEARFIELD COUNTY ASSESSMENT :
MAP NUMBER 124-R9-13 :
: No. 03-810-CD

FILED

JUN 13 2003

019:351 war

William A. Shaw
Prothonotary

1 CENT H. Hand

Preliminary Objections
to the
Declaration of Taking

Harry W. & Dolly E. Hand do hereby object to the Morris Township taking of Easement #37, Map #124-R9-13 in Clearfield Co., Penna.

#1 The service this line will serve is a 1 story building on 1/2 of lot next to my property. There is a right-of-way from the front 1/2 lot NOTE: they split this property around 1993.

#2 The Township sent me a temporary easement plan showing the sewer line on this right-of-way with an 18 foot temporary construction on Hand property. This I will sign. I see no reason the line should be on my property.

#3 As this line will only service 1 house, I don't understand this action.

#4 Future use of my property will be affected by this action if approved.

#5 Property rights of land owners must and should be protected at all times unless there is no other way.

#6 In this case, the line can and should be on their property as they are the only one to use it.

#7 Attached is Temporary Easement Construction Plan that was sent to me by the Township.

Copies to
Morris Township

Harry W. Hand
Dolly E. Hand

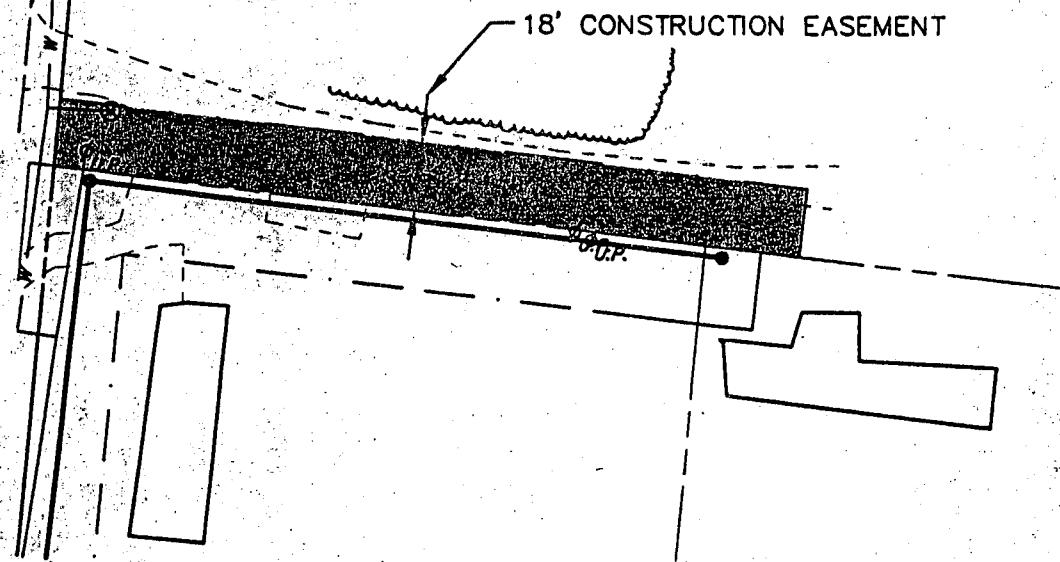
Harry W. & Dolly E. Hand
530 Spruce St.
Clearfield, PA 16830
Ph. 814-765-8208

108 2

ALL PROPERTY LINE INFORMATION IS FROM TAX MAPS & DEEDS. HERBERT, ROWLAND AND GRUBIC, INC. ASSUMES NO RESPONSIBILITY FOR ACCURACY OF SAID INFORMATION.



LANDS N/F OF
HARRY W. & DOLLY E. HAND
DB. 1216, PG. 541



EASEMENT NO. 37

15' = 50'

SANITARY SEWER R/W/MANHOLE

ESTIMATED PROPERTY BOUNDARY

EXISTING MUNICIPAL R/W

PROPOSED SANITARY SEWER R/W

PROPOSED TEMPORARY

CONSTRUCTION EASEMENT

N/F LANDS OF

HARRY W. & DOLLY E. HAND

MORRIS TOWNSHIP

CLEARFIELD CO.

TAX MAP NO.:

124-R9

PARCEL NO.:

13

PERMANENT R/W:

0 SQ. FT.

TEMPORARY EASEMENT: 3,409 SQ. FT.

PERMANENT SANITARY SEWER RIGHT-OF-WAY

AND

TEMPORARY CONSTRUCTION EASEMENT

FOR

MUNICIPAL AUTHORITY OF THE TOWNSHIP OF MORRIS

9 of 2

FILED

JUN 19 2003

William A. Shaw
Prothonotary

KIM C. KESNER

23 NORTH SECOND STREET, CLEARFIELD, PA 16830

ATTORNEY AT LAW
attykesner@usachoice.net

(814) 765-1706
FAX (814) 765-7006

June 27, 2003

Marcy Kelley, Deputy Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

**RE: In re: Condemnation by the Municipal Authority of the Township of Morris of
Easements to a property located in Morris Township, Clearfield County, Pennsylvania,
identified by Clearfield County Assessment Map Number 124-R9-13**

No. 03-810-CD

Dear Ms. Kelly:

I serve as Solicitor of the Municipal Authority of the Township of Morris ("MATM") and commenced the above captioned eminent domain proceeding on June 4, 2003 by filing with the Prothonotary a Declaration of Taking. Enclosed is a copy of Preliminary Objections filed pro se by Harry W. and Dolly E. Hand to that Declaration of Taking.

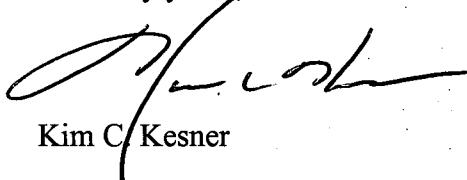
The Pennsylvania Eminent Domain Code states:

(e) The Court shall determine promptly all preliminary objections and make such preliminary and final orders and decrees as justice shall require, including the revesting of title.

26 P.S. §1-406

I would respectfully suggest that this provision places an affirmative obligation on the Court to schedule and determine preliminary objections "promptly". I would therefore, respectfully request that the Court, with notice to the parties, schedule the Hand's Preliminary Objections for determination. Should you require anything further from me in these connections, kindly advise.

Sincerely yours,



Kim C. Kesner

KCK/klz
Enclosure

cc: Victor L. Couturiaux, Chairman
Municipal Authority of the Township of Morris
Mr. & Mrs. Harry W. Hand

VIA HAND DELIVERY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

IN RE: CONDEMNATION BY THE :
MUNICIPAL AUTHORITY OF THE :
TOWNSHIP OF MORRIS OF : No. 03-810-CD
EASEMENT TO A PROPERTY :
LOCATED IN MORRIS TOWNSHIP, :
CLEARFIELD COUNTY, :
PENNSYLVANIA, IDENTIFIED BY :
CLEARFIELD COUNTY ASSESSMENT :
MAP NUMBER 124-R9-13 :
:

ORDER

NOW, this 22nd day of September, 2003, following argument and briefs into Preliminary Objections filed on behalf of Harry W. and Dolly E. Hand to the above Eminent Domain proceedings, it is the ORDER of this Court that said Objection be and are hereby dismissed.

By the Court,

President Judge

FILED

SEP 23 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED
09/0047
SEP 23 2003

William A. Shaw
Prothonotary/Clerk of Courts

1cc Attn: Kesner
1cc-Harry & Dolly Hand
530 Spruce St.
Clearfield, PA 16830

Date: 09/23/2003

Clearfield County Court of Common Pleas

User: DGREGG

Time: 09:15 AM

ROA Report

Page 1 of 1

Case: 2003-00810-CD

Current Judge: John K. Reilly Jr.

IN RE: Morris Township

Civil In RE

Date		Judge
06/04/2003	✓ Filing: Civil Complaint Paid by: Kesner, Kim C (attorney for Morris Township) Receipt number: 1861057 Dated: 06/04/2003 Amount: \$85.00 (Check) 4 cc to Atty. Kesner	No Judge
06/11/2003	✓ Memorandum of Recording Notice of Condemnation. 2 cc to Atty. Kesner. No Judge	
	Affidavit Of Process Server, HARRY W. and DOLLY E. HAND served with: No Judge Notice, Declaration of Taking and Bond. Filed 1 cc to Atty	
06/13/2003	✓ Preliminary Objections to the Declaration of Taking. filed by s/Harry W. & Dolly E. Hand 1 cc H. Hand	No Judge
09/23/2003	✓ ORDER, NOW, this 22nd day of September, 2003, following argument and Briefs into Preliminary Objections filed on behalf of Harry W. and Dolly E. Hand to the above Eminent Domain proceedings, it is the ORDER of this Court that said Objections be and are hereby DISMISSED. by the Court, s/JKR,JR.,P.J. 1 cc Atty Kesner, Harry & Dolly Hand	John K. Reilly Jr.