

08-1295-CD
Brady Township vs Linda London

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

46th

NOTICE OF APPEAL

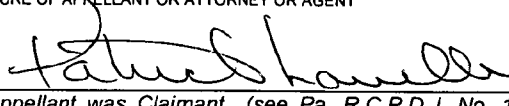
FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 08-1295-CD

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT Linda London		MAG. DIST. NO. 46-3-01	NAME OF MDJ Patrick N. Ford	
ADDRESS OF APPELLANT 173 Short Mag Lane		CITY Luthersburg	STATE PA	ZIP CODE 15848
DATE OF JUDGMENT 6/19/08	IN THE CASE OF (Plaintiff) Brady Township		(Defendant) Linda London	
DOCKET No. CV-0000110-08		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B. This Notice of Appeal, when received by the Magisterial District Judge, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>		<p>If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a Magisterial District Judge, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.</p>		

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

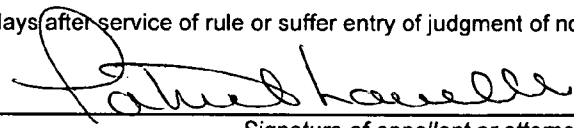
(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Brady Township, appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. 08-1295-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.


Signature of appellant or attorney or agent
Patrick Lavelle, Esq.

RULE: To Brady Township, appellee(s)

Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: July 14, 2008

FILED
013:59 AM
JUL 14 2008

1 copy to Atty Lavelle
PFF
MDS Ford


Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

William A. Shaw
Prothonotary/Clerk of Court

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-01**
MDJ Name: Hon. **PATRICK N. FORD**
Address: **309 MAPLE AVENUE**
PO BOX 452
DUBOIS, PA
Telephone: **(814) 371-5321** **15801**

ATTORNEY DEF PRIVATE :

PATRICK LAVELLE
25 EAST PARK AVE. APT/STE 25
DUBOIS, PA 15801

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: **BRADY TOWNSHIP**
PO BOX 125
LUTHERSBURG, PA 15848

DEFENDANT: **LONDON, LINDA**
173 SHORT MAG LANE
LUTHERSBURG, PA 15848

Docket No.: **CV-0000110-08**
Date Filed: **3/03/08**



THIS IS TO NOTIFY YOU THAT:

Judgment: **FOR PLAINTIFF** (Date of Judgment) **6/19/08**

☒ Judgment was entered for: (Name) **BRADY TOWNSHIP**

☒ Judgment was entered against: (Name) **LONDON, LINDA**
in the amount of \$ **610.00**

☐ Defendants are jointly and severally liable.

☐ Damages will be assessed on Date & Time _____

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

☐ Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 600.00
Judgment Costs	\$ 10.00
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 610.00
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

6/19/08 Date Patrick N. Ford Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
_____, Date _____, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

AOPC 315-07

DATE PRINTED: 6/19/08 1:19:00 PM

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-01**
MDJ Name: Hon.
PATRICK N. FORD
Address: **309 MAPLE AVENUE**
PO BOX 452
DUBOIS, PA
Telephone: **(814) 371-5321** **15801**

PATRICK N. FORD
309 MAPLE AVENUE
PO BOX 452
DUBOIS, PA 15801

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: **BRADY TOWNSHIP**
PO BOX 125
LUTHERSBURG, PA 15848

VS.
DEFENDANT: **LONDON, LINDA**
173 SHORT MAG LANE
LUTHERSBURG, PA 15848

Docket No.: **CV-0000110-08**
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FILED

m/12:45/301(610)
JUL 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

6/19/08 Date *Patrick N. Ford*, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

_____, Date _____, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

CIVIL COMPLAINT

Mag. Dist. No.: **46-3-01**

MDJ Name: Hon.
PATRICK N. FORD
Address: **309 MAPLE AVENUE**
PO BOX 452
DUBOIS, PA 15801
Telephone: **(814) 371-5321**

PLAINTIFF: NAME and ADDRESS
Brady Township
P.O. Box 125
Luthersburg, PA 15848

VS.
DEFENDANT: NAME and ADDRESS
Linda London
173 Short Mag Lane
Luthersburg, PA 15848

	AMOUNT	DATE PAID
FILING COSTS	\$ <u>10.00</u>	<u>3/3/08</u>
POSTAGE	\$ <u> </u>	<u> / / </u>
SERVICE COSTS	\$ <u> </u>	<u> / / </u>
CONSTABLE ED.	\$ <u> </u>	<u> / / </u>
 TOTAL	\$ <u> </u>	<u> / / </u>

Docket No.: CV-11008
Date Filed: 3-3-08



Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 750.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Brady Township accuses the above named defendant who lives at the address set forth above with violating Ordinance #46 of Brady Township, Clearfield County, Pennsylvania.

See attached sheet and enclosed Ordinance #46.

I, Lester Wachob verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.


(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: Blaise Ferraraccio

Address: 301 E. Pine St.

Telephone: 814-765-4990

Clearfield, PA 16830

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

FILED

JUL 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

BRADY TOWNSHIP,
Plaintiff

vs.

LINDA LONDON,
an individual,
Defendant

NO. 08-1295-CD
Type of Case: Civil

Type of Pleading: Complaint

Filed on behalf of: Brady Township

Counsel of Record for this Party:
Blaise J. Ferraraccio, Esquire
Ferraraccio & Noble
Attorneys and Counselors at Law
301 East Pine Street
Clearfield, PA 16830
(814) 765-4990
FAX (814) 765-9377

Supreme Court No.: 47753

FILED

09:56 a.m. CK
AUG 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

GCC ATTY

60

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

BRADY TOWNSHIP,
Plaintiff

vs.

LINDA LONDON,
an individual,
Defendant

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:
:

NO. 08-1295-CD

Type of Case: Civil

Type of Pleading: Complaint

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

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

Dan Nelson
Clearfield County Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
Telephone: 814-765-2641 Ext. 1300 or
1301

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

BRADY TOWNSHIP,
Plaintiff

vs.

LINDA LONDON,
an individual,
Defendant

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:
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NO. 08-1295-CD

Type of Case: Civil

Type of Pleading: Complaint

COMPLAINT

AND NOW, comes the Plaintiff, BRADY TOWNSHIP, and for its cause of action, respectfully represents as follows:

1. BRADY TOWNSHIP, is a Pennsylvania Township, duly organized and existing under and in accordance with the laws of the Commonwealth of Pennsylvania with its address being 3906 Shamokin Trail, P.O. Box 125, Luthersburg, Clearfield County, PA 15848-0125.

2. The Defendant, LINDA LONDON, is an individual, whose address is 173 Short Mag Lane, Luthersburg, Clearfield County, PA 15848.

3. On or about the 5th day of March 2007 the Brady Township Board Of Supervisors passed Brady Township Ordinance Number 46 which is “**AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF ANY PERSON OR PERSONS OPERATING FOR PROFIT, NOT FOR PROFIT, OR NON PROFIT, A PRIVATE, OR A PUBLIC, SHOOTING RANGE AND TO PRESCRIBE FINES AND PENALTIES FOR VIOLATIONS.**” A true and correct copy of Ordinance #46 is attached hereto, incorporated herein and labeled: Exhibit “A”.

4. Ordinance #46 was adopted on March 5, 2007 to promote the health, safety, comfort and welfare of the township citizens.

5. The authority to pass ordinances is granted to Brady Township by the Second Class Township Code.

6. Ordinance #46 requires that a shooting range be engineered by a registered professional engineer, licensed in Pennsylvania in order to ensure the safety of the range.

7. Linda London is owner and operator of the property where the lower shooting range is located. A true and correct copy of Linda London's Deed is attached hereto, incorporated herein and labeled Exhibit "B".

8. "Operator" means a person or persons operating for profit, not for profit, or non-profit, or corporation, or partnership, operating either a private or public shooting range.

9. Ordinance #46 states in part that there is a safety zone of five hundred (500) feet for a shooting range.

10. "'Safety zone" means a distance of 500 feet from a building or a private roadway unless written permission is obtained from the owner thereof. Or for a distance of 500 feet from public roadways, and from operating gas wells or fuel storage containers."

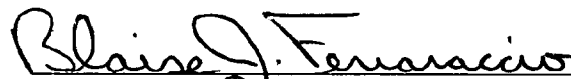
11. A shoot was held on March 31, 2007 on this property, owned by Linda London, located next to TR-357, Stoney Lonesome Road, in Brady Township. Pictures and DVD's will show that there was shooting within the 500 feet safety zone of the road and three (3) active gas wells. There also were not any signs put up warning the public of a shoot within the area. There were five (5) to ten (10) people present firing weapons all within 25 to 50 feet of TR-357.

12. The Township has concerns for the health, safety, comfort, and welfare of the citizens who drive on London Road, and Stoney Lonesome Road as well as any surrounding neighbors to the range. The township requires a shooting range operator to follow the ordinance and have the proposed range engineered to ensure the safety of the range. Any building on the proposed range would need to be presented as safe according to an engineered plan. There are three (3) active gas wells very close to the shooting range.

13. Linda London is in violation of Ordinance #46 because she, as the owner and as an operator, has constructed an unapproved shooting range on her property. As landowner, Linda London, has a responsibility to see that her land is not used in a manner that would cause such violation. She therefore is in violation of said ordinance for not having it professionally engineered by a Pennsylvania licensed engineer to ensure that the shooting range is safe and in compliance with Ordinance #46 that was adopted on March 5, 2007.

WHEREFORE: Plaintiff requests this Honorable Court to enter a judgment against Defendant and in favor of Plaintiff in the amount of \$610.00 plus costs, interest, and reasonable attorney fees. Plaintiff also requests this Honorable Court to permanently enjoin and stop the use of this property as a shooting range.

Respectfully submitted:

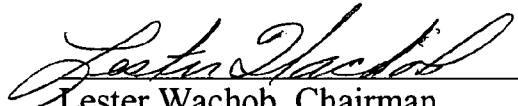

BLAISE J. FERRARACCIO, ESQUIRE
FERRARACCIO & NOBLE
Attorneys and Counselors at Law
Attorney for Plaintiff
301 East Pine Street
Clearfield, PA 16830
(814) 765-4990
FAX (814) 765-9377

Dated: August 1, 2008

VERIFICATION

I hereby verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to Unsworn Falsification to Authorities.

Aug. 1, 2008
Dated


Lester Wachob, Chairman
Brady Township Board of Supervisors

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Clearfield County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

Date: _____

District Court Administrator

CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder

Maurene Inlow - Chief Deputy

P.O. Box 361

1 North Second Street, Suite 103

Clearfield, Pennsylvania 16830

***RETURN DOCUMENT TO:**

BRADY TOWNSHIP

P. O. BOX 125

LUTHERSBURG, PA 15848

ATTN: SHERYL DEBOER

Instrument Number - 200703800

Recorded On 3/9/2007 At 9:44:58 AM

* Instrument Type - ORDINANCES

* Total Pages - 9

Invoice Number - 163454

* Grantor - ORDINANCE

* Grantee - BRADY TOWNSHIP

* Customer - BRADY TOWNSHIP

*** FEES**

STATE WRIT TAX \$0.50

RECORDING FEES - \$21.00

RECORDER

RECORDER IMPROVEMENT \$3.00

FUND

COUNTY IMPROVEMENT FUND \$2.00

TOTAL PAID \$26.50

2007 03800

I hereby certify this to be a true
and correct copy of the original
document filed in this office.

AUG 30 2007

Attest:

[Signature]
Rec. of Wills, Rec. of Deeds & Clk. of Orphans' Court

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



[Signature: Karen L. Starck]

Karen L. Starck
Recorder of Deeds

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

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

Exhibit A

BRADY TOWNSHIP, CLEARFIELD COUNTY

ORDINANCE 46

AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF ANY PERSON OR PERSONS OPERATING FOR PROFIT, NOT FOR PROFIT, OR NON PROFIT, A PRIVATE, OR A PUBLIC, SHOOTING RANGE AND TO PRESCRIBE FINES AND PENALTIES FOR VIOLATIONS.

IT IS HEREBY ENACTED AND ORDAINED, by the Board of Supervisors of the Township of Brady, Clearfield County, Pennsylvania as follows:

SECTION 1. Purpose and Findings

- A. **Purpose:** Pursuant to the authority granted in the Second Class Township Code to promote and secure the health, safety, comfort and welfare of the citizens of Brady Township, the Township of Brady (hereinafter "Township") enacts this Ordinance to protect the health, safety, comfort and welfare of its citizens.

The Township does not intend this Ordinance to suppress any activities protected by the Second Amendment, but to enact a content neutral ordinance which addresses the public health, safety, comfort and welfare of its citizens. It is not the intent of the Board in enacting this legislation to deny any person rights to keep and bear arms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Further, by enacting this legislation, the Board does not intend to deny or restrict the rights of any person to obtain bows and firearms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of bows or firearms may have to sell or distribute or exhibit bows and firearms.

SECTION 2. Interpretation

The definitions in this section apply in these Regulations.

"approved" means approved by Brady Township Board of Supervisors.

"board" means Brady Township Board of Supervisors.

"building" means any type of structure

"NRA" means National Rifle Association.

"NRA Source Book" means a 1999 technical publication of the NRA that contains suggested practices and procedures for shooting range builders and operators.

"operator" means a person or persons operating for profit, not for profit, or non-profit, or corporation, or partnership, operating either a private or public shooting range.

"range officer" means an individual who oversees the shooting activities at the firing line of a shooting range.

"safety zone" means a distance of 500 feet from a building or a private roadway, unless written permission is obtained from the owners thereof. Or for a distance of 500 feet from public roadways, and from operating gas wells or fuel storage containers.

"shooting range" means a place that is designed or intended for the safe discharge, on a regular and structured basis, of firearms for the purpose of target practice or target shooting competitions.

"Township" means the Brady Township Board of Supervisors

SECTION 3. Application

These Regulations apply to :

(a) an operator who submits plans to the board, drawings by a registered professional engineer, licensed in Pennsylvania, for a proposed shooting range.

SECTION 4. Request for Approval of Shooting Range

1. An operator who wishes to establish and or operate a shooting range shall submit a request for approval to the Township and provide the following information in the request:

- (a) the applicant's name, address, phone number and, if applicable, facsimile number and electronic mail address;
- (b) the location of the shooting range, including road directions to reach it;
- (c) the proposed days and hours of operation of the shooting range; and
- (d) with respect to each operator, each owner of the shooting range, and each employee of the shooting range who handles firearms
 - (i) his or her name, address and phone number, and
 - (ii) the number of his or her license to possess firearms or, if one does not exist, his or her date of birth.

2. The request for approval of a shooting range must be accompanied by the following documentation:

- (a) all plans submitted shall be done by a registered professional engineer, licensed in Pennsylvania;
- (b) all rifle ranges being designed shall follow the applicable suggested practices and procedure of the NRA Range Source Book;
- (c) a copy of the proposed safety rules;
- (d) evidence of at least \$2,000,000 of commercial general liability insurance with coverage on an occurrence basis;
- (e) copies of, and evidence of compliance with, any operating licenses required by federal, or state.
- (f) evidence that the shooting range complies with any federal, and state law that applies to the establishment and operation of such a facility in regard to environmental protection.

(g) an operator must make application and submit documents detailing the operation to federal, state and local firearms and other business regulatory agencies. This process is necessary to receive such credentials as (1) a federal employment identification number, (2) and IRS account for withholding taxes, (3) state income and retail sales tax accounts, (4) federal firearms licenses, (5) local business licenses, including a use and occupancy permit.

(h)) evidence that the shooting range is not in violation of the safety zone which is five hundred (500) feet.

(i) post rules and regulations at the site.

(j) post warning signs of a shooting range area as per design or as proposed by the board.

(k) evidence of caliber of guns proposed to be used on the shooting range.

SECTION 5. Operations

Compliance with Safety Standards and Other Obligations

An operator who wishes to establish and or operate a shooting range shall ensure that the discharge of firearms on the shooting range does not endanger the safety of persons at the shooting range or in the portion of the surrounding area described in paragraph 4(2)(a), by taking appropriate measures, including ensuring that

(a) the design and operation of the shooting range

(i) is such that projectiles discharged from firearms will not leave the shooting range if they are discharged there in accordance with the safety rules, and

(ii) promotes the safety of all persons on the shooting range, including by accommodating any adaptation that may be appropriate given the nature of the shooting activities that may take place and the type and caliber of firearms that may be used there;

(b) the shooting range has an adequate sign warning system to warn persons that they are entering a shooting range.

(c) appropriate safety rules for the shooting range are applied that are consistent with the nature of the shooting activities that may take place and the type and caliber of firearms that may be used there;

(d) the safety rules are posted in a conspicuous place on the shooting range; and

(e) if more than one person is simultaneously engaged in shooting activities on the shooting range, a person acts as the range officer.

(f) shall not shoot within five hundred (500) feet of the safety zone.

SECTION 6. Safety Training

1. The operator of a shooting range shall ensure that every person who indicates an intention to use the shooting range for the first time is informed of the safety rules used at that shooting range.

2. No person may use a shooting range for the first time without having received the information referred to in subsection (1).

SECTION 7. Continuing Compliance

Insurance

1. The operator of a shooting range shall at all times maintain the insurance coverage referred to in paragraphs 4(2) (d) and provide the township with a copy of the insurance policy and documentation of each paid premium of said policy.

Evidence

2. Every five years after the date of this passage of this ordinance or after the approval of a shooting range was granted, the operator shall submit current copies of the documents set out in paragraphs 4(2) (c) and (d), as well as evidence of continuing compliance with the requirements referred to in paragraphs 4(2) (e) to (k) and sections 5 and 7(1), to the Township.

3. The Township may request an operator of a shooting range to provide evidence as described in section 8(2) no more than once in a calendar year.

Despite subsection (3), the Township may make a request more frequently if they

(a) have received, in the preceding 12 months

(i) a personal injury report in accordance with section 9, or

(ii) a change report in accordance with section 9 change report; or

(b) have reasonable grounds to believe that the continued operation of the shooting range may endanger the safety of any person.

SECTION 8. Reports and Records

Personal Injury Report

1. The operator of an approved shooting range shall report any personal injury occurring on a shooting range that is caused by the discharge of a firearm

(a) same day to the local police; and

(b) same day of the personal injury, to the Township.

2. The report referred to in subsection (1) must include the following information relating to the personal injury:

(a) its date, time and location;

(b) the names of the individuals involved;

(c) the name of any range officer who was on duty at the time;

(d) whether or not medical attention was sought; and

(e) a general description of the incident, including the circumstances in which the personal injury occurred, if known.

Change Report

3. The operator of an approved shooting range who proposes to make a change that affects the matters set out in the documentation submitted under subsection 4(2) shall give advance notice of the proposed change to the township within sufficient time, given the nature and complexity of the proposed change, to allow the Township to evaluate it.

4. The operator of an approved shooting range shall report immediately to the Township any change, other than one referred to in section 8(3)

(a) to the shooting range or the portion of the surrounding area described in paragraph 4(2)(a) that could endanger the safety of any person; and

(b) in operating permits or licenses issued under state or municipal laws that may be relevant to the approval of the shooting range or its activities.

Records

5. Every record made under subsection (8) must be maintained for at least six years.
6. At the Township's request, the operator of the approved shooting range shall submit to the township a report containing all or any requested part of the information described in subsection (8).

Participation of Officers, Members and their Guests

7. The operator of an approved shooting range or those that use the range, on the request of the Township, shall supply a written description of the participation, if any, of a current or past member or officer of the shooting range or those that use the range, in target practice or target shooting competitions within the previous five years.
8. The operator of an approved range shall, on the request of a current or past member or officer of the shooting range or his or her guest, supply to the requestor the description referred to in subsection (8), 7 that concerns the requestor.

SECTION 9. Notice of Refusal or Revocation or Approval

1. A notice of a decision by the Township to refuse to approve a shooting range or revoke approval of a shooting range or to approve a shooting range is sufficiently given if the notice is addressed to the applicant or operator of a shooting range at the address of that person that is set out in the request for approval, or, if the person has advised the township of a change of address, at the new address, and the notice is

(a) delivered personally

(i) if the applicant or operator is an individual, at any time that is reasonable in the circumstances, and

(ii) if the applicant or operator is a business, during normal business hours;

(b) sent by registered or certified mail or by constable; or

(c) transmitted by electronic means that can produce a paper record.

2. The notice is deemed to be received

(a) on the day of delivery, if it is delivered personally;

(b) on the fifth working day, excluding Saturdays and holidays, after

- (i) the postmark date, if it is sent by mail, and
 - (ii) the date of shipment on the registered or certified mail, if it is sent by constable; and
- (c) if it is sent by electronic means,
- (i) if the applicant or operator is an individual, on the day of the transmission, and
 - (ii) if the applicant or operator is a business, on the day of the transmission, if that day is a working day, or, if that day is not a working day, on the first working day after the day of transmission.

SECTION 10. Violations and Penalties

The township shall enforce any violation of this Ordinance through a civil enforcement proceeding before the District Justice. The civil enforcement proceeding shall be initiated by Complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person, partnership or corporation who or which has violated any provision of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than Six Hundred Dollars (\$600.00) for each violation, plus all court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. A separate violation shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Ordinance which is found to have been violated. Additionally, the Township shall be exempt from the payment of costs in any civil case brought to enforce and Ordinance in accordance with this paragraph. Further, the Township may enforce any violation of this Ordinance through an equity action brought in the Court of Common Pleas of the County where the Township is situated.

SECTION 11. Severability

The provisions of this Ordinance are severable and if any section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid and unconstitutional by any

Court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections, subsections, clauses, sentences or parts thereof, of this Ordinance; it is hereby declared to be the intent of the township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, subsection clause, sentence or part thereof had not been included herein.

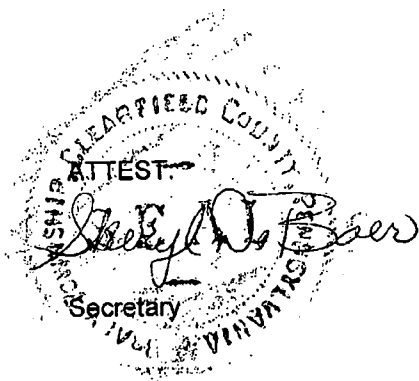
SECTION 12. Effective Date

This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED INTO LAW THIS 5 DAY OF
March, 2007.

BRADY TOWNSHIP BOARD OF SUPERVISORS

Lester Wachob
Bryan Hartzfeld
Darryl C Beatty



COMMONWEALTH OF PENNSYLVANIA COUNTY OF CLEARFIELD

On this, the 5th day of March, 2007, before me, the undersigned officer, a Notary Public, personally appeared, Lester Wachob, Bryan Hartzfeld, and Darryl Beatty and, 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 for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

My Commission Expires Feb 9, 08

Notary Public
COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Candice J. Alvetto, Notary Public
Winslow Twp., Jefferson County
My Commission Expires Feb. 9, 2008


Member, Pennsylvania Association of Notaries

200703800

I hereby certify this to be a true
and correct copy of the original
as shown to me in this office.

AUG 30 2007

Attest:



Reg. of Wills, Sec. of Deeds & Ck. of Orphans' Court

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008

**CLEARFIELD COUNTY
RECORDER OF DEEDS**

Karen L. Starck, Recorder
Maurene Inlow - Chief Deputy
P.O. Box 361
1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

TRACT #1
107-C7-977

TRACT #2
107-C7-98

Instrument Number - 200619776
Recorded On 11/27/2006 At 11:47:22 AM
* Instrument Type - DEED
* Total Pages - 6
Invoice Number - 158744
* Grantor - MATSON TIMBER-LAND CO
* Grantee - LONDON, LINDA
* Customer - QUERINO TORRETTI

* FEES
STATE TRANSFER TAX \$556.50
STATE WRIT TAX \$0.50
JCS/ACCESS TO JUSTICE \$10.00
RECORDING FEES - \$15.00
RECORDER
RECORDER IMPROVEMENT \$3.00
FUND
COUNTY IMPROVEMENT FUND \$2.00
DUBOIS AREA SCHOOLS \$278.25
REALTY TAX
BRADY TOWNSHIP \$278.25
TOTAL PAID \$1,143.50

***RETURN DOCUMENT TO:**

QUERINO TORRETTI
P.O. BOX 218
600 MAIN STREET
REYNOLDSVILLE, PA 15851

200619776
I hereby certify this to be a true
and correct copy of the original
document filed in this office.

AUG 31 2007

Reg. of Wills, Rec. of Deeds & Clk. of Orphans' Court
MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008

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



Karen L. Starck
Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

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

Exhibit B

THIS DEED

made and entered into as of the 24th day of October, in the year Two Thousand and Six (2006), by and between **MATSON TIMBER-LAND CO.**, a limited partnership, with offices situate at 132 Main Street, Brookville, Pennsylvania 15825, **GRANTOR**,

A
N
D

LINDA LONDON, having an address of Box 320 Stoney Lonesome Road, Luthersburg, Pennsylvania 15848, **GRANTEE**.

WITNESSETH, that in consideration of the sum of Fifty-five Thousand Six Hundred Fifty and 00/100 Dollars (\$55,650.00), in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantee, **ALL** those certain tracts of land situate in Brady Township, Clearfield County, Pennsylvania, bounded and described as follows:

TRACT NUMBER 1:

BEGINNING at the northwest corner of the tract of land herein described at an existing 1" iron pipe (being situate at the northwest corner of a larger tract of land of which the herein described tract was formerly a part, and situate at the northeast corner of lands now or formerly of Regis Ochs Lumber Company); thence South 89° 43' 52" East along lands now or formerly of Raymond Nelson, Dudley E. Tubbs, Robert J. Fullerton and Michael Fullerton, a distance of 1,954.29 feet to a point in the centerline of London Road (T-350); thence South 19° 26' 41" West along said centerline, a distance of 151.40 feet to a point; thence South 61° 08' 26" West through lands now or formerly of Matson Timber-Land Co., a distance of 61.72 feet to a set 5/8" iron rebar; thence South 48° 45' 37" West through the same, a distance of 480.79 feet to a set 5/8" iron rebar; thence South 73° 03' 53" West through the same, a distance of 1,555.75 feet to a set 5/8" iron rebar; thence North 00° 00' 00" West along lands now or formerly of Regis Ochs Lumber Company, a distance of 951.84 feet to an existing 1" iron pipe, the place of beginning; **CONTAINING** 1,206,494 square feet or 27.70 acres according to a survey by D.E.M. Surveying, P.C., dated July 2006, which is recorded as hereinafter set forth as Instrument Number 200619775.

BEING a part of the tract or tracts of land granted and conveyed by Orville R. Marshall et ux., by Deed dated August 9, 1999, and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania, as Instrument Number 1999-13390.

The above-described tract of land is known as a part of Parcel Number C07-000-00030 on the Clearfield County Assessment Maps.

TRACT NUMBER 2:

BEGINNING at the northwest corner of the tract of land herein described at a point in the centerline of Micknis Road (T-354); thence North 90° 00' 00" East along lands now or formerly of Matson Timber-Land Co., and partly along the southern margin of Stoney Lonesome Road (T-357), a distance of 1,380.23 feet to a set 5/8" iron rebar; thence South 00° 39' 06" East along lands now or formerly of Howard M. Schaffer et al., and Olan L. London et al. and crossing said Stoney Lonesome Road (T-357), a distance of 1,667.58 feet to an existing iron bar; thence North 89° 48' 56" West along lands now or formerly of Edward J. Shok, a distance of 1,647.82 feet to a set 1" iron pipe; thence South 00° 00' 00" West along the same, a distance of 354.78 feet to a set 1" iron pipe; thence North 90° 00' 00" West along the same, a distance of 633.65 feet to a point in the centerline of Micknis Road (T-354); thence along the centerline of Micknis Road (T-354), the following courses and distances: North 37° 00' 42" East, 31.82 feet to a point; North 29° 49' 50" East, 369.14 feet to a point; North 36° 08' 37" East, 139.96 feet to a point; North 38° 05' 04" East, 186.16 feet to a point; North 34° 46' 15" East, 180.46 feet to a point; North 30° 08' 10" East, 194.55 feet to a point; North 35° 41' 36" East, 288.86 feet to a point; North 28° 54' 30" East, 92.92 feet to a point; North 16° 02' 39" East, 91.56 feet to a point; North 06° 18' 06" East, 317.55 feet to a point; North 01° 28' 59" East, 172.39 feet to a point; North 00° 58' 20" East, 203.41 feet to a point, the place of beginning; CONTAINING 2,833,669 square feet or 65.05 acres according to a survey by D.E.M. Surveying, P.C., dated July 2006, which is recorded as hereinafter set forth as Instrument Number 200619775.

BEING a part of the tract or tracts of land granted and conveyed by Orville R. Marshall et ux., by Deed dated August 9, 1999, and recorded in the Office of the Recorder of Deeds for Clearfield County, Pennsylvania, as Instrument Number 1999-13390.

The above-described tract of land is known as a part of Parcel Number C07-000-00030 on the Clearfield County Assessment Maps.

EXCEPTING AND RESERVING all of the oil, gas and mineral rights together with the right to mine and remove the same according to customary industry methods. Notwithstanding the foregoing, the Grantees, their heirs and assigns shall have the right to utilize the free gas allotment with respect to any oil and gas lease which is signed by the Grantors, their heirs and assigns.

NOTICE

To comply with the Act of July 17, 1957, P. L. 984 as amended by Act 255 of 1964 (52 P. S. Section 1551 - 1554) notice is hereby given as follows:

THIS DOCUMENT MAY 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 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.

GRANTOR HAS NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE, DEFINED IN ACT NO. 1980-97 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE PROPERTY DESCRIBED IN THIS DEED.

To comply with the Pennsylvania Realty Transfer Tax Act, it is hereby certified that the full, true and complete value of the above-described premises is \$55,650.00.

And the said Grantor will Specially Warrant the property hereby conveyed.

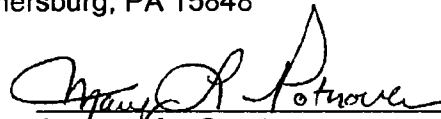
IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and seal as of the day and year first above written.

MATSON TIMBER-LAND CO.,
by Pennsylvania Hardwoods, Inc.,
General Partner

By:  (SEAL)
Becky J. Matson, President

I hereby certify the precise address of the within named Grantee to be:

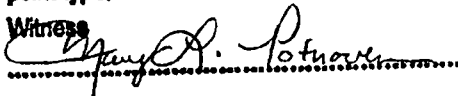
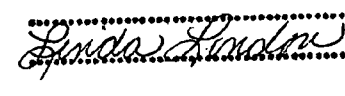
320 Stoney Lonesome Road, Luthersburg, PA 15848


Attorney for Grantee

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness

This 22nd day of November, 2006

COMMONWEALTH OF PENNSYLVANIA,

COUNTY OF JEFFERSON, ss:

On this, the 20th day of November, 2006, before me, the undersigned officer, personally appeared Becky J. Matson, who acknowledged herself to be President of Pennsylvania Hardwoods, Inc., General Partner of Matson Timber-Land Co., and that she as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as President.

In Witness Whereof, I hereunto set my hand and official seal.

Leah N. Young
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Leah N. Young, Notary Public
Brookville Boro, Jefferson County
My Commission Expires Aug. 5, 2010
Member, Pennsylvania Association of Notaries

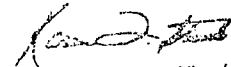
Prepared by:
DENNISON, DENNISON & HARPER
293 Main Street
Brookville, PA 15825

200619776

I hereby certify this to be a true
and attested copy of the original
document filed in this office.

AUG 31 2007

Attest:



Reg. of Wills, Rec. of Deeds & Ck. of Orphans' Court

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008

FILED

AUG 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Plaintiff

v.

LINDA LONDON

Defendant

Case No. **08-1295 CD**

Type of Pleading:
Answer and New Matter

Filed on Behalf of: **Defendant**

Filed By:

Patrick Lavelle, Esq.
PA. ID. No. 85537
25 East Park Ave.
Suite #4
DuBois, PA. 15801
(814) 371-2232
(814) 317-4480 Fax

FILED ^{ICC}
01/31/09 01:45 PM Amy Lavelle
60

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Case No. **08-1295 CD**

Plaintiff

v.

LINDA LONDON

Defendant

ANSWER TO PLAINTIFF'S COMPLAINT

AND NOW comes the defendant, LINDA LONDON, by and through his counsel, PATRICK LAVELLE, ESQ., and files a response to the Complaint of the Plaintiff, averments and supports of which are as follows:

1. ADMITTED.
2. ADMITTED.
3. ADMITTED.
4. Contents of Ordinance 46 speak for themselves; therefore, no answer is required to paragraph 4.
5. Paragraph 5 constitutes conclusion of law for which no response is necessary.
6. The averments of paragraph six (6) relate to provisions of the Ordinance which speak for themselves therefore no answer is required.

7. Regarding the averments that the subject property is owned by the defendant it is admitted. With regards to the averments that characterize the defendant as an "operator" of said property, they are denied.

8. The averments of paragraph eight (8) merely recite the provisions of the ordinance in question. The ordinance will speak for itself as to its contents and therefore no answer is required.

9. The averments of paragraph nine (9) merely recite the provisions of the subject ordinance, which document speaks for itself, therefore no answer is required.

10. The averments of paragraph nine (9) merely recite the provisions of the subject ordinance, which document speaks for itself, therefore no answer is required.

11. The defendant asserts that she was not present at any "shoot" on her property on March 31, 2007, and she is therefore without sufficient knowledge, information or belief to admit or deny the averments of paragraph eleven (11) and they are therefore denied.

12. There are multiple averments in paragraph twelve (12). With regards to said averments that merely recite the provisions of the stated ordinance, the ordinance speaks for itself, and therefore no answer is required. With regards to the remaining averments of paragraph twelve (12), the defendant is without sufficient knowledge, information or belief to admit or deny said averments and they are therefore denied.

13. The averments of paragraph thirteen (13) are denied. By way of further response the defendant avers that no part of her property is in violation of any Township ordinance which was passed subsequent to the established legal use of her property in any respect.

NEW MATTER

14. Defendant in this case is not an operator of a shooting range on her property as that term is defined in the ordinance.

15. Defendant in this case is not a member of, an officer of, or in any way associated in any association which conducts any type of organized shooting on the her property. The Defendant cannot be considered an operator under the statute under any interpretation of that term as defined in the ordinance.

16. Defendant would assert that under any sets of circumstances, the Ordinance in question would not apply to her or to anyone engaged in shooting activities on the date in question as the range existing on the property was known to exist at least six (6) months prior to the enactment of the Ordinance.

17. Defendant asserts that she cannot be considered an operator under the circumstances of this particular case as she was not present at any shooting activity on the date in questions.

18. Any interpretation of the definition of an operator to include anyone present on the range would have exposed every person present on the day in question to prosecution by the Township under this Ordinance.

19. It is clear that only those persons present on the property of the defendant on March 31, 2007 who had the last name of "London" were subjected to prosecution by the Township for activities occurring on the date in question, despite the admission of the Township that there were more than ten (10) people present at the site on the date in question.

20. The actions of enforcement of the stated Ordinance undertaken by the Township were arbitrary and capricious.

21. The conduct of the township in its enforcement efforts would indicate that the underlying purpose of the statute was not to advance the police power, but was directed only at the activities of the London family.

22. There is evidence to establish that there are numerous properties in the township that contain active shooting ranges that do not comport with the ordinance.

23. Township officials have indicated to those other property owners that the ordinance would not apply to their property.

24. The discriminatory manner in which the ordinance is applied to this defendant renders the ordinance unconstitutional as applied, in violation of both the U.S. and Pennsylvania Constitutions.

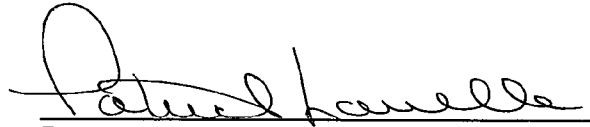
25. The defendant asserts that the provisions of the stated Ordinance are vague and ambiguous and should therefore be held as constitutionally void.

26. The defendant asserts that the subject ordinance fails to provide sufficient notice as to who or to which class of persons the ordinance applies, or

what conduct is proscribed, and therefore violates the defendant's Constitutional right to procedural due process.

WHEREFORE Defendant request this Honorable to dismiss the Complaint of the Plaintiff in this matter.

RESPECTFULLY SUBMITTED,

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

Patrick Lavelle, Esq.
Counsel for the Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Case No. **08-1295 CD**

Plaintiff

v.

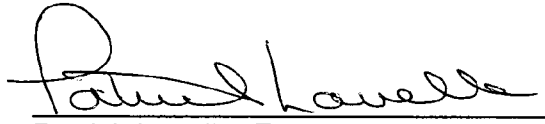
LINDA LONDON

Defendant

CERTIFICATE OF SERVICE

I, PATRICK LAVELLE, ESQ., by my signature appearing below, do hereby
certify that on the 5th day of September, 2008, I served a copy of the
foregoing Answer, New Matter, and Counterclaims, by mailing same via first
class mail, postage prepaid to the following:

Blaise J. Ferraraccio, Esq.
Ferraraccio & Noble
Attorneys and Counselors at Law
301 East Pine Street
Clearfield, PA 16830


Patrick Lavelle, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Case No. **08-1295 CD**

Plaintiff

v.

LINDA LONDON

Defendant

VERIFICATION

I, Linda London, the Defendant in this action, do hereby verify that all of the foregoing facts set forth in this Answer and New Matter are true and correct to the best of my knowledge, information and belief. Further, I make this verification with knowledge and understanding of the provisions of *18 Pa. C.S.A. § 4904 (Unsworn Falsification to Authorities)*.



Linda London

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Civil Action
:
: Type of Pleading:
: Response to New Matter
:
: Filed on Behalf of:
: Plaintiff
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

FILED 3cc A44
0/2:40pm Choman
AUG 31 2009 @10

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

	:	Clearfield County
	:	No. 08-1295 C.D.
	:	
	:	Civil Action
	:	
	:	Type of Pleading:
	:	Response to New Matter
	:	
Brady Township,	:	Filed on Behalf of:
Plaintiff	:	Plaintiff
-vs-	:	
Linda London,	:	
Defendant	:	
	:	Counsel of Record for this Party
	:	Loralee A. Choman, Esquire
	:	1303 Treasure Lake
	:	DuBois, PA 15801
	:	PA Atty. ID No. 52210
	:	(814) 375-0228
	:	Fax: (814) 375-9141
	:	chomanlaw@verizon.net

Plaintiff's Answer to New Matter

AND NOW, Plaintiff Brady Township, by and through its counsel, Loralee A. Choman, hereby responds to the New Matter of Defendant Linda London, and in support thereof avers as follows:

14. Denied. The factual averments of paragraph 14 of Defendant's New Matter are denied; to the contrary it is believed that Defendant London is an operator, or in partnership with other individuals who are operators, of a shooting

range on her property. Strict proof of Defendant's factual averments is demanded at the time of trial.

15. Denied. The factual averments of this paragraph of Defendant's New Matter are denied; to the contrary it is believed that Defendant London is an operator, or in partnership with other individuals who are operators, of a shooting range on her property. Strict proof of Defendant's factual averments is demanded at the time of trial. Further, the allegations contained in this paragraph concern interpretation and application of law, to which no response is required. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide.

16. Denied. The allegations contained in this paragraph concern interpretation and application of law, to which no response is required. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide. To the extent a response is required, Plaintiff denies the same and demands strict proof thereof at the time of trial.

17. Denied. The factual averments of this paragraph of Defendant's New Matter are denied; to the contrary it is believed that Defendant London is an operator, or in partnership with other individuals who are operators, of a shooting range on her property. Strict proof of Defendant's factual averments is demanded at the time of trial. Further, the allegations contained in this paragraph concern

interpretation and application of law, to which no response is required. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide.

18. Denied. The allegations contained in this paragraph concern interpretation and application of law, to which no response is required. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide. To the extent a response is required, Plaintiff denies the same and demands strict proof thereof at the time of trial.

19. Denied. The factual averments of this paragraph of Defendant's New Matter are denied; to the contrary it is believed that Defendant London is an operator, or in partnership with other individuals who are operators, of a shooting range on her property. Strict proof of Defendant's factual averments is demanded at the time of trial. Further, the allegations contained in this paragraph concern interpretation and application of law, to which no response is required. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide.

20. Denied. The allegations contained in this paragraph are conclusions of law to which no response is required. Further, the allegations contained in this paragraph concern interpretation and application of law, which remains for the Court to decide.

21. Denied. The factual averments of this paragraph of Defendant's New Matter are denied; to the contrary it is believed that Defendant London is an operator, or in partnership with other individuals who are operators, of a shooting range on her property. Strict proof of Defendant's factual averments is demanded at the time of trial. Further, the allegations contained in this paragraph concern interpretation and application of law, to which no response is required. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide.

22. Denied. The factual averments of this paragraph of Defendant's New Matter are denied; to the contrary it is believed that Defendant London is an operator, or in partnership with other individuals who are operators, of a shooting range on her property. Strict proof of Defendant's factual averments is demanded at the time of trial. Further, to the extent that this paragraph contains conclusions of law, no response is required thereto. By way of further response, Plaintiff maintains that interpretation and application of the relevant law is for the Court to decide.

23. Denied. The factual averments of this paragraph of Defendant's New Matter are denied. Strict proof of Defendant's factual averments is demanded at the time of trial.


24. Denied. The allegations contained in this paragraph are conclusions of law to which no response is required. Further, the allegations contained in this paragraph concern interpretation and application of law, interpretation and application of the relevant law is for the Court to decide. To the extent that this paragraph contains factual allegations, said allegations are denied, with strict proof thereof demanded at the time of trial.

25. Denied. The allegations contained in this paragraph are conclusions of law to which no response is required. Further, the allegations contained in this paragraph concern interpretation and application of law, which remains for the Court to decide.

26. Denied. The allegations contained in this paragraph are conclusions of law to which no response is required. Further, the allegations contained in this paragraph concern interpretation and application of law, which remains for the Court to decide.

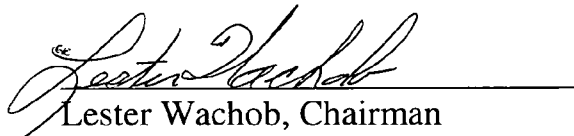
WHEREFORE, Plaintiff respectfully requests that this Honorable Court dismiss defendant's New Matter and award judgment in its favor.

Respectfully submitted,


Loralee A. Choman, Esquire
Counsel for Plaintiff

VERIFICATION

I, Lester Wachob, verify that the statements made in the foregoing Response to New Matter are true and correct to the best of my knowledge, information and belief. I understand that this statement is subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.


Lester Wachob, Chairman
Brady Township Board of Supervisors

FILED

AUG 31 2009

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

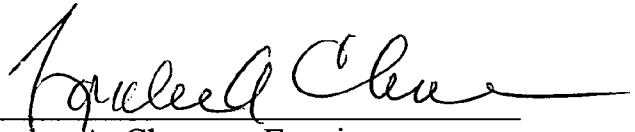
: Clearfield County
: No. 08-1295 C.D.
:
: Civil Action
:
: Type of Pleading:
: Response to New Matter
:
: Filed on Behalf of:
: Plaintiff
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

FILED
M110:4864
SEP 03 2009
NO CC
CW
William A. Shaw
Prothonotary/Clerk of Courts

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Response to New Matter on behalf of Plaintiff has been served via U.S. Mail upon the following:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

A handwritten signature in cursive script, appearing to read "Lorelee A. Choman", written over a horizontal line.

Lorelee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
Telephone: (814) 375-0228
Attorney for Plaintiff

Date: 2 September 2009

FILED

SEP 03 2009

William A. Shaw
Prothonotary/Clerk of Courts

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.

: Civil Action

: Type of Pleading:
: Motion to Consolidate

: Filed on Behalf of:
: Plaintiff

: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

FILED

JUN 12 2010

§ William A. Shaw
Prothonotary/Clerk of Courts

60

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,
Plaintiff

-vs-

Linda London,
Defendant

: Clearfield County
: No. 08-1290 C.D.

: Civil Action

: Type of Pleading:
: Motion to Consolidate

: Filed on Behalf of:
: Plaintiff

Brady Township,
Plaintiff

-vs-

Olan London,
Defendant

: Clearfield County
: No. 08-1291 C.D.

: Civil Action

: Type of Pleading:
: Motion to Consolidate

: Filed on Behalf of:
: Plaintiff

FILED 300
m 11-22-01 Atty
JUL 12 2010 Choman

William A. Shaw
Prothonotary/Clerk of Courts

Brady Township,
Plaintiff
-vs-
Olan London,
Defendant

: Clearfield County
: No. 08-1292 C.D.
:
: Civil Action
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: Type of Pleading:
: Proposed Order/Motion to Consolidate
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: Filed on Behalf of:
: Plaintiff
:

Brady Township,
Plaintiff
-vs-
Lonnie London,
Defendant

: Clearfield County
: No. 08-1293 C.D.
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: Civil Action
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: Type of Pleading:
: Proposed Order/Motion to
: Consolidate
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: Filed on Behalf of:
: Plaintiff
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:

Brady Township,
Plaintiff
-vs-
Montie London,
Defendant

: Clearfield County
: No. 08-1294 C.D.
:
: Civil Action
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: Type of Pleading:
: Proposed Order/Motion to
: Consolidate
:
: Filed on Behalf of:
: Plaintiff
:

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1290 C.D.
:
: Civil Action
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: Type of Pleading:
: Motion to Consolidate
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: Filed on Behalf of:
: Plaintiff
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Brady Township,
Plaintiff
-vs-
Olan London,
Defendant

: Clearfield County
: No. 08-1291 C.D.
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: Civil Action
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: Type of Pleading:
: Motion to Consolidate
:
: Filed on Behalf of:
: Plaintiff
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Brady Township,
Plaintiff
-vs-
Olan London,
Defendant

: Clearfield County
: No. 08-1292 C.D.
:
: Civil Action
:
: Type of Pleading:
: Motion to Consolidate
:
: Filed on Behalf of:
: Plaintiff
:

Brady Township,
Plaintiff
-vs-
Lonnie London,
Defendant

: Clearfield County
: No. 08-1293 C.D.
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: Civil Action
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: Type of Pleading:
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: Plaintiff
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Brady Township,
Plaintiff
-vs-
Montie London,
Defendant

: Clearfield County
: No. 08-1294 C.D.
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: Civil Action
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:
: Filed on Behalf of:
: Plaintiff
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Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
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: Civil Action
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: Type of Pleading:
: Motion to Consolidate
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: Filed on Behalf of:
: Plaintiff
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: chomanlaw@verizon.net

Motion to Consolidate

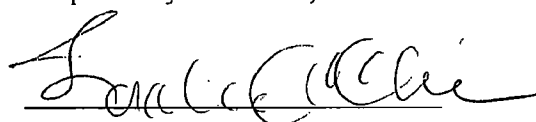
Plaintiff Brady Township, by and through its attorney, hereby moves to consolidate the above captioned actions and in support avers as follows:

1. Plaintiff is a Second Class Township organized and existing under the laws of the Commonwealth of Pennsylvania.
2. Defendants own land from which they conduct shooting activities and otherwise discharge firearms within Brady Township.
3. Plaintiff instituted the present action to enforce its lawfully enacted ordinances related to shooting activities within Brady Township, as more fully set forth in Plaintiff's complaints, incorporated here by reference.

4. Pursuant to Pennsylvania Rule of Civil Procedure No. 213 (Consolidation, Severance and Transfer of Actions and Issues within a County...) (2010), a party may move for consolidation of actions, as follows:
 - (a) In actions pending in a county which involve a common question of law or fact or which arise from the same transaction or occurrence, the court on its own motion or on the motion of any party may order a joint hearing or trial of any matter in issue in the actions, may order the actions consolidated, and may make orders that avoid unnecessary cost or delay.
5. The underlying actions involve common questions of law and fact with regard to the ordinances enacted by the Supervisors of Brady Township.
6. Thus, Plaintiff may petition the court to order a joint trial of the underlying actions, order the actions consolidated and make any other order to avoid unnecessary cost or delay.

Wherefore, Plaintiff respectfully requests that this court grant its motion for consolidation of the captioned actions.

Respectfully submitted,



Loralee A. Choman
Attorney for Plaintiff

1303 Treasure Lake
DuBois, PA 15801
PA Atty. ID No. 52210
(814) 375-0228
chomanlaw@verizon.net


Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion to Consolidate by U.S.P.S., postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 10 July 2010



Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
Telephone: (814) 375-0228
Attorney for Plaintiff
chomanlaw@verizon.net

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Civil Action
:
: Type of Pleading:
: Proposed Order/Motion to
: Consolidate
:
: Filed on Behalf of:
: Plaintiff
:
:

PROPOSED ORDER

AND NOW, this _____ day of _____ 2010, upon review of the Plaintiff's Motion for Consolidation and Defendants' Response, it is hereby ordered, pursuant to Pa. R.C.P. No. 213, that the captioned matters are consolidated at docket number _____ - _____ C.D. for all purposes, including hearing and/or trial of the underlying matters, subject to this court's further order(s) to avoid unnecessary cost or delay.

By the Court:

J.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1290 C.D.
:
: Civil Action
:
: Type of Pleading:
: Proposed Order/Motion to
: Consolidate
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: Filed on Behalf of:
: Plaintiff
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Brady Township,
Plaintiff
-vs-
Olan London,
Defendant

: Clearfield County
: No. 08-1291 C.D.
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: Civil Action
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: Type of Pleading:
: Proposed Order/Motion to
: Consolidate
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: Filed on Behalf of:
: Plaintiff
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Brady Township,
Plaintiff
-vs-
Olan London,
Defendant

: Clearfield County
: No. 08-1292 C.D.
:
: Civil Action
:
: Type of Pleading:
: Rule Returnable/Motion to Consolidate
:
: Filed on Behalf of:
: Plaintiff
:

Brady Township,
Plaintiff
-vs-
Lonnie London,
Defendant

: Clearfield County
: No. 08-1293 C.D.
:
: Civil Action
:
: Type of Pleading:
: Rule Returnable/Motion to
: Consolidate
:
: Filed on Behalf of:
: Plaintiff
:

Brady Township,
Plaintiff
-vs-
Montie London,
Defendant

: Clearfield County
: No. 08-1294 C.D.
:
: Civil Action
:
: Type of Pleading:
: Rule Returnable/Motion to
: Consolidate
:
: Filed on Behalf of:
: Plaintiff
:

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

Clearfield County
No. 08-1295 C.D.

Civil Action

Type of Pleading:
Rule Returnable/Motion to
Consolidate

Filed on Behalf of:
Plaintiff

RULE TO SHOW CAUSE

AND NOW, this 15th day of July, 2010, upon consideration of Plaintiff's Motion for consolidation, it is hereby ordered that:

A Rule is issued upon the Defendants to show cause why Plaintiff is not entitled to the relief requested.

Rule Returnable and a hearing thereon on the 19th day of August, 2010, at 9:00 A.m. in the Clearfield County Courthouse, courtroom number 1, with 1/2 HR. allotted for hearing on the matter

By the Court:


J.

014:00 BT 2cc
Atty Choman

William A. Shaw
County Clerk of Clearfield County (60)

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

Clearfield County
No. 08-1295 C.D.

Civil Action

Type of Pleading:
Rule Returnable/Motion to
Consolidate

Filed on Behalf of:
Plaintiff

RULE TO SHOW CAUSE

AND NOW, this 15th day of July, 2010, upon consideration of
Plaintiff's Motion for consolidation, it is hereby ordered that:

**A Rule is issued upon the Defendants to show cause why Plaintiff is not
entitled to the relief requested.**

Rule Returnable and a hearing thereon on the 19th day of August,
2010, at 9:00 A.m. in the Clearfield County Courthouse, courtroom number
1, with 1/2 HR. allotted for hearing on the matter

By the Court:

Judith J. Zimmerman
J.

FILED 2cc
014:00 BT Atty Chomera
2010
William A. Shaw
County Clerk of Clearfield
(60)

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff

-vs-

Linda London,
Defendant

Clearfield County
No. 08-1290 C.D.

Civil Action

Type of Pleading:
Rule Returnable/Motion to
Consolidate

Filed on Behalf of:
Plaintiff

Brady Township,
Plaintiff

-vs-

Olan London,
Defendant

Clearfield County
No. 08-1291 C.D.

Civil Action

Type of Pleading:
Rule Returnable/Motion to
Consolidate

Filed on Behalf of:
Plaintiff

Brady Township,
Plaintiff
-vs-
Olan London,
Defendant

: Clearfield County
: No. 08-1292 C.D.
:
: Civil Action
:
: Type of Pleading:
: Motion to Consolidate
:
: Filed on Behalf of:
: Plaintiff
:

Brady Township,
Plaintiff
-vs-
Lonnie London,
Defendant

: Clearfield County
: No. 08-1293 C.D.
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: Civil Action
:
: Type of Pleading:
: Motion to Consolidate
:
: Filed on Behalf of:
: Plaintiff
:
:
:

Brady Township,
Plaintiff
-vs-
Montie London,
Defendant

: Clearfield County
: No. 08-1294 C.D.
:
: Civil Action
:
: Type of Pleading:
: Motion to Consolidate
:
: Filed on Behalf of:
: Plaintiff
:
:
:

FILED
JUL 11 2010

WILLIAM A. SHERIDAN
CLERK OF COURT

DATE: 7/15/10

X You are responsible for serving all appropriate parties.

____ The Probationary's office has provided service to the following parties:

____ Plaintiff(s) _____ Plaintiff(s) Attorney _____ Other

____ Defendant(s) _____ Defendant(s) Attorney _____

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,
Plaintiff

-VS-

Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Civil Action
:
: Type of Pleading:
: Petition for Special Relief -
: Preliminary Injunction
:
: Filed on Behalf of:
: Plaintiff

:
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
:
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

FILED 2cc
m12:0431 Atty Choman
JUL 19 2010

William A. Shaw
Prothonotary/Clerk of Courts

(64)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,
Plaintiff

-VS-

Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Civil Action
:
: Type of Pleading:
: Petition for Special Relief - Preliminary
: Injunction
:
: Filed on Behalf of:
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: Lorelee A. Choman, Esquire
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: chomanlaw@verizon.net

PETITION FOR SPECIAL RELIEF-----PRELIMINARY INJUNCTION

NOW COMES Brady Township, Plaintiff above named, and by its Attorney, Lorelee A. Choman, petitions this Honorable Court to grant its Petition for Special Relief in the form of a Preliminary Injunction, as follows:

1. On or about July, 2006, Defendants began operation of a shooting range in Brady Township, including, to the best of Plaintiff's knowledge, the firing of small firearms and high-powered rifles, including twenty-two, thirty and fifty caliber firearms upon Defendant's property.
2. Plaintiff instituted the underlying action seeking costs, damages and permanent enjoinder in connection with Defendant's violation of Township Ordinance Number 46
3. As part of the shooting activities conducted by Defendant and or individuals upon Defendant's property, shots are fired across public roadways adjacent to Defendant's property, including, but not limited to, Stoney Lonesome Road and Miknis Road.
4. Additionally, Defendant and or individuals upon the property conduct random unexpected shooting activities across public roadways in the Township, all to the fear, detriment and potential harm to the residents, invitees and the public at large in the areas near and adjacent to Defendant's property.
5. Plaintiff has repeatedly requested that Defendant ceases shooting activities involving violations of its duly enacted Ordinances related to shooting activities in the Township. Specifically, Plaintiff has requested that Defendant abide by the provisions of Brady Township Ordinance Number 46, relating to the regulation of any person or persons operating for profit, not for profit, or non-profit, a private, or a public, shooting range and to prescribe fines and penalties for violations, and Ordinance Number 45, relating to the regulation of individuals, and private, public or commercial archery ranges, pistol ranges, and rifle ranges discharging bows or firearms over public roadways (township roadways) and to prescribe fines and penalties for violations (Copies of said Ordinances are attached as Exhibits "A" and "B").
6. Despite Plaintiff's requests, Defendant and/or Defendant's invitees continue random shooting activities in violation of the subject Ordinances.

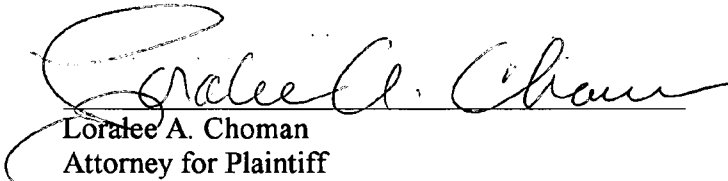
7. Plaintiff has received numerous complaints from township residents regarding Defendant's shooting activities, particularly with regard to shooting over and along the public roadways in the Township.
8. There is no question but that Defendant's shooting activities violate the subject ordinances and threaten the health, safety and welfare of the Township's residents and visitors.
9. To be entitled to a preliminary injunction, the plaintiff must demonstrate the following elements:
 - a. that relief is necessary to prevent immediate and irreparable harm that cannot be compensated by damages;
 - b. that greater injury will occur from refusing the injunction than by granting it;
 - c. that the injunction will restore the parties to the status quo as it existed immediately before the alleged wrongful conduct;
 - d. that the wrong is actionable and an injunction is reasonably suited to abate that wrong; and
 - e. that the plaintiff's right to relief is clear.¹
10. Because the Defendant has engaged in shooting activities adjacent to and across a public road, this reckless behavior poses an immediate and irreparable harm to the health, safety and welfare of Brady Township constituents.
11. Any possible detriment or injury to the Defendant is minimal because the terms of the injunction are not meant as a strict prohibition on shooting, but merely limits the location of such activity for safety purposes.

¹ School District of Wilkinsburg v. Wilkinsburg Education Association, 542 Pa. 335, 338, 667 A.2d 5, 6 n.2 (1995); Valley Forge Historical Society v. Washington Memorial Chapel, 493 Pa. 491, 500, 426 A.2d 1123, 1128 (1981); New Castle Orthopedic Assoc. v. Burns, 481 Pa. 460, 464, 392 A.2d 1383, 1385 (1978).

12. The injunction will restore the Brady Township and its constituents to the safety and peace of mind that they possessed prior to the Defendant's act. Therefore, the institution of a preliminary injunction while the case is pending will restore the status quo.
13. The wrong is actionable as is evidenced by the current litigation.
14. The Township's right to provide for the health, safety and welfare of its constituents is clear.

WHEREFORE, Petitioner requests that the Court enter an Order granting the following relief:

- a. A preliminary injunction during the pendency of the proceedings until a decision regarding this issue is reached on the merits.
- b. Such other relief as the Court deems fair and just.


Loralee A. Choman
Attorney for Plaintiff

BRADY TOWNSHIP, CLEARFIELD COUNTY

ORDINANCE 46

AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF ANY PERSON OR PERSONS OPERATING FOR PROFIT, NOT FOR PROFIT, OR NON PROFIT, A PRIVATE, OR A PUBLIC, SHOOTING RANGE AND TO PRESCRIBE FINES AND PENALTIES FOR VIOLATIONS.

IT IS HEREBY ENACTED AND ORDAINED, by the Board of Supervisors of the Township of Brady, Clearfield County, Pennsylvania as follows:

SECTION 1. Purpose and Findings

- A. **Purpose:** Pursuant to the authority granted in the Second Class Township Code to promote and secure the health, safety, comfort and welfare of the citizens of Brady Township, the Township of Brady (hereinafter "Township") enacts this Ordinance to protect the health, safety, comfort and welfare of its citizens.

The Township does not intend this Ordinance to suppress any activities protected by the Second Amendment, but to enact a content neutral ordinance which addresses the public health, safety, comfort and welfare of its citizens. It is not the intent of the Board in enacting this legislation to deny any person rights to keep and bear arms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Further, by enacting this legislation, the Board does not intend to deny or restrict the rights of any person to obtain bows and firearms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of bows or firearms may have to sell or distribute or exhibit bows and firearms.

EXHIBIT "A"

SECTION 2. Interpretation

The definitions in this section apply in these Regulations.

"approved" means approved by Brady Township Board of Supervisors.

"board" means Brady Township Board of Supervisors.

"building" means any type of structure

"NRA" means National Rifle Association.

"NRA Source Book" means a 1999 technical publication of the NRA that contains suggested practices and procedures for shooting range builders and operators.

"operator" means a person or persons operating for profit, not for profit, or non-profit, or corporation, or partnership, operating either a private or public shooting range.

"range officer" means an individual who oversees the shooting activities at the firing line of a shooting range.

"safety zone" means a distance of 500 feet from a building or a private roadway, unless written permission is obtained from the owners thereof. Or for a distance of 500 feet from public roadways, and from operating gas wells or fuel storage containers.

"shooting range" means a place that is designed or intended for the safe discharge, on a regular and structured basis, of firearms for the purpose of target practice or target shooting competitions.

"Township" means the Brady Township Board of Supervisors

SECTION 3. Application

These Regulations apply to :

(a) an operator who submits plans to the board, drawings by a registered professional engineer, licensed in Pennsylvania, for a proposed shooting range.

SECTION 4. Request for Approval of Shooting Range

1. An operator who wishes to establish and or operate a shooting range shall submit a request for approval to the Township and provide the following information in the request:

- (a) the applicant's name, address, phone number and, if applicable, facsimile number and electronic mail address;
- (b) the location of the shooting range, including road directions to reach it;
- (c) the proposed days and hours of operation of the shooting range; and
- (d) with respect to each operator, each owner of the shooting range, and each employee of the shooting range who handles firearms
 - (i) his or her name, address and phone number, and
 - (ii) the number of his or her license to possess firearms or, if one does not exist, his or her date of birth.

2. The request for approval of a shooting range must be accompanied by the following documentation:

- (a) all plans submitted shall be done by a registered professional engineer, licensed in Pennsylvania;
- (b) all rifle ranges being designed shall follow the applicable suggested practices and procedure of the NRA Range Source Book;
- (c) a copy of the proposed safety rules;
- (d) evidence of at least \$2,000,000 of commercial general liability insurance with coverage on an occurrence basis;
- (e) copies of, and evidence of compliance with, any operating licenses required by federal, or state.
- (f) evidence that the shooting range complies with any federal, and state law that applies to the establishment and operation of such a facility in regard to environmental protection.

(g) an operator must make application and submit documents detailing the operation to federal, state and local firearms and other business regulatory agencies. This process is necessary to receive such credentials as (1) a federal employment identification number, (2) and IRS account for withholding taxes, (3) state income and retail sales tax accounts, (4) federal firearms licenses, (5) local business licenses, including a use and occupancy permit.

(h)) evidence that the shooting range is not in violation of the safety zone which is five hundred (500) feet.

(i) post rules and regulations at the site.

(j) post warning signs of a shooting range area as per design or as proposed by the board.

(k) evidence of caliber of guns proposed to be used on the shooting range.

SECTION 5. Operations

Compliance with Safety Standards and Other Obligations

An operator who wishes to establish and or operate a shooting range shall ensure that the discharge of firearms on the shooting range does not endanger the safety of persons at the shooting range or in the portion of the surrounding area described in paragraph 4(2)(a), by taking appropriate measures, including ensuring that

(a) the design and operation of the shooting range

(i) is such that projectiles discharged from firearms will not leave the shooting range if they are discharged there in accordance with the safety rules, and

(ii) promotes the safety of all persons on the shooting range, including by accommodating any adaptation that may be appropriate given the nature of the shooting activities that may take place and the type and caliber of firearms that may be used there;

(b) the shooting range has an adequate sign warning system to warn persons that they are entering a shooting range.

(c) appropriate safety rules for the shooting range are applied that are consistent with the nature of the shooting activities that may take place and the type and caliber of firearms that may be used there;

(d) the safety rules are posted in a conspicuous place on the shooting range; and

(e) if more than one person is simultaneously engaged in shooting activities on the shooting range, a person acts as the range officer.

(f) shall not shoot within five hundred (500) feet of the safety zone.

SECTION 6. Safety Training

1. The operator of a shooting range shall ensure that every person who indicates an intention to use the shooting range for the first time is informed of the safety rules used at that shooting range.

2. No person may use a shooting range for the first time without having received the information referred to in subsection (1).

SECTION 7. Continuing Compliance

Insurance

1. The operator of a shooting range shall at all times maintain the insurance coverage referred to in paragraphs 4(2) (d) and provide the township with a copy of the insurance policy and documentation of each paid premium of said policy.

Evidence

2. Every five years after the date of this passage of this ordinance or after the approval of a shooting range was granted, the operator shall submit current copies of the documents set out in paragraphs 4(2) (c) and (d), as well as evidence of continuing compliance with the requirements referred to in paragraphs 4(2) (e) to (k) and sections 5 and 7(1), to the Township.

3. The Township may request an operator of a shooting range to provide evidence as described in section 8(2) no more than once in a calendar year.

Despite subsection (3), the Township may make a request more frequently if they

(a) have received, in the preceding 12 months

(i) a personal injury report in accordance with section 9, or

(ii) a change report in accordance with section 9 change report; or

- (b) have reasonable grounds to believe that the continued operation of the shooting range may endanger the safety of any person.

SECTION 8. Reports and Records

Personal Injury Report

1. The operator of an approved shooting range shall report any personal injury occurring on a shooting range that is caused by the discharge of a firearm
 - (a) same day to the local police; and
 - (b) same day of the personal injury, to the Township.
2. The report referred to in subsection (1) must include the following information relating to the personal injury:
 - (a) its date, time and location;
 - (b) the names of the individuals involved;
 - (c) the name of any range officer who was on duty at the time;
 - (d) whether or not medical attention was sought; and
 - (e) a general description of the incident, including the circumstances in which the personal injury occurred, if known.

Change Report

3. The operator of an approved shooting range who proposes to make a change that affects the matters set out in the documentation submitted under subsection 4(2) shall give advance notice of the proposed change to the township within sufficient time, given the nature and complexity of the proposed change, to allow the Township to evaluate it.
4. The operator of an approved shooting range shall report immediately to the Township any change, other than one referred to in section 8(3)
 - (a) to the shooting range or the portion of the surrounding area described in paragraph 4(2)(a) that could endanger the safety of any person; and
 - (b) in operating permits or licenses issued under state or municipal laws that may be relevant to the approval of the shooting range or its activities.

Records

5. Every record made under subsection (8) must be maintained for at least six years.
6. At the Township's request, the operator of the approved shooting range shall submit to the township a report containing all or any requested part of the information described in subsection (8).

Participation of Officers, Members and their Guests

7. The operator of an approved shooting range or those that use the range, on the request of the Township, shall supply a written description of the participation, if any, of a current or past member or officer of the shooting range or those that use the range, in target practice or target shooting competitions within the previous five years.
8. The operator of an approved range shall, on the request of a current or past member or officer of the shooting range or his or her guest, supply to the requestor the description referred to in subsection (8), 7 that concerns the requestor.

SECTION 9. Notice of Refusal or Revocation or Approval

1. A notice of a decision by the Township to refuse to approve a shooting range or revoke approval of a shooting range or to approve a shooting range is sufficiently given if the notice is addressed to the applicant or operator of a shooting range at the address of that person that is set out in the request for approval, or, if the person has advised the township of a change of address, at the new address, and the notice is

(a) delivered personally

(i) if the applicant or operator is an individual, at any time that is reasonable in the circumstances, and

(ii) if the applicant or operator is a business, during normal business hours;

(b) sent by registered or certified mail or by constable; or

(c) transmitted by electronic means that can produce a paper record.

2. The notice is deemed to be received

(a) on the day of delivery, if it is delivered personally;

(b) on the fifth working day, excluding Saturdays and holidays, after

- (i) the postmark date, if it is sent by mail, and
- (ii) the date of shipment on the registered or certified mail, if it is sent by constable; and
- (c) if it is sent by electronic means,
 - (i) if the applicant or operator is an individual, on the day of the transmission, and
 - (ii) if the applicant or operator is a business, on the day of the transmission, if that day is a working day, or, if that day is not a working day, on the first working day after the day of transmission.

SECTION 10. Violations and Penalties

The township shall enforce any violation of this Ordinance through a civil enforcement proceeding before the District Justice. The civil enforcement proceeding shall be initiated by Complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person, partnership or corporation who or which has violated any provision of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than Six Hundred Dollars (\$600.00) for each violation, plus all court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. A separate violation shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Ordinance which is found to have been violated. Additionally, the Township shall be exempt from the payment of costs in any civil case brought to enforce and Ordinance in accordance with this paragraph. Further, the Township may enforce any violation of this Ordinance through an equity action brought in the Court of Common Pleas of the County where the Township is situated.

SECTION 11. Severability

The provisions of this Ordinance are severable and if any section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid and unconstitutional by any

Court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections, subsections, clauses, sentences or parts thereof, of this Ordinance; it is hereby declared to be the intent of the township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, subsection clause, sentence or part thereof had not been included herein.

SECTION 12. Effective Date

This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED INTO LAW THIS 5 DAY OF March, 2007 .

**BRADY TOWNSHIP
BOARD OF SUPERVISORS**

Lester Wachob
Bryan Hartzfeld
Darryl C. Beatty

ATTEST:

Sheryl D. Baer

Secretary

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD**

On this, the 8th day of March, 2007, before me, the undersigned officer, a Notary Public, personally appeared, Lester Wachob, Bryan Hartzfeld, and Darryl Beatty and, 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 for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

My Commission Expires Feb 9, 08

Notary Public
COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Candice J. Alvetro, Notary Public
Winslow Twp., Jefferson County
My Commission Expires Feb. 9, 2008

Member, Pennsylvania Association of Notaries

**BRADY TOWNSHIP
CLEARFIELD COUNTY**

ORDINANCE 45

**AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY,
PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF INDIVIDUALS, AND
PRIVATE, PUBLIC, OR COMMERCIAL ARCHERY RANGES, PISTOL RANGES, AND
RIFLE RANGES DISCHARGING BOWS OR FIREARMS OVER PUBLIC ROADWAYS
(TOWNSHIP ROADWAYS) AND TO PRESCRIBE FINES AND PENALTIES FOR
VIOLATIONS.**

IT IS HEREBY ENACTED AND ORDAINED, by the Board of Supervisors of the Township of Brady, Clearfield County, Pennsylvania as follows:

SECTION 1. PURPOSE AND FINDINGS

- A. **PURPOSE:** Pursuant to the authority granted in the Second Class Township Code to promote and secure the health, safety, comfort and welfare of the citizens of Brady Township, the Township of Brady (hereinafter "Township") enacts this Ordinance to protect the health, safety, comfort and welfare of its citizens.

The Board of Supervisors does not intend this Ordinance to suppress any activities protected by the Second Amendment, but to enact a content neutral ordinance which addresses the public health, safety, comfort and welfare of its citizens. It is not the intent of the Board in enacting this legislation to deny any person rights to keep and bear arms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Further, by enacting this legislation, the Board does not intend to deny or restrict the rights of any person to obtain bows and firearms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of bows or firearms may have to sell or distribute or exhibit bows and firearms.

SECTION 2. It shall be unlawful for any person within the limits of the Township to discharge any bow or firearm over any public roadway (township road). This in order to protect the public health, safety, comfort and welfare of its citizens.

EXHIBIT "B"

SECTION 3. It shall be unlawful for anyone, including individuals, partnerships, corporations or landowners to authorize or permit the discharge of any bow or firearm over any public roadway (township road) from their property. This in order to protect the public health, safety, comfort and welfare of its citizens.

SECTION 4. This ordinance is not regulating or prohibiting hunting in Brady Township as only the Pennsylvania Game Commission has been empowered to do that. This ordinance does not restrict bow or firearm hunting over any public roadway (township road) when the activities are being done as part of lawful hunting.

SECTION 5. The Township shall enforce any violation of this Ordinance through a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by Complaint or by such other means as may be provided by the Pennsylvania rules of Civil Procedure. Any person, partnership, corporation, or landowner who or which has violated any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than Six Hundred Dollars (\$600.00) for each violation, plus all court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. A separate violation shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Ordinance which is found to have been violated. Additionally, the Township shall be exempt from the payment of costs in any civil case brought to enforce an Ordinance in accordance with this paragraph. Further, the Township may enforce any violation of this Ordinance through an equity action brought in the Court of Common Pleas of the County where the Township is situated.

SECTION 6. The provisions of this Ordinance are severable and if any section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid and unconstitutional by any Court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections, subsections, clauses, sentences or parts thereof, of this Ordinance; it is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted is such illegal, invalid or unconstitutional section, subsection clause, sentence or part thereof had not been included herein.

SECTION 7. This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED INTO LAW THIS 5 DAY OF Sept., 2006.

**BRADY TOWNSHIP
BOARD OF SUPERVISORS**

Lester Wachob
Darryl Beatty
Bryan Hartzfeld

ATTEST:

Sheryl DeBoer
Secretary

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD**

On this, the 7 day of Sept., 2006, before me, the undersigned officer, a Notary Public, personally appeared, Lester Wachob, Bryan Hartzfeld, and Darryl Beatty and, 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 for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

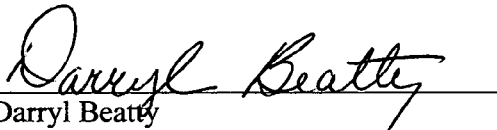
My Commission Expires Feb 9, 08.

Candice J. Alvetro
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Candice J. Alvetro, Notary Public
Winslow Twp., Jefferson County
My Commission Expires Feb. 9, 2008
Member, Pennsylvania Association of Notaries

VERIFICATION

I, Darryl Beatty, verify that the statements made in the foregoing Motion for Injunctive Relief are true and correct to the best of my knowledge, information and belief. I understand that this statement is subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.


Darryl Beatty
Brady Township Board of Supervisors

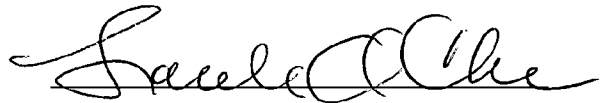
Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Petition for Special Relief - Preliminary Injunction by U.S.P.S pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 16 July 2010

A handwritten signature in black ink, appearing to read 'Lorelee A. Choman', written in a cursive style.

Lorelee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
Telephone: (814) 375-0228
Attorney for Plaintiff
chomanlaw@verizon.net

FILED

JUL 19 2010

**William A. Shaw
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,

Plaintiff

-vs-

Linda London,

Defendant

: Clearfield County
: No. 08-1295 C.D.

:
: Civil Action

:
: Type of Pleading:
: Petition for Special Relief -
: Preliminary Injunction
: Proposed Order

:
: Filed on Behalf of:
: Plaintiff

:
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

PROPOSED ORDER

AND NOW, this _____ day of _____ 2010, upon review of the Plaintiff's Petition for Special Relief - Preliminary Injunction and Defendants' Response, it is hereby ordered, pursuant to Pa. R.C.P. No. 213, as follows:

That a preliminary injunction shall remain in effect during the pendency of the underlying proceedings until a decision can be reached on the merits;

That Defendants are prohibited from any and all shooting activities across all public roadways in Brady Township;

That Defendants are forbidden to conduct, or in any manner promote or participate in, any "shoots," and any and all shooting-range type of activities

That Plaintiff is entitled to such other relief as the Court deems fair and just.

By the Court:

J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,

Plaintiff

-vs-

Linda London,

Defendant

: Clearfield County
: No. 08-1295 C.D.

: Civil Action

: Type of Pleading:
: Petition for Special Relief -
: Preliminary Injunction
: Rule

: Filed on Behalf of:
: Plaintiff

: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

4 **FILED** 2cc
01/2:33/301 Atty Choman
JUL 20 2010
William A. Shaw
Prothonotary/Clerk of Courts (64)

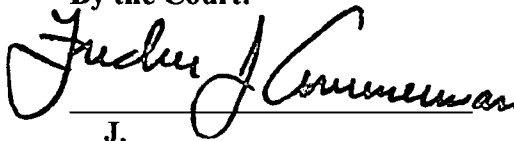
PROPOSED RULE AND ORDER TO SHOW CAUSE

AND NOW, this 20th day of July, 2010, upon consideration of Plaintiff's Petition for Special Relief - Preliminary Injunction, it is hereby ordered that:

A Rule and Order is issued upon the Defendants to show cause why Plaintiff is not entitled to the relief requested.

Proposed Order Returnable and a hearing thereon on the 20th day of August, 2010, at 11:00 a.m. in the Clearfield County Courthouse, courtroom number 1, with 1 Hour allotted for hearing on the matter

By the Court:


J.

FILED

JUL 20 2010

William A. Straw
Prothonotary/Clerk of Courts

DATE: 7/20/10

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Brady Township,

CASE NO. 08-1295 CD

Plaintiff

v.

TYPE OF CASE: Civil Action

Linda London,

TYPE OF PLEADING: Response to
Petition for Special Relief

Defendant

FILED ON BEHALF OF:
Defendant

FILED BY:

Patrick Lavelle, Esq.
PA ID # 85537
25 East Park Ave.
Suite #4
DuBois, PA. 15801
(814)371-2232
(814) 371-4480 Fax

FILED 1cc
7/12/08
AUG 04 2010
Att'y Lavelle
William A. Smith
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Brady Township,

CASE NO. 08-1295 CD

Plaintiff

v.

Linda London,

Defendant

RESPONSE TO PETITION FOR SPECIAL RELIEF AND INJUNCTIVE RELIEF

AND NOW comes the defendant, Linda London, by and through her attorney, PATRICK LAVELLE, ESQ., and files the within stated Response to the plaintiff's Petition for Special Relief, averments in support of which are as follows:

1. Plaintiff's paragraph one (1) is admitted in part, and denied in part. It is admitted that the defendant has constructed a firing range on his wife's property where he resides. Defendant is without sufficient knowledge or information to admit or deny the remaining averments of paragraph (1) and they are therefore denied, sufficient proof thereof being demanded at the time of trial.

2. Plaintiff's paragraph two (2) is admitted in part and denied in part. It is admitted that plaintiff's instituted the underlying action. The remaining averments of paragraph (2) are denied. By way of further response, the purpose of the filing

was to effect the enforcement of Ordinance 46, and the relief sought was that which is available to plaintiff under the provision of said ordinance.

3. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph three (3), and they are therefore denied, sufficient proof thereof being demanded at the time of trial.

4. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph four (4), and they are therefore denied, sufficient proof thereof being demanded at the time of trial.

5. The averments of paragraph five (5) are denied. By way of further response, other than the plaintiff's action of filing this action, defendant has not received any notices from plaintiff or other requests such as are averred in plaintiff's paragraph five (5).

6. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph six (6), and they are therefore denied, sufficient proof thereof being demanded at the time of trial.

7. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph seven (7), and they are therefore denied, sufficient proof thereof being demanded at the time of trial.

8. The averments of paragraph eight (8) amount to a conclusion of law, for which no response is necessary. To the extent a response is required, they are denied.

9. The averments of paragraph nine (9) amount to a conclusion of law, for which no response is necessary. To the extent a response is required, they are denied.

10. The averments of paragraph ten (10) are denied. By way of further response the defendant avers that he has not engaged in any conduct of any type which is reckless, or otherwise poses a threat to the health, safety or welfare of any person,³ sufficient proof thereof is demanded at the time of trial.

11. The averments of paragraph eleven (11) are denied. By way of further response, any action which infringes upon the rights and freedoms of the defendant amounts to a significant detriment to the defendant, and under the circumstances of this case amount to impermissible prior restraint.

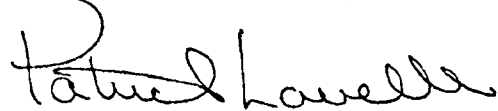
12. The averments of paragraph twelve (12) are denied. By way of further response the defendant incorporates his response to paragraph ten (10) above. Further, injunction is not available to the plaintiff in the presence of an adequate remedy at law, i.e. the ability to take enforcement action for any discovered violations of existing township ordinances.

13. The averments of paragraph thirteen (13) amount to a conclusion of law, for which no response is necessary. To the extent a response is required, they are denied.

14. The averments of paragraph fourteen (14) amount to a conclusion of law, for which no response is necessary. To the extent a response is required, they are denied.

WHEREFORE the defendant prays that this Honorable Court will deny the petition and direct the plaintiff to proceed with the prosecution of its case.

RESPECTFULLY SUBMITTED

A handwritten signature in cursive script, appearing to read "Patrick Lavelle".

Patrick Lavelle, Esq.
Counsel for the Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Brady Township,

CASE NO. 08-1295 CD

Plaintiff

v.

Linda London,

Defendant

CERTIFICATE OF SERVICE

AND NOW this 3rd day of August, 2010, I hereby certify
that I have served a copy of the foregoing Response to the
Petition for Special Relief by mailing same via 1st class mail,
postage prepaid to the following:

Loralee Choman, Esq.
1303 Treasure Lake
DuBois, PA. 15801



Patrick Lavelle, Esq.

FILED

AUG 04 2010

William A. Shaw
Prothonotary/Clerk of Courts

FILED

COPY

08/24/2010

William A. Shaw
Prothonotary/Clerk of Courts

Atty's
Chenman
Lavelle

orig. to 08-1290-CD

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

BRADY TOWNSHIP	}	
VS	}	
LINDA LONDON,	}	NO. 2008-1290-CD
OLAN LONDON,	}	NO. 2008-1291-CD
OLAN LONDON,	}	NO. 2008-1292-CD
LONNIE LONDON,	}	NO. 2008-1293-CD
MONTIE LONDON,	}	NO. 2008-1294-CD
LINDA LONDON	}	NO. 2008-1295-CD

O R D E R

NOW, this 20th day of August, 2010, following the completion of taking of testimony relative the Petitioner's Petition for Special Relief requesting an preliminary injunction and upon agreement of counsel for the parties, it is the ORDER of this Court that counsel have no more than Ten (10) Days from this date in which to submit letter brief to the Court. Counsel for the Petitioner shall also submit proposed injunctive order.

Upon agreement of the parties, the Petitioner's Motion to Consolidate the case is hereby GRANTED. The

above-captioned cases are hereby CONSOLIDATED.

BY THE COURT,

A handwritten signature in cursive script, reading "Frederick J. Cummings", is written over a horizontal line.

President Judge

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

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1290-CD

*

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1291-CD

*

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1292-CD

*

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LONNIE LONDON

* NO. 08-1293-CD

*

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
MONTIE LONDON

* NO. 08-1294-CD

*

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1295-CD

*

*

ORDER

AND NOW, this 10th day of September, 2010, following evidentiary hearing on the Plaintiff's Petition for Special Relief – Preliminary Injunction; it is hereby ORDERED that the Plaintiff's request for a Temporary Preliminary Injunction be GRANTED.

It is the ORDER of this Court that a Preliminary Injunction shall remain in effect during the pendency of the underlying proceedings until a decision can be reached on the merits. The Defendants are prohibited from any and all shooting activities across all public roadways in Brady Township. The Defendants are forbidden to conduct, or in any manner promote or participate in, any "shoots" and any and all shooting range type of activities on the property subject to this litigation.

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

SEP 10 2010

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

BY THE COURT,
/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

orig. filed to 08-1290-CD
FILED
01400321
SEP 10 2010
William A. Shaw
Prothonotary/Clerk of Courts
JCC Atty's:
Choman
Lavelle

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Brady Township,
Plaintiff

-vs-

Linda London,
Olan London
Olan London,
Lonnie London
Montie London,
Linda London

Defendants

(Consolidated):

No. 08-1290 C.D.

No. 08-1291 C.D.

No. 08-1292 C.D.

No. 08-1293 C.D.

No. 08-1294 C.D.

No. 08-1295 C.D.

Type of Pleading:
Motion for Continuance

Filed on Behalf of:
Plaintiff

FILED ICC Atty
m/2:07pm Choman
NOV 21 2011 (Original Filed
to 08-1290 C.D.)
William A. Shaw
Prothonotary/Clerk of Courts LM

Counsel of Record for this Party
Loralee A. Choman, Esquire
1303 Treasure Lake
DuBois, PA 15801
PA Atty. ID No. 52210
(814) 375-0228
Fax: (814) 375-9141
chomanlaw@verizon.net

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA**

CIVIL DIVISION

	:	(Consolidated):
	:	
	:	No. 08-1290 C.D.
	:	
Brady Township,	:	
Plaintiff	:	No. 08-1291 C.D.
-vs-	:	
Linda London,	:	No. 08-1292 C.D.
Olan London	:	
Olan London,	:	No. 08-1293 C.D.
Lonnie London	:	
Montie London,	:	No. 08-1294 C.D.
Linda London	:	
	:	No. 08-1295 C.D.
Defendants	:	
	:	
	:	Type of Pleading:
	:	Motion for Continuance
	:	
	:	

Motion for Continuance

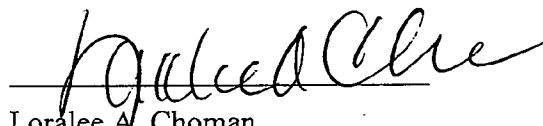
Plaintiff Brady Township, by and through its attorney, hereby moves for continuance of hearing on Motions for Summary Judgment of Defendants Lonnie London and Montie London and in support avers as follows:

1. Plaintiff is a Second Class Township organized and existing under the laws of the Commonwealth of Pennsylvania.
2. Upon agreement of the parties before this court on August 20, 2010, the above captioned matters, including those of defendants Montie London and Lonnie London, were consolidated by order of this court.

3. Following hearing on August 20, 2010, and the submission of letter briefs by counsel for all parties, this court entered its order on September 10, 2010, granting Plaintiff Brady Township's request for a preliminary injunction.
4. On October 30, 2011, defendants Montie London and Lonnie London filed separate Motions for Summary Judgment.
5. Argument on the defendants' Motions for Summary judgment is scheduled for December 7, 2011 at 2:30 p.m. in courtroom one.
6. One of Plaintiff's witnesses expected to testify at hearing on the matter, Township secretary Sheryl DeBoer, is obligated to attend a long standing appointment with her parent in State College on the date scheduled for hearing, and thus she will be unavailable for testimony.
7. Based upon the foregoing unavailability of witness, the Township respectfully requests a continuance of hearing on this matter.
8. Defense counsel for the Londons, Patrick Lavelle, Esq., does not object to this request for continuance, and has confirmed the same to counsel via email.
9. Plaintiff has not made any prior request for continuance of this matter.

Wherefore, Plaintiff respectfully requests that this court grant its motion for continuance of hearing on this matter.

Respectfully submitted,



Loralee A. Choman
Attorney for Plaintiff

1303 Treasure Lake
DuBois, PA 15801

PA Atty. ID No. 52210
office: 814.375.0228 / cell: 610.360.6099
chomanlaw@verizon.net


Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion for Continuance by U.S.P.S., postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 17 November 2011



Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
office: 814.375.0228 / cell: 610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Consolidated with:
: No. 08-1290 C.D.
: No. 08-1291 C.D.
: No. 08-1292 C.D.
: No. 08-1293 C.D.
: No. 08-1294 C.D.
:
: Type of Pleading:
: Motion for Leave to Amend Complaint
:
:
: Filed on Behalf of Plaintiff
:
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

FILED
JAN 03 2012
12-36 (w)
William A. Shaw
Prothonotary/Clerk of Courts
1 CENT TO H&D

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,	:	Consolidated
Plaintiff	:	
-vs-	:	
Linda London, Defendant;	:	No. 08-1290 C.D
Olan London, Defendant;	:	No. 08-1291 C.D.
Olan London, Defendant;	:	No. 08-1292 C.D.
Lonnie London, Defendant;	:	No. 08-1293 C.D.
Montie London, Defendant;	:	No. 08-1294 C.D.
Linda London, Defendant	:	No. 08-1295 C.D.
	:	
	:	
	:	Type of Pleading:
	:	Motion for Leave to Amend Complaint
	:	
	:	Filed on Behalf of Plaintiff
	:	
	:	
	:	Counsel of Record for this Party
	:	Loralee A. Choman, Esquire
	:	1303 Treasure Lake
	:	DuBois, PA 15801
	:	PA Atty. ID No. 52210
	:	814. 375.0228/610.360.6099
	:	chomanlaw@verizon.net
	:	

Motion for Leave to Amend Complaint under Pa.R.C.P 1033

Plaintiff Brady Township, by and through its attorney, hereby moves to amend its complaints in the captioned matters, and in support thereof avers as follows:

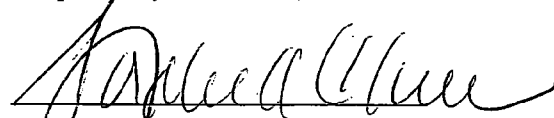
1. Plaintiff is a Second Class Township organized and existing under the laws of the Commonwealth of Pennsylvania.
2. Defendants are residents of Brady Township and conduct or permit to be conducted various shooting activities and/or otherwise discharge firearms within Brady Township.

3. Following defendants' appeal of judgment in favor of plaintiff at the district justice court, plaintiff filed complaints against the defendants on August 4, 2008, to regulate shooting activities within Brady Township, specifically alleging defendants' violations of Township public ordinance number 46, as more fully set forth in Plaintiff's complaints, incorporated here by reference.
4. Upon agreement of the parties, the court consolidated these cases on August 20, 2010.
5. Following hearing and the submission of letter briefs, this court granted Plaintiff's request for a temporary preliminary injunction on September 10, 2010, prohibiting defendants from engaging in specified shooting and shooting-related activities in Brady Township. See Exhibit A, September 10, 2010, order, Ammerman, P.J., attached hereto.
6. Trial of the underlying matter is scheduled for July 5, 2012.
7. Plaintiff now moves for leave to amend its complaints to aver the various defendants' violations of its public ordinance number 45, regulating, *inter alia*, the discharge of firearms over the roadways of Brady Township. See Exhibit B, copy of duly recorded ordinance number 45, attached hereto.
8. Rule 1033 of the Pennsylvania Rules of Civil Procedure permits a party to amend its complaint either by filed consent of the adverse party or by leave of court. Pa.R.C.P. 1033. The rule also provides that "[t]he amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense" and also allows amendment "to conform the pleading to the evidence offered or admitted." *Id.*
9. Neither prejudice nor surprise will result from amendment of the original complaints insofar as:
 - 1) the temporary preliminary injunction currently in place includes prohibition against the activities regulated by Township public ordinance number 45;
 - 2) said ordinance was raised without objection throughout the paragraphs of Plaintiff's request for preliminary injunction, without Defendants' objection or responsive pleading;

- 3) the testimony presented by Plaintiff's witnesses supported the allegations raised in Plaintiff's request for injunction as it related to shooting across township roadways; and
 - 4) the court's order granting the preliminary injunction specifically refers to a prohibition on activities regulated by public ordinance number 45. (See Exhibit "A")
10. The proposed amendment is not against a positive rule of law.
11. To conform the pleadings to the evidence offered thus far and in the interest of conserving judicial resources, Plaintiff submits that amendment would be appropriate and warranted under these circumstances.

Wherefore, Plaintiff respectfully requests that this court grant its motion for leave to amend the complaints in these matters.

Respectfully submitted,




Lorelee A. Choman
Attorney for Plaintiff

1303 Treasure Lake
DuBois, PA 15801
PA Atty. ID No. 52210
814. 375.0228/610.360.6099
chomanlaw@verizon.net

Date: 29 December 2011

VERIFICATION

I, Darryl Beatty, verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that this statement is subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.


Darryl Beatty

Brady Township Board of Supervisors

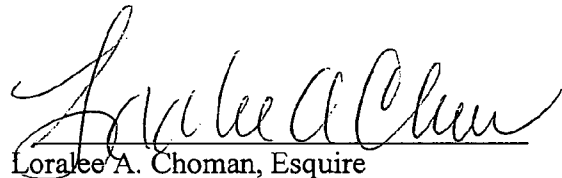
Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion for Leave to Amend Complaint by UPS, postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 29 December 2011

A handwritten signature in cursive script, reading "Lorelee A. Choman", written over a horizontal line.

Lorelee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
814. 375.0228/610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

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

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1290-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1291-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1292-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LONNIE LONDON

* NO. 08-1293-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
MONTIE LONDON

* NO. 08-1294-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1295-CD
*
*
ORDER

AND NOW, this 10th day of September, 2010, following evidentiary hearing on the Plaintiff's Petition for Special Relief – Preliminary Injunction; it is hereby ORDERED that the Plaintiff's request for a Temporary Preliminary Injunction be GRANTED.

It is the ORDER of this Court that a Preliminary Injunction shall remain in effect during the pendency of the underlying proceedings until a decision can be reached on the merits. The Defendants are prohibited from any and all shooting activities across all public roadways in Brady Township. The Defendants are forbidden to conduct, or in any manner promote or participate in, any "shoots" and any and all shooting range type of activities on the property

subject to this litigation.

I hereby certify this to be a true
and correct copy of the original
statement filed in this case.

SEP 10 2010

BY THE COURT,
/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

Exhibit "A"

Attest.

William A. Brown
Prothonotary/
Clerk of Courts

CLEARFIELD COUNTY RECORDER OF DEEDS

Karen L. Starck, Recorder

Maurene Inlow - Chief Deputy

P.O. Box 361

1 North Second Street, Suite 103

Clearfield, Pennsylvania 16830

***RETURN DOCUMENT TO:**

BRADY TOWNSHIP

P O BOX 125

LUTHERSBURG, PA 15848

Instrument Number - 200615754

Recorded On 9/18/2006 At 11:11:43 AM

* Instrument Type - ORDINANCES

* Total Pages - 4

Invoice Number - 155217

* Grantor - ORDINANCE

* Grantee - BRADY TOWNSHIP

* Customer - BRADY TOWNSHIP

*** FEES**

STATE WRIT TAX \$0.50

RECORDING FEES - \$13.00

RECORDER

RECORDER IMPROVEMENT \$3.00

FUND

COUNTY IMPROVEMENT FUND \$2.00

TOTAL PAID \$18.50

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



Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

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

Exhibit "B"

**BRADY TOWNSHIP
CLEARFIELD COUNTY**

ORDINANCE 45

**AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY,
PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF INDIVIDUALS, AND
PRIVATE, PUBLIC, OR COMMERCIAL ARCHERY RANGES, PISTOL RANGES, AND
RIFLE RANGES DISCHARGING BOWS OR FIREARMS OVER PUBLIC ROADWAYS
(TOWNSHIP ROADWAYS) AND TO PRESCRIBE FINES AND PENALTIES FOR
VIOLATIONS.**

IT IS HEREBY ENACTED AND ORDAINED, by the Board of Supervisors of the Township of Brady, Clearfield County, Pennsylvania as follows:

SECTION 1. PURPOSE AND FINDINGS

- A. **PURPOSE:** Pursuant to the authority granted in the Second Class Township Code to promote and secure the health, safety, comfort and welfare of the citizens of Brady Township, the Township of Brady (hereinafter "Township") enacts this Ordinance to protect the health, safety, comfort and welfare of its citizens.

The Board of Supervisors does not intend this Ordinance to suppress any activities protected by the Second Amendment, but to enact a content neutral ordinance which addresses the public health, safety, comfort and welfare of its citizens. It is not the intent of the Board in enacting this legislation to deny any person rights to keep and bear arms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Further, by enacting this legislation, the Board does not intend to deny or restrict the rights of any person to obtain bows and firearms protected by the Constitution of the United States or the Constitution of Pennsylvania, or both. Nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of bows or firearms may have to sell or distribute or exhibit bows and firearms.

SECTION 2. It shall be unlawful for any person within the limits of the Township to discharge any bow or firearm over any public roadway (township road). This in order to protect the public health, safety, comfort and welfare of its citizens.

SECTION 3. It shall be unlawful for anyone, including individuals, partnerships, corporations or landowners to authorize or permit the discharge of any bow or firearm over any public roadway (township road) from their property. This in order to protect the public health, safety, comfort and welfare of its citizens.

SECTION 4. This ordinance is not regulating or prohibiting hunting in Brady Township as only the Pennsylvania Game Commission has been empowered to do that. This ordinance does not restrict bow or firearm hunting over any public roadway (township road) when the activities are being done as part of lawful hunting.

SECTION 5. The Township shall enforce any violation of this Ordinance through a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by Complaint or by such other means as may be provided by the Pennsylvania rules of Civil Procedure. Any person, partnership, corporation, or landowner who or which has violated any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than Six Hundred Dollars (\$600.00) for each violation, plus all court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. In any case where a penalty for a violation of this Ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. A separate violation shall arise for each day or portion thereof in which a violation is found to exist or for each section of the Ordinance which is found to have been violated. Additionally, the Township shall be exempt from the payment of costs in any civil case brought to enforce an Ordinance in accordance with this paragraph. Further, the Township may enforce any violation of this Ordinance through an equity action brought in the Court of Common Pleas of the County where the Township is situated.

SECTION 6. The provisions of this Ordinance are severable and if any section, subsection, clause, sentence or part thereof shall be held or declared illegal, invalid and unconstitutional by any Court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections, subsections, clauses, sentences or parts thereof, of this Ordinance; it is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted is such illegal, invalid or unconstitutional section, subsection clause, sentence or part thereof had not been included herein.

SECTION 7. This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED INTO LAW THIS 5 DAY OF
Sept., 2006.

BRADY TOWNSHIP
BOARD OF SUPERVISORS

Lester Wachob
Darryl Beatty
Bryan Hartzfeld

ATTEST:

Sheryl DeBoer
Secretary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

On this, the 7 day of Sept., 2006, before me, the undersigned officer, a Notary Public, personally appeared, Lester Wachob, Bryan Hartzfeld, and Darryl Beatty and, 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 for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

My Commission Expires FEB 9, 08

Candice J. Alvetro
Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Candice J. Alvetro, Notary Public
Winslow Twp., Jefferson County
My Commission Expires Feb. 9, 2008

Member, Pennsylvania Association of Notaries

FILED

JAN 03 2012

**William A. Shaw
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,	:	Consolidated
Plaintiff	:	
-vs-	:	
Linda London, Defendant;	:	No. 08-1290 C.D
Olan London, Defendant;	:	No. 08-1291 C.D.
Olan London, Defendant;	:	No. 08-1292 C.D.
Lonnie London, Defendant;	:	No. 08-1293 C.D.
Montie London, Defendant;	:	No. 08-1294 C.D.
Linda London, Defendant	:	No. 08-1295 C.D. ✓
	:	

ORDER

AND NOW, this _____ day of _____ 2012, upon review of Plaintiff's petition for leave to amend complaint and Defendants' response thereto, it is hereby ORDERED, that Plaintiff's petition is granted pursuant to Pa. R.C.P. No. 1033 and leave hereby granted to amend its complaints in the above captioned matter no later than fifteen days from this date, with individual complaints filed to each of the captioned numbers.

By the Court:

J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

	:	Clearfield County
	:	
	:	No. 08-1290 C.D.
	:	No. 08-1291 C.D.
	:	No. 08-1292 C.D.
	:	No. 08-1293 C.D.
	:	No. 08-1294 C.D.
	:	No. 08-1295 C.D. ✓
	:	
	:	Type of Pleading:
	:	Motion for Leave to Amend Complaint
Brady Township,		
Plaintiff		
-vs-		
Linda London, Defendant;		
Olan London, Defendant;		
Olan London, Defendant;		
Lonnie London, Defendant;		
Montie London, Defendant;		
Linda London, Defendant		

RULE TO SHOW CAUSE

AND NOW, this 3rd day of January, 2012, upon consideration of Plaintiff's Motion for leave to Amend Complaint, it is hereby ordered that:

A Rule is issued upon the Defendants to show cause why Plaintiff is not entitled to the relief requested.

Rule Returnable and a hearing thereon on the 20th day of January 2012, at 2:30 p.m. in the Clearfield County Courthouse, courtroom number 1, with 1 hour allotted for hearing on the matter

By the Court:

Frederick J. Zimmerman
J.

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1cc
William A. Shaw
County Clerk of Clearfield
Atty Chaman
GL

FILED

JAN 04 2012

William A. Shaw
Prothonotary/Clerk of Courts

1412

Y

1. The first step is to identify the problem or question that needs to be answered.

City of New York has provided service to:

____ Plaintiff(s) Attorney - Other

— Defendant(s) Author

• **§ 4.1** **Introduction**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Plaintiff

v.

LINDA LONDON

Defendant

Case No. 08-1290 CD
08-1291 CD
08-1292 CD
08-1293 CD
08-1295 CD

Type of Pleading:
**Consolidated Response to
Plaintiff's Motion for Leave to
Amend Complaint**

Filed on Behalf of: **Defendant**

Filed By:

Patrick Lavelle, Esq.
PA. ID. No. 85537
25 East Park Ave.
Suite #4
DuBois, PA. 15801
(814) 371-2232
(814) 317-4480 Fax

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Plaintiff

Case No. **08-1290 CD**
08-1291 CD
08-1292 CD
08-1293 CD
08-1295 CD

v.

LINDA LONDON, et al

Defendants

RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT

AND NOW comes the defendants, LINDA LONDON, OLAN LONDON
AND LONNIE LONDON, by and through his counsel, PATRICK LAVELLE, ESQ.,
and files the following consolidated response to the Plaintiff's Motion for Leave to
Amend its Complaint, averments and supports of which are as follows:

1. Admitted.

2. Admitted in part and Denied in part. It is admitted that the defendants
herein named are residents of Brady Twp. Defendants are without sufficient
information as to the scope of the remaining averments to allow them to admit or
deny them, and they are therefore denied, full proof thereof being demanded at
the time of trial of this matter.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted in part and Denied in part. It is admitted that the plaintiff has filed the instant motion seeking leave to amend its complaint. Defendants are without sufficient knowledge, information or belief to admit or deny the remaining averments of paragraph seven (7) and they are therefore denied.

8. The averments of paragraph eight (8) merely recite the provisions of the *Pa. R. C. P. 1033*, and to the extent that the paragraph accurately reproduces the content of that rule, it is admitted.

9. The averments of paragraph nine (9) are Denied. By way of further response the defendants assert that Plaintiff has previously litigated an action seeking equitable relief in the form of an injunction alleging violations of Brady Twp. Ordinance #45. Said relief was granted by this Court following a hearing on the merits of those allegations. Defendants would be prejudiced by an amendment to the original complaint allowing the Plaintiff to now seek a legal remedy that it averred was unavailable to it at the time of the previous litigation.

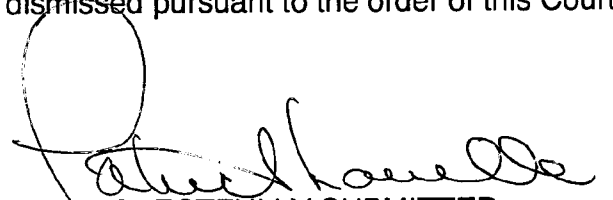
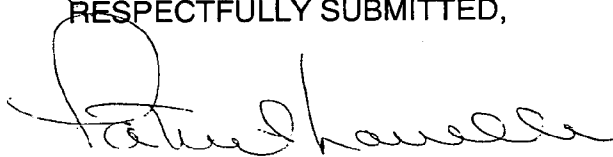
10. Denied. By way of further response defendants aver that allowing the plaintiff's proposed amendment would be contrary to the existing law as it relates to the doctrine of res judicata.

11. Defendants hereby incorporate their response to paragraph ten (10) in its entirety the same as though set forth fully herein.

WHEREFORE Defendant request this Honorable to deny the Motion of the Plaintiff in this matter.

NEW MATTER

12. Defendants aver that this Motion should be dismissed as to Case no. **08-1294 CD**, as that case has been dismissed pursuant to the order of this Court dated December 8, 2011.


RESPECTFULLY SUBMITTED,


Patrick Lavelle, Esq.
Counsel for the Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Plaintiff

v.

LINDA LONDON, et al

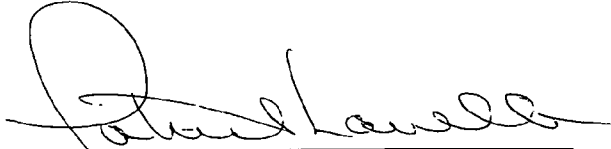
Defendants

Case No. **08-1290 CD**
08-1291 CD
08-1292 CD
08-1293 CD
08-1295 CD

CERTIFICATE OF SERVICE

I, PATRICK LAVELLE, ESQ., by my signature appearing below, do hereby
certify that on the ¹⁰6th day of January, 2012, I served a copy of the foregoing
Response to the Plaintiff's Motion for Leave to Amend its Complaint, by mailing
same via first class mail, postage prepaid to the following:

Loralee A. Choman, Esq.
1303 Treasure Lake
DuBois, PA. 15801



Patrick Lavelle, Esq.

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

BRADY TOWNSHIP * NO. 08-1290-CD

VS *

LINDA LONDON *

CONSOLIDATED WITH

BRADY TOWNSHIP * NO. 08-1291-CD

VS *

OLAN LONDON *

CONSOLIDATED WITH

BRADY TOWNSHIP * NO. 08-1292-CD

VS *

OLAN LONDON *

CONSOLIDATED WITH

BRADY TOWNSHIP * NO. 08-1293-CD

VS *

LONNIE LONDON *

CONSOLIDATED WITH

BRADY TOWNSHIP * NO. 08-1295-CD

VS *

LINDA LONDON *

CASE MANAGEMENT ORDER

FILED ICCA/HYS
01/03/12
JAN 11 2012
Choman
Lavelle
William A. Shaw
Prothonotary/Clerk of Courts
GIC

AND NOW, this 6th day of January, 2012, following conference among the Court and counsel on December 8, 2011; it is the ORDER of this Court as follows:

1. In the event either party shall call any expert witness at time of trial, the expert's written report and Curriculum Vitae shall be provided to opposing counsel by no later than March 1, 2012;
2. All discovery shall be completed by no later than June 15, 2012;
3. The case will proceed to a settlement conference before the Honorable Senior Judge Charles C. Brown, Jr. on **July 6, 2012 at 9:00 a.m.** in Hearing Room # 3, Clearfield County Courthouse. At time of settlement conference counsel and their clients will be present; and

4. Assuming the cases are not settled, the case will proceed to non-jury trial before the undersigned on **July 23 and 24, 2012** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania commencing each day at 9:00 a.m.


BY THE COURT,

/S/ Fredric J Ammerman
FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JAN 11 2012

Attest.


Prothonotary/
Clerk of Courts

FILED

JAN 1 2012

William A. Shaw
Prothonotary/Clerk of Courts

01310081
ice Attys:
Choman
Lavelle
GL

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

BRADY TOWNSHIP)	
)	
VS.)	NO. 2008-1290-CD
)	
LINDA LONDON)	2008-1291-CD
)	
OLAN LONDON)	2008-1292-CD
)	
OLAN LONDON)	2008-1293-CD
)	
LONNIE LONDON)	2008-1294-CD
)	
MONTIE LONDON)	2008-1295-CD
)	
LINDA LONDON)	

ORDER

NOW this 20th day of January, 2012, this being the date set for argument on the Plaintiff's Petition to File Amended Complaint; the Court noting that the attorney for the Defendants is present; the Court noting that the attorney for the Township has not appeared, nor has anyone appeared on behalf of the Township for the proceeding; accordingly, it is the ORDER of this Court that the Petition Requesting Permission to File an Amended Complaint is hereby dismissed.

BY THE COURT,

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

/S/ Fredric J Ammerman

President Judge

JAN 24 2012

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,	:	Clearfield County
Plaintiff	:	No. 08-1295 C.D.
-vs-	:	
Linda London,	:	Consolidated with:
Defendant	:	No. 08-1290 C.D.
	:	No. 08-1291 C.D.
	:	No. 08-1292 C.D.
	:	No. 08-1293 C.D.
	:	No. 08-1294 C.D.
	:	
	:	Type of Pleading:
	:	Motion for Reconsideration
	:	
	:	
	:	Filed on Behalf of Plaintiff
	:	
	:	
	:	
	:	Counsel of Record for this Party
	:	Loralee A. Choman, Esquire
	:	1303 Treasure Lake
	:	DuBois, PA 15801
	:	PA Atty. ID No. 52210
	:	(814) 375-0228
	:	Fax: (814) 375-9141
	:	chomanlaw@verizon.net

FILED
9/4:00pm
FEB 01 2012

William A. Shaw
Prothonotary/Clerk of Courts

4

GL

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township, Plaintiff	:	Consolidated
-vs-	:	
Linda London, Defendant;	:	No. 08-1290 C.D
Olan London, Defendant;	:	No. 08-1291 C.D.
Olan London, Defendant;	:	No. 08-1292 C.D.
Lonnie London, Defendant;	:	No. 08-1293 C.D.
Montie London, Defendant;	:	No. 08-1294 C.D.
Linda London, Defendant	:	No. 08-1295 C.D.
	:	
	:	
	:	Type of Pleading:
	:	Motion for Reconsideration
	:	
	:	Filed on Behalf of Plaintiff
	:	
	:	Counsel of Record for this Party
	:	Loralee A. Choman, Esquire
	:	1303 Treasure Lake
	:	DuBois, PA 15801
	:	PA Atty. ID No. 52210
	:	814. 375.0228/610.360.6099
	:	chomanlaw@verizon.net
	:	

Motion for Reconsideration

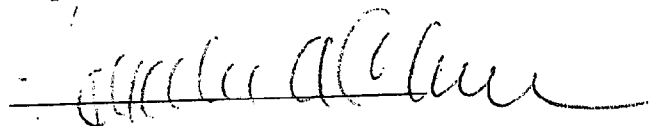
Plaintiff Brady Township, by and through its attorney, Loralee A. Choman, hereby moves for reconsideration of this court's order of January 20, 2012, and in support thereof avers as follows:

1. Plaintiff filed a Motion for Leave to amend Complaint on December 29, 2011. .
2. Plaintiff's counsel spoke with the judge's secretary regarding her availability for hearing on said motion, at which time she advised plaintiff's counsel that she would be conferring with defense counsel as to his availability for that hearing and would follow up with an scheduling order and confirmation of the same.

3. On Friday, January 20, 2012, apparently a hearing was held on Plaintiff's Motion to Amend, resulting in the court's denying plaintiff's motion insofar as neither counsel nor client appeared on behalf of Plaintiff.
4. On Friday, January 27, 2012, at 4 p.m., Plaintiff's counsel received time-stamped copies of the motion she filed in December, along with a scheduling order for the underlying case, a rule to show cause on the motion to amend and a notice from the prothonotary advising that she was to serve the rule upon counsel. See copy of envelope containing said items, attached here as Exhibit A.
5. On Saturday, January 28, 2012, at 1:30 p.m., counsel received a copy of the court's January 20th order (certified on January 24th by the Prothonotary). See copy of envelope containing said order, attached here as Exhibit B.
6. Insofar as counsel for Plaintiff had no rule returnable returned to here until one week after the scheduled hearing, she could not be present, nor could she have notified defense counsel of the same.
7. It is inconceivable that Plaintiff would put forth effort to prepare a Motion to Amend, along with proposed rule and order and nonetheless fail to appear.
8. Plaintiff therefore requests reconsideration of the court's January 20, 2012 order.
9. No prejudice will result to Defendants if the court grants Plaintiff's request.
10. To date, the merits of Plaintiff's motion to amend have not been addressed.

Wherefore, Plaintiff respectfully requests that this court grant its motion for reconsideration.

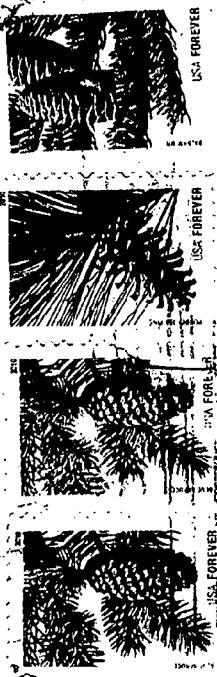
Respectfully submitted,



Lorelee A. Choman
Attorney for Plaintiff

1303 Treasure Lake
DuBois, PA 15801
PA Atty. ID No. 52210
814. 375.0228/610.360.6099
chomanlaw@verizon.net

Date: 31 January 2012



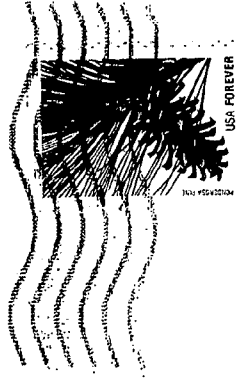
CHOMAN LAW OFFICES
1303 TREASURE LAKE
DUBOIS, PA 15801

Choman Law Offices
1303 Treasure Lake
Dubois, PA 15801

Exhibit "A"

CHOMAN LAW OFFICES
1303 TREASURE LAKE
DUBOIS, PA 15801

JOHNSTOWN PA 159
26 JAN 2012 PM 11



CHOMAN LAW OFFICES
1303 TREASURE LAKE
DUBOIS, PA 15801

1580135030

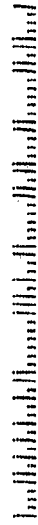


Exhibit "B"

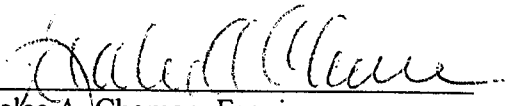
Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion for Reconsideration by UPS, postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 1 February 2012


Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
814. 375.0228/610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

FILED

FEB 02 2012

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,	:	Consolidated
Plaintiff	:	
-vs-	:	
Linda London, Defendant;	:	No. 08-1290 C.D.
Olan London, Defendant;	:	No. 08-1291 C.D.
Olan London, Defendant;	:	No. 08-1292 C.D.
Lonnie London, Defendant;	:	No. 08-1293 C.D.
Montie London, Defendant;	:	No. 08-1294 C.D.
Linda London, Defendant	:	No. 08-1295 C.D.
	:	

ORDER

AND NOW, this _____ day of _____ 2012, upon review of Plaintiff's Motion for Reconsideration and Defendants' response thereto, it is hereby ORDERED, that Plaintiff's motion is granted, with hearing scheduled per the accompanying Rule Returnable.

By the Court:

J.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

	:	Clearfield County
	:	
	:	No. 08-1290 C.D.
	:	No. 08-1291 C.D.
Brady Township,	:	No. 08-1292 C.D.
Plaintiff	:	No. 08-1293 C.D.
-vs-	:	No. 08-1294 C.D.
Linda London, Defendant;	:	No. 08-1295 C.D.
Olan London, Defendant;	:	
Olan London, Defendant;	:	Type of Pleading:
Lonnie London, Defendant;	:	Motion for Reconsideration
Montie London, Defendant;	:	
Linda London, Defendant	:	

FILED

RULE TO SHOW CAUSE

5 FEB 06 2012
0/11-306 OK
William A. Shaw
Prothonotary/Clerk of Courts
1 Clerk to Hater

AND NOW, this 3rd day of February, 2012, upon consideration of Plaintiff's Motion for Reconsideration, it is hereby ordered that:

A Rule is issued upon the Defendants to show cause why Plaintiff is not entitled to the relief requested.

Rule Returnable and a hearing thereon on the 29th day of February, 2012, at 1:30 p.m. in the Clearfield County Courthouse, courtroom number 1, with 1/2 hour allotted for hearing on the matter

By the Court:

Frederick J. Zimmerman
J.

FILED

FEB 06 2012

**William A. Straw
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP }
VS }
LINDA LONDON } NO. 2008-1290-CD
VS }
OLAN LONDON } NO. 2008-1291-CD
VS }
OLAN LONDON } NO. 2008-1292-CD
VS }
LONNIE LONDON } NO. 2008-1293-CD
VS }
MONTI LONDON } NO. 2008-1294-CD
VS }
LINDA LONDON } NO. 2008-1295-CD

01400301

4

1CC Atty's:
Choman
Lavelle

GK

O R D E R

NOW, this 29th day of February, 2012, this being the date set for Argument on the Plaintiff's Motion for Reconsideration of the Court's Order of January 20, 2012; with the Court noting that counsel for the Defendant has indicated no objection to the request for reconsideration under the circumstances as described, it is the ORDER of this Court that said Motion be and is hereby GRANTED. This Court's Order of January 20, 2012 is hereby VACATED.

The Court Administrator shall reschedule
Argument on the Motion for Leave to Amend Complaint for
1:30 p.m. on April 5th, 2012, Courtroom No. 1, Clearfield
County Courthouse, Clearfield, PA.

BY THE COURT,




President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAR 05 2012

Attest.


Prothonotary/
Clerk of Courts

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

BRADY TOWNSHIP

Plaintiff

vs.

LINDA LONDON

OLAN LONDON

OLAN LONDON

LONNIE LONDON

MONTIE LONDON

LINDA LONDON

Defendants

:
:
:
:
:
NO. 2008-1290-CD
NO. 2008-1291-CD
NO. 2008-1292-CD
NO. 2008-1293-CD
NO. 2008-1294-CD
NO. 2008-1295-CD

ORDER

AND NOW, this 21st day of March, 2012, due to a scheduling conflict,
it is the Order of the Court that the **NON-JURY CIVIL TRIAL** in the above
captioned case, previously scheduled for July 23 and 24, 2012, shall be and is hereby
re-scheduled to Thursday, September 20 and Friday, September 21, 2012,
beginning at 9:00 o'clock A.M. in Courtroom #1.

Two days have been reserved for this proceeding.

FILED

09:37 AM
MAR 23 2012

William A. Snow
Prothonotary/Clerk of Court

GL

ICE Attys: Lavelle
Choman

BY THE COURT:

/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

I hereby certify that a true and
correct copy of the above
statement filed in this case.

MAR 23 2012

Ammerman

Lavelle
Choman

FILED

MAR 22 2012

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED

07:40:00
APR 11 2012

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty's:

Choman

Lavelle

CK

BRADY TOWNSHIP :
-VS- : No. 08-1290-CD
LINDA LONDON :
-VS- : No. 08-1291-CD
OLAN LONDON :
-VS- : No. 08-1292-CD
OLAN LONDON :
-VS- : No. 08-1293-CD
LONNIE LONDON :
-VS- : No. 08-1294-CD
MONTI LONDON :
-VS- : No. 08-1295-CD
LINDA LONDON :

O R D E R

AND NOW, this 5th day of April, 2012, following argument on the Plaintiff's Motion for Leave to Amend Complaint, it is the ORDER of this Court that said Motion be and is hereby granted. The Plaintiff shall have no more than fifteen (15) days from this date to file an Amended Complaint

to each caption adding provisions alleging a further
vioilation of Township Ordinance 45.

BY THE COURT,

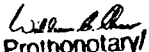
/S/ Fredric J Ammerman

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

APR 11 2012

Attest.


Prothonotary/
Clerk of Courts

FILED

APR 11 2012

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

FILED

APR 20 2012

6/3:40h
William A. Shaw
Prothonotary/Clerk of Courts

\$ cm

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.

: Consolidated with:
: No. 08-1290 C.D.
: No. 08-1291 C.D.
: No. 08-1292 C.D.
: No. 08-1293 C.D.
: No. 08-1294 C.D.

: Type of Pleading:
: Amended Complaint

: Filed on Behalf of Plaintiff

: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Civil Action
:
: Type of Pleading:
: Amended Complaint
:
: Filed on Behalf of:
: Plaintiff
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: (814) 375-0228
: Fax: (814) 375-9141
: chomanlaw@verizon.net

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

	:	Clearfield County
	:	No. 08-1295 C.D.
	:	
	:	Civil Action
	:	
	:	Type of Pleading:
	:	Amended Complaint
	:	
Brady Township,	:	Filed on Behalf of:
Plaintiff	:	Plaintiff
-vs-	:	
Linda London,	:	
Defendant	:	
	:	Counsel of Record for this Party
	:	Loralee A. Choman, Esquire
	:	1303 Treasure Lake
	:	DuBois, PA 15801
	:	PA Atty. ID No. 52210
	:	(814) 375-0228
	:	Fax: (814) 375-9141
	:	<u>chomanlaw@verizon.net</u>

AMENDED COMPLAINT

AND NOW, Plaintiff Brady Township, by and through its counsel,
Loralee A. Choman, hereby amends its complaint as follows:

1. Plaintiff, pursuant to Pa. R.C.P. 1019(g), hereby incorporates fully by reference the pleadings as filed in this matter, including, but not limited to, Plaintiff's Complaint filed on August 4, 2008, and Plaintiff's Petition for Special Relief – Preliminary Injunction, filed on July 19, 2010, in this matter as if the same were fully set forth herein.

COUNT TWO

2. Plaintiff incorporates by reference paragraph 1, above, as if the same were fully set forth herein.

3. On or about the 5th day of September 2006 the Brady Township Board Of Supervisors passed Brady Township Ordinance Number 45 which is **“AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF INDIVIDUALS, AND PRIVATE, PUBLIC, OR, COMMERCIAL ARCHERY RANGES, PISTOL RANGES, AND RIFLE RANGES DISCHARGING BOWS OR FIREARMS OVER PUBLIC ROADWAYS (TOWNSHIP ROADWAYS) AND TO PRESCRIBE FINES AND PENALTIES FOR VIOLATIONS.”**

(A true and correct copy of Ordinance #45 is attached to Plaintiff's Petition for Special Relief -- Preliminary Injunction and labeled Exhibit "B")

4. Ordinance #45 was adopted to protect the health, safety, comfort and welfare of the Township citizens.

5. The authority to pass ordinances is granted to Brady Township by the Second Class Township Code.

6. Ordinance #45 prohibits the discharge of any bow or firearm over any public roadway in the Township.

7. Ordinance #45 does not, and is not intended to, restrict or regulate the discharge of bows or firearms over Township roadways when such activities are done as part of lawful hunting as defined and regulated by the Pennsylvania Game Commission.

8. Based upon information and belief, the Township avers that on numerous occasions Ms. Linda London has discharged, or allowed to be discharged, firearms across and

COUNT TWO

2. Plaintiff incorporates by reference paragraph 1, above, as if the same were fully set forth herein.

3. On or about the 5th day of September 2006 the Brady Township Board Of Supervisors passed Brady Township Ordinance Number 45 which is **“AN ORDINANCE OF THE TOWNSHIP OF BRADY, CLEARFIELD COUNTY, PENNSYLVANIA, TO PROVIDE FOR THE REGULATION OF INDIVIDUALS, AND PRIVATE, PUBLIC, OR, COMMERCIAL ARCHERY RANGES, PISTOL RANGES, AND RIFLE RANGES DISCHARGING BOWS OR FIREARMS OVER PUBLIC ROADWAYS (TOWNSHIP ROADWAYS) AND TO PRESCRIBE FINES AND PENALTIES FOR VIOLATIONS.”**

(A true and correct copy of Ordinance #45 is attached to Plaintiff's Petition for Special Relief -- Preliminary Injunction and labeled Exhibit "B")

4. Ordinance #45 was adopted to protect the health, safety, comfort and welfare of the Township citizens.

5. The authority to pass ordinances is granted to Brady Township by the Second Class Township Code.

6. Ordinance #45 prohibits the discharge of any bow or firearm over any public roadway in the Township.

7. Ordinance #45 does not, and is not intended to, restrict or regulate the discharge of bows or firearms over Township roadways when such activities are done as part of lawful hunting as defined and regulated by the Pennsylvania Game Commission.

8. Based upon information and belief, the Township avers that on numerous occasions Ms. Linda London has discharged, or allowed to be discharged, firearms across and


over Township roadways, all to the detriment of the citizens of the Township, and without regard to the health, safety and welfare of the Township citizens and guests.

9. The Township has concerns for the health, safety, comfort, and welfare of the citizens who travel and walk on London Road, Stoney Lonesome Road, Miknis Road and other roadways in the Township, and for those living in the surrounding neighborhoods.

10. Linda London is in violation of Ordinance #45 because she is believed and therefore averred to have discharged, or allowed to be discharged, firearms over Township roadways as heretofore alleged.

WHEREFORE, Plaintiff requests this Honorable Court to enter a judgment against Defendant and in favor of Plaintiff in accordance with the provisions of Ordinance #45 for each and every violation of said Ordinance and to permanently enjoin Defendant from engaging in activities that violate Ordinance #45.

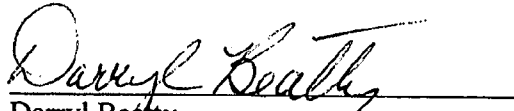
Respectfully submitted,



Loralee A. Choman, Esquire
Counsel for Plaintiff

VERIFICATION

I, Darryl Beatty, verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that this statement is subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

A handwritten signature in cursive script, reading "Darryl Beatty", written over a horizontal line.

Darryl Beatty

Brady Township Board of Supervisors

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

Brady Township,
Plaintiff
-vs-
Linda London,
Defendant

: Clearfield County
: No. 08-1295 C.D.
:
: Consolidated with:
: No. 08-1290 C.D.
: No. 08-1291 C.D.
: No. 08-1292 C.D.
: No. 08-1293 C.D.
: No. 08-1294 C.D.
:
: Type of Pleading:
: Certificate of Service
:
: Filed on Behalf of: Plaintiff
:
:
:
: Counsel of Record for this Party
: Lorelee A. Choman, Esquire
: 1303 Treasure Lake
: DuBois, PA 15801
: PA Atty. ID No. 52210
: 814.375.0228/cell: 610.360.6099
: chomanlaw@verizon.net
:

5 FILED NO
MAY 04 2012 EC
MAY 02 2012
William A. Shaw
Prothonotary, Clerk of Court

Certificate of Service

I hereby certify that I have served upon the following, by USPS, postage pre-paid, certified copies of Plaintiff Brady Township's Amended Complaints, as filed with the court on April 20, 2012:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 30 April 2012


Lorelee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
Attorney for Plaintiff
814.375.0228/cell: 610.360.6099
chomanlaw@verizon.net

FILED

MAY 02 2012

William A. Shaw
Prothonotary/Clerk of Court

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

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1290-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1291-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1292-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LONNIE LONDON

* NO. 08-1293-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
MONTI LONDON

* NO. 08-1294-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1295-CD
*
*

FILED
0185761
JUL 10 2012

William A. Snow
Prothonotary/Clerk of Court
iCC Atty's: Chamar
Lavelle
GK

Attest.

JUL 10 2012

William A. Snow
Prothonotary
Clerk of Court

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

ORDER

AND NOW, this 6th day of July, 2012, following settlement conference this date among the parties and Senior Judge Charles C. Brown, Specially Presiding; it is the ORDER of this Court an additional settlement conference with the Senior Judge Charles C. Brown, Jr. be and is hereby scheduled for **July 20, 2012 at 9:00 a.m.** in Hearing Room # 3, Clearfield County Courthouse. At time of settlement conference counsel and their clients will be present

BY THE COURT,

/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,

Plaintiff

-vs-

Olan London,
Linda London,
Olan London,
Lonnie London,
Montie London,
and Linda London,

Defendants

Clearfield County - Civil Action

No. 08-1290 C.D.

No. 08-1291 C.D.

No. 08-1292 C.D.

No. 08-1293 C.D.

No. 08-1294 C.D.

No. 08-1295 C.D.

Type of Pleading:

Motion for Contempt

Filed on Behalf of:

Plaintiff

Counsel of Record for this Party

Loralee A. Choman, Esquire

1303 Treasure Lake

DuBois, PA 15801

PA Atty. ID No. 52210

(814) 375-0228

chomanlaw@verizon.net

FILED

AUG 28 2012

William A. Shaw
Prothonotary/Clerk of Court.
wv 4/1

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

	:	Clearfield County - Civil Action
	:	
Brady Township,	:	No. 08-1290 C.D.
	:	No. 08-1291 C.D.
Plaintiff	:	No. 08-1292 C.D.
	:	No. 08-1293 C.D.
-vs-	:	No. 08-1294 C.D.
	:	No. 08-1295 C.D.
	:	
Olan London,	:	
Linda London.	:	
Olan London,	:	
Lonnie London,	:	Type of Pleading:
Montie London,	:	Motion for Contempt
and Linda London,	:	
	:	
Defendants	:	Filed on Behalf of:
	:	Plaintiff
	:	

MOTION FOR CONTEMPT

Plaintiff, by and through its counsel, Lorelee A. Choman, hereby moves this honorable court to find the Defendants in contempt of this court's order of September 10, 2010, and in support thereof avers as follows:

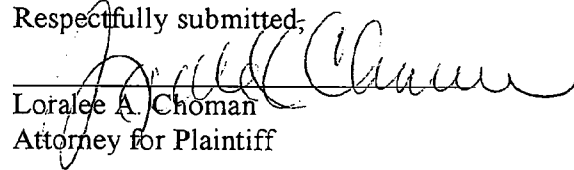
1. On September 10, 2010, this court granted plaintiff's request for a preliminary injunction prohibiting defendants from shooting across public roadways in Brady Township and from engaging in shooting activities as set forth in the court's order. (See Exhibit A, attached).

2. On Sunday, July 29, 2012, Mr. William Miknis was working outside his property on Miknis Road in Brady Township, along with his wife and granddaughter, who were picking blueberries on the property.
3. Suddenly and without warning, shots emanating from the London property on Short Mag Lane off of Stoney Lonesome Road began flying about the Miknis property, causing Mr. Miknis, his wife and granddaughter to fear for their safety and immediately seek shelter in their home and barn.
4. Calling the Township to report the hazardous activity, Mr. Miknis spoke with Township Board Chairman Charles Muth, who went out to investigate the matter and who determined that shooting activities were occurring on the London property.
5. Again, on Wednesday, August 15, 2012, Dr. Edward Shok and his wife Angela were walking along Miknis Road in Brady Township when they heard shots fired across the roadway; the shooting began suddenly and without warning, causing them to fear for their safety.
6. Within a short time, upon looking onto the London property, Dr. Shok and his wife Angela saw individuals near the vehicles of Montie and Olan London, and watched those vehicles travel away from the mobile "shack" located on the London property; it is their firm belief that the shots they heard across the roadway originated near the mobile shack and traversed the public roadway on which the Shoks were walking.
7. The Shoks reported the later incident to the Township secretary.
8. These incidents (along with others reported to the Township but unable to be verified by the time Townships officials arrived) display complete disregard for this court's order of September 10, 2010, as well as total disregard for the health safety and welfare of the Township's residents.
9. Plaintiff has no other recourse but to request the court's intervention in a finding of contempt, as complaints by counsel about the defendant's ongoing shooting activities in violation of this court's order have gone unanswered and unheeded.

10. The defendants' conduct is not merely wrongful or mistaken; rather, it amounts to willful violation of this court's "definite, clear and specific" order, with wrongful intent and with full knowledge of the meaning of this court's order.¹

WHEREFORE, Plaintiff respectfully requests that this honorable court find the defendants in contempt of the subject order and assess penalties, fines, and/or issue additional orders as this court deems appropriate.

Respectfully submitted,


Lorelee A. Choman
Attorney for Plaintiff

¹ See Harcar v. Harcar, 982 A.2d 1230, 1235 (Pa. Super. 2009). See also, Barrett v. Barrett 368 A.2d 616,621 (PA 1997); In Re Trust Under Deed of Jane E. McPeak 147 Montco L.P. 285 (2010).

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

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1290-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1291-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1292-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LONNIE LONDON

* NO. 08-1293-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
MONTIE LONDON

* NO. 08-1294-CD
*
*
CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1295-CD
*
*

ORDER

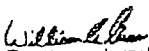
AND NOW, this 10th day of September, 2010, following evidentiary hearing on the Plaintiff's Petition for Special Relief – Preliminary Injunction; it is hereby ORDERED that the Plaintiff's request for a Temporary Preliminary Injunction be GRANTED.

It is the ORDER of this Court that a Preliminary Injunction shall remain in effect during the pendency of the underlying proceedings until a decision can be reached on the merits. The Defendants are prohibited from any and all shooting activities across all public roadways in Brady Township. The Defendants are forbidden to conduct, or in any manner promote or participate in, any "shoots" and any and all shooting range type of activities on the property subject to this litigation.

I hereby certify this to be a true
and correct copy of the original
statement filed in this case.

SEP 10 2010

Attest.


Prothonotary/
Clerk of Courts

BY THE COURT,
/S/ Fredric J Ammerman
FREDRIC J. AMMERMAN
President Judge

Exhibit "A"

Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion for Contempt by U.S.P.S., postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 28 August 2012



Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
office: 814.375.0228 / cell: 610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

FILED

AUG 28 2012

**William A. Shew
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Plaintiff

v.

LINDA LONDON

Defendant

Case No. **08-1295 CD**

Type of Pleading:

**Answer to Plaintiff's Amend
Complaint and New Matter**

Filed on Behalf of: **Defendant**

Filed By:

Patrick Lavelle, Esq.
PA. ID. No. 85537
25 East Park Ave.
Suite #4
DuBois, PA. 15801
(814) 371-2232
(814) 317-4480 Fax

FILED 1cc
9/3/08 Amy
AUG 29 2008 Lavelle
William A. Shaw
Prothonotary/Clerk of Courts
6/K

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Case No. **08-1295 CD**

Plaintiff

v.

LINDA LONDON

Defendant

ANSWER TO PLAINTIFF'S AMENDED COMPLAINT

AND NOW comes the defendant, LINDA LONDON, by and through his counsel, PATRICK LAVELLE, ESQ., and files a response to the Amended Complaint of the Plaintiff, averments in support of which are as follows:

1. Defendant hereby incorporates his responses numbered one (1) through fifteen (15) filed to the original complaint inclusive, the same as the same as though set forth fully herein. Defendant hereby incorporates his response to the plaintiff's petition for special relief filed in this case to the extent same is deemed as an appropriate pleading in this case.

COUNT TWO

2. Defendant hereby incorporates his response to paragraphs one (1) inclusive, the same as though set forth fully herein.

3. ADMITTED.

4. The provisions of Plaintiff's Ordinance #45 speak for themselves and as such no response is required. To the extent a response is deemed to be required, the averments of paragraph #4 are DENIED.

5. ADMITTED.

6. The provisions of Plaintiff's Ordinance #45 speak for themselves and as such no response is required. To the extent a response is deemed to be required, the averments of paragraph #6 are DENIED.

7. The provisions of Plaintiff's Ordinance #45 speak for themselves and as such no response is required. To the extent a response is deemed to be required, the averments of paragraph #7 are DENIED.

8. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph #8, and they are therefore DENIED, full proof thereof is demanded at the time of trial of this case.

9. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph #9, and they are therefore DENIED, full proof thereof is demanded at the time of trial of this case.

10. The defendant is without sufficient knowledge, information or belief to admit or deny the averments of paragraph #10, and they are therefore DENIED, full proof thereof is demanded at the time of trial of this case.

WHEREFORE the defendant named herein would pray that this Honorable Court will dismiss this complaint with prejudice.

NEW MATTER

11. Defendant hereby incorporates the New Matter contained in paragraphs

sixteen (16) through twenty-eight (28) inclusive, the same as though set forth fully herein.

12. Defendant asserts that the inclusion of the contents of Plaintiff's Petition for Special Relief as a Count in this Amended Complaint is improper and redundant.

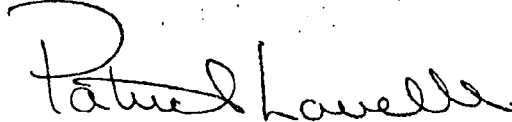
13. Defendant asserts that the contents of Plaintiff's Count two simply repeat the allegations as contained in her prior Petition for Special Relief, which has been disposed of at a pre-trial hearing with the grant of the requested relief.

14. Defendant hereby asserts the affirmative defense of Res Judicata.

15. Defendant hereby asserts the affirmative defense of Collateral Estoppel.

16. Defendant avers that any shooting that may have occurred was in furtherance of lawful hunting activities during which the township's ordinance by its own terms is preempted by the provisions of state law.

RESPECTFULLY SUBMITTED,

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

Patrick Lavelle, Esq.
Counsel for the Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Case No. **08-1295 CD**

Plaintiff

v.

LINDA LONDON

Defendant

CERTIFICATE OF SERVICE

I, PATRICK LAVELLE, ESQ., by my signature appearing below, do hereby certify that on the 30th day of August, 2012, I served a copy of the foregoing Answer, New Matter, and Counterclaims, by mailing same via first class mail, postage prepaid to the following:

Loralee A. Choman, Esq.
1303 Treasure Lake
DuBois, PA. 15801

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

Patrick Lavelle, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP

Case No. **08-1295 CD**

Plaintiff

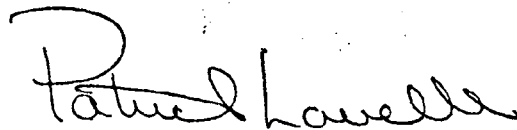
v.

LINDA LONDON

Defendant

VERIFICATION

I, Patrick Lavelle, Esq., Attorney for the Linda London, the Defendant in this action, do hereby assert that I have authorized by the defendant to make this verification, and therefore do verify that all of the foregoing facts set forth in this Answer and New Matter are true and correct to the best of his knowledge, information and belief. Further, I make this verification after having informed the defendant of the provisions and implications of *18 Pa. C.S.A. § 4904 (Unsworn Falsification to Authorities)*, and assuring myself of his understanding of same.

A handwritten signature in black ink, appearing to read "Patrick Lavelle", written in a cursive style.

Patrick Lavelle

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,	:	Clearfield County - Civil Action
	:	
Plaintiff	:	No. 08-1290 C.D.
	:	No. 08-1291 C.D.
	:	No. 08-1292 C.D.
-vs-	:	No. 08-1293 C.D.
	:	No. 08-1294 C.D.
Olan London,	:	No. 08-1295 C.D.
Linda London.	:	
Olan London,	:	
Lonnie London,	:	
Montie London,	:	Type of Pleading:
and Linda London,	:	Motion for Contempt
	:	
Defendants	:	
	:	
	:	Filed on Behalf of:
	:	Plaintiff

01943/BL
JCC Atty Choman
6K

RULE RETURNABLE AND ORDER

AND NOW, this 31st day of August, 2012, upon review of the Plaintiff's Motion for Contempt, a Rule is issued upon Defendants to show why Plaintiff is not entitled to the relief sought, with Defendants to respond to said motion no later than ten days from this order. Argument on this matter is to be heard in courtroom 1 in the Clearfield County courthouse on the 12th day of September, 20 12, at 9:00 A.M.

By the Court:

Frederick J. Zimmerman

FILED
SEP 17 2012
CLERK OF COURT
PROBATION DEPT.

DATE: 9/17/12

X You are responsible for serving all appropriate parties.

 The Probationary's Office has provided service to the following parties:

 Plaintiff(s) Plaintiff(s) Attorney Other

 Defendant(s) Defendant(s) Attorney

 Special Instructions:

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

BRADY TOWNSHIP

VS.

LINDA LONDON

OLAN LONDON

OLAN LONDON

LONNIE LONDON

MONTIE LONDON

LINDA LONDON

NO. 2008-1290-CD

2008-1291-CD

2008-1292-CD

2008-1293-CD

2008-1294-CD

2008-1295-CD

ORDER

NOW this 12th day of September, 2012, following testimony being presented by the Plaintiff in regard to the Plaintiff's petition requesting that the Defendants be held in contempt; with the Court agreeing with Defense counsel that the township has not met its burden of proof, it is the ORDER of this Court that the Petition for Contempt be and is hereby dismissed.

BY THE COURT,

FILED

SEP 12 2012

William A. Shaw
Prothonotary/Clerk of Courts

SENT TO ATT'Y

President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,

Plaintiff

-vs-

Linda London,
Olan London,
Olan London,
Lonnie London,
Montie London,
and Linda London,

Defendants

: Clearfield County - Civil Action

: No. 08-1290 C.D.

: No. 08-1291 C.D.

: No. 08-1292 C.D.

: No. 08-1293 C.D.

: No. 08-1294 C.D.

: No. 08-1295 C.D. ✓

: (Consolidated)

: Type of Pleading:

: Answer to New Matter

: Filed on Behalf of:

: Plaintiff

Counsel of Record for this Party

Loralee A. Choman, Esquire

1303 Treasure Lake

DuBois, PA 15801

PA Atty. ID No. 52210

814. 375.0228/(cell) 610.360.6099

chomanlaw@verizon.net

FILED

SEP 18 2012

William A. Shaw
Prothonotary/Clerk of Courts

3cc
Atty
Choman

6K

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA**

CIVIL DIVISION

	:	Clearfield County - Civil Action
	:	
Brady Township,	:	No. 08-1290 C.D.
	:	No. 08-1291 C.D.
Plaintiff	:	No. 08-1292 C.D.
	:	No. 08-1293 C.D.
-vs-	:	No. 08-1294 C.D.
	:	No. 08-1295 C.D.
Linda London,	:	(Consolidated)
Olan London.	:	
Olan London,	:	
Lonnie London,	:	Type of Pleading:
Montie London,	:	Answer to New Matter
and Linda London,	:	
	:	
Defendants	:	Filed on Behalf of:
	:	Plaintiff
	:	

ANSWER TO DEFENDANT'S NEW MATTER


Plaintiff, by and through its counsel, Lorelee A. Choman, hereby responds to Defendant Linda London's New Matter follows:

11. Denied. To the extent that Defendant is intending to incorporate the New Matter contained in response to Plaintiff's original complain, the same is hereby denied for the reasons set forth in Plaintiff's response to said New Matter, filed on August 31, 2009, and the same is hereby incorporated by reference, as if fully set forth herein. The remaining allegations are denied as conclusions of law to which no response is required.

12. Denied. The allegations of paragraph 12 of Defendant's New Matter are conclusions of law to which no response is required. By way of further response and without admitting said allegations, Plaintiff denies that incorporation of pleadings filed of record is "improper and redundant." To the contrary, the Pennsylvania Rules of Civil Procedure authorize incorporation of pleadings. Further, Plaintiff maintains that the application and interpretation of the relevant law is for the Court to decide.
13. Denied. The allegations of paragraph 13 are denied as conclusions of law to which no response is required. Further, the allegations of paragraph 13 concern interpretation and application of the relevant law, and remain for the Court to decide.
14. Denied. The allegations of paragraph 14 are denied as conclusions of law to which no response is required.
15. Denied. The allegations of paragraph 15 are denied as conclusions of law to which no response is required.
16. Denied. The allegations of paragraph 16 are denied as conclusions of law to which no response is required. To the extent a response is required, Plaintiff denies the same and demands strict proof thereof at the time of trial. Further, Plaintiff maintains that the application and interpretation of the relevant law is for the Court to decide.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court dismiss Defendant's New Matter and award judgment in favor of Plaintiff.

Respectfully submitted,



Loralee A. Choman
Attorney for Plaintiff

VERIFICATION

I, Charles Muth, verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that this statement is subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

Charles Muth
Charles Muth
Brady Township Board of Supervisors

Date: 9/12/12

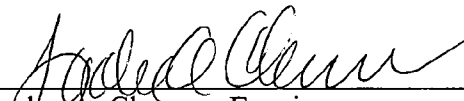
Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Answer to New Matter by U.S.P.S., postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 18 September 2012



Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
office: 814. 375.0228 / cell: 610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

FILED

SEP 18 2012

WILLIAM A. SHERMAN
PROBATIONARY/CLERK OF COURT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Brady Township,
Plaintiff

-vs-

Linda London,
Olan London
Olan London,
Lonnie London
Montie London,
Linda London

Defendants

(Consolidated):

No. 08-1290 C.D.

No. 08-1291 C.D.

No. 08-1292 C.D.

No. 08-1293 C.D.

No. 08-1294 C.D.

No. 08-1295 C.D. ✓

Type of Pleading:

Motion for Continuance

Filed on Behalf of:
Plaintiff

Counsel of Record for this Party
Loralee A. Choman, Esquire
1303 Treasure Lake
DuBois, PA 15801

PA Atty. ID No. 52210
office: 814. 375.0228/cell: 610.360.6099
chomanlaw@verizon.net

FILED No. 08-1295 C.D.
013:45 Lm
SEP 10 2012

William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA**

CIVIL DIVISION

	:	(Consolidated):
	:	
	:	No. 08-1290 C.D.
	:	
Brady Township,	:	No. 08-1291 C.D.
Plaintiff	:	
-vs-	:	No. 08-1292 C.D.
Linda London,	:	
Olan London	:	No. 08-1293 C.D.
Olan London,	:	
Lonnie London	:	No. 08-1294 C.D.
Montie London,	:	
Linda London	:	No. 08-1295 C.D.
	:	
Defendants	:	
	:	Type of Pleading:
	:	Motion for Continuance
	:	
	:	

Motion for Continuance

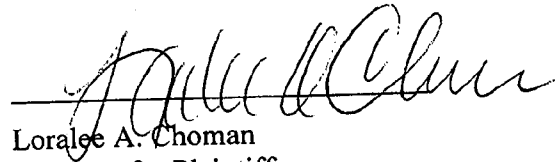
Plaintiff Brady Township, by and through its attorney, Lorelee A. Choman,
hereby moves for continuance of trial of this matter and in support avers as follows:

1. Trial of this matter has been scheduled for Thursday and Friday, September 20 - 21, 2012.
2. At 10:40 this morning, Mr. Charles Muth, President of the Brady Township Board of Supervisors, called to inform counsel that the mother of the Township secretary, Ms. Sheryl DeBoer, had just passed away.
3. Due to the death of her mother, it is assumed that Ms. DeBoer will be unavailable to testify at trial.

4. Ms. DeBoer's testimony is essential in Plaintiff's case, as she is expected to testify in her role as Township secretary, in her capacity as record keeper, in her personal interactions and conversations with certain defendants and in her keeping and preparation of evidentiary items, including video and audio recordings and still photos.
5. Ms. DeBoer has been Township secretary for the duration of the time germane to the underlying litigation, while the makeup of the Township Board of Supervisors has changed over that time.
6. Mr. DeBoer's husband is also expected to testify, though on a significantly more limited basis, as to photos and observations.
7. Based upon the foregoing, Ms. DeBoer's and Mr. DeBoer's testimony is essential to Plaintiff's case in chief; Plaintiff will be significantly prejudiced without the testimony of Ms. DeBoer.
8. Counsel has not spoken directly with Mr. or Ms. DeBoer out of respect for their privacy.
9. Counsel for Plaintiff called this morning to discuss this matter with Mr. Lavelle, attorney for the defendants, who advised that it is his position to have the matter decided by the court under the facts as conveyed to him.
10. Counsel is otherwise prepared for trial of the matter.
11. If this Honorable Court is inclined to grant a continuance under the circumstances as presented, counsel for Plaintiff and the Township's present and past officials will be available for a conference on the matter with the Court during the time period scheduled for trial.
12. Excepting a request for continuance of hearing on a Motion for Summary Judgment in December, 2011, Plaintiff has not made any prior request for continuance of trial of this matter.

Wherefore, Plaintiff respectfully requests that under the exigent circumstances as stated herein, this Honorable Court grant its motion for continuance of trial of this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lorelee A. Choman', is written over a horizontal line.

Lorelee A. Choman
Attorney for Plaintiff
1303 Treasure Lake
DuBois, PA 15801

PA Atty. ID No. 52210
office: 814.375.0228 / cell: 610.360.6099
chomanlaw@verizon.net

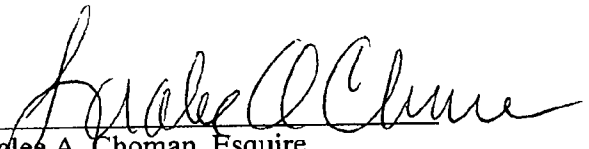
Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion for Continuance by email with delivery receipt requested, and by U.S.P.S., postage pre-paid:

Attorney for Defendants:

Patrick Lavelle, Esquire
Lavelle Law Offices
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 19 September 2012



Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
office: 814.375.0228 / cell: 610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1290-CD

*

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1291-CD

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
OLAN LONDON

* NO. 08-1292-CD

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LONNIE LONDON

* NO. 08-1293-CD

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
MONTI LONDON

* NO. 08-1294-CD

*

CONSOLIDATED WITH

BRADY TOWNSHIP
VS
LINDA LONDON

* NO. 08-1295-CD

*

ORDER

AND NOW, this 27th day of September, 2012, following hearing and settlement conference among the Court and the parties; it is the ORDER of this Court an additional hearing be and is hereby scheduled for **November 15, 2012 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

Ninety minutes has been reserved for this hearing.

Identify the original statement
and enter the date of the original
statement filed in this case.

OCT 02 2012

BY THE COURT,

/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

Attest.

Will R. Prothro
 Clerk of Court

9
1CC
0/2:5431 Dity:
Lavelle
Chomera

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BRADY TOWNSHIP :
-VS- : No. 08-1290-CD
LINDA LONDON :
-VS- : No. 08-1291-CD
OLAN LONDON :
-VS- : No. 08-1292-CD
OLAN LONDON :
-VS- : No. 08-1293-CD
LONNIE LONDON :
-VS- : No. 08-1295-CD
LINDA LONDON :

FILED

NOV 19 2012
0/3:36
William A. Shaw
Prothonotary/Clerk of Courts
Clerk to
Lancaster
+
Clem

ORDER

AND NOW, this 15th day of November, 2012,
following the conclusion of Non-Jury Trial, it is the ORDER
of this Court that counsel for all parties provide the Court
with appropriate brief within no more than sixty (60) days
from this date.

BY THE COURT,

/s/ Fredric J. Ammerman

President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

FILED

JAN 09 2010
William A. Shaw
Prothonotary/Clerk of Courts

Brady Township,

Plaintiff

-VS-

Olan London,
Linda London,
Olan London,
Lonnie London,
Montie London,
and Linda London,

Defendants

: Clearfield County - Civil Action
: No. 08-1290 C.D.
: No. 08-1291 C.D.
: No. 08-1292 C.D.
: No. 08-1293 C.D.
: No. 08-1294 C.D.
: No. 08-1295 C.D. ✓

: Type of Pleading:
: Motion for Extension of Time to File
: Brief

: Filed on Behalf of:
: Plaintiff

Counsel of Record for this Party
Loralee A. Choman, Esquire
1303 Treasure Lake
DuBois, PA 15801
PA Atty. ID No. 52210
(814) 375-0228
chomanlaw@verizon.net

CIVIL DIVISION

Clearfield County - Civil Action

No. 08-1290 C.D.

No. 08-1291 C.D.

No. 08-1292 C.D.

No. 08-1293 C.D.

No. 08-1294 C.D.

No. 08-1295 C.D.

Type of Pleading:

Motion for Extension of Time to File Brief

Filed on Behalf of:

Plaintiff

Loralee A. Choman
Attorney for Plaintiff

CIVIL DIVISION

Clearfield County - Civil Action

No. 08-1290 C.D.

No. 08-1291 C.D.

No. 08-1292 C.D.

No. 08-1293 C.D.

No. 08-1294 C.D.

No. 08-1295 C.D.

Type of Pleading:

Motion for Extension of Time to File Brief

Certificate of Service

I hereby certify that I have served upon the following a true and correct copy of Plaintiff's Motion for Extension of Time to File Brief by USPS, postage pre-paid, and by email to plavelle@plavellelaw.com:

Attorney for Defendants:

Patrick Lavelle, Esquire
25 East Park Avenue, Suite #4
DuBois, PA 15801

Dated: 9 January 2013


Loralee A. Choman, Esquire
PA ID No. 52210
1303 Treasure Lake
Du Bois, PA 15801
office: 814.375.0228 / cell: 610.360.6099
Attorney for Plaintiff
chomanlaw@verizon.net

From: PatrickLavelle [mailto:plavelle@plavellelaw.com]
Sent: Wednesday, January 09, 2013 11:32 AM
To: Lorrie Choman
Subject: RE: Post-trial brief

Lorrie,

Of course I will agree to an extension. 30 days seems reasonable, but if you need additional time I would agree to that also. Please let me know when the new due date is. Thanks.

Pat

From: Lorrie Choman [mailto:chomanlaw@verizon.net]
Sent: Wednesday, January 09, 2013 11:18 AM
To: PatrickLavelle
Subject: Post-trial brief

Pat:

I could use some additional time to complete this brief, as I have to make an unexpected trip out of town with my daughter, who decided to attend college in Wilkes-Barre. Are you also finding the need for additional time? (Actually, we received the transcripts just before Christmas.) If so, let me know if you are in agreement for requesting a brief extension from Judge Ammerman, so that I can request the same.

Regards, Lorrie

Loralee A. Choman
Attorney
1303 Treasure Lake
Du Bois, PA 15801
610.360.6099
814.375.0228
chomanlaw@verizon.net

CONFIDENTIALITY NOTICE: This e-mail (including attachments) is covered by the Electronic Communications Privacy Act, 18 USC § 2510, is confidential and may otherwise be legally privileged. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, copying or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this transmission in error, please notify the sender immediately by return e-mail and delete the message. Thank you.

Exhibit A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD
JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL DIVISION

Brady Township,

Plaintiff

-vs-

Olan London,
Linda London,
Olan London,
Lonnie London,
Montie London,
and Linda London,

Defendants

Clearfield County - Civil Action

No. 08-1290 C.D.

No. 08-1291 C.D.

No. 08-1292 C.D.

No. 08-1293 C.D.

No. 08-1294 C.D.

No. 08-1295 C.D.

FILED

JAN 11 2013

William A. Shew
Prothonotary/Clerk of Courts

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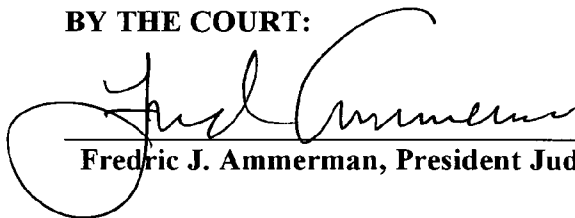
Type of Pleading:

Motion for Extension of Time to File
Brief

ORDER

AND NOW, this 10th day of JAN. 2013, upon review of
Plaintiff's Motion for Extension of Time to File Brief, and in consideration of Defendant's
agreement to the same, it is hereby ORDERED that counsel for all parties provide the Court with
appropriate brief within no more than thirty (30) days from this date.

BY THE COURT:


Fredric J. Ammerman, President Judge

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

BRADY TOWNSHIP
vs
LINDA LONDON

* NO. 08-1290-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
vs
OLAN LONDON

* NO. 08-1291-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
vs
OLAN LONDON

* NO. 08-1292-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
vs
LONNIE LONDON

* NO. 08-1293-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
vs
MONTIE LONDON

* NO. 08-1294-CD
*
*

CONSOLIDATED WITH

BRADY TOWNSHIP
vs
LINDA LONDON

* NO. 08-1295-CD
*
*

OPINION OF THE COURT

This case involves an ongoing dispute between members of the London family and the Brady Township Supervisors over the construction and use of two shooting ranges and from a third location the firing of rifles over public roads. Many residents of the Township who live in the general area of the Londons have voiced numerous concerns and complaints about the shooting. The dispute started in 2006, resulted in two Township ordinances being passed, and continues to date. The issues have made their way from Township meetings, through the Magisterial District Judge's office and now to the Court of Common Pleas.

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

FILED

SEP 19 2013

William A. Shaw
Prothonotary/Clerk of Courts

Original filed to
08-1290-CD

It is important to note that the Township has not in any manner attempted to interfere with the Defendants' Second Amendment right to bear arms. For the Township, this case has always been about ensuring the safety of Township residents. The record in this case shows the Township has asked nothing more than that any shooting range be 1) designed in accordance with safety specifications as recommended by the National Rifle Association (NRA), 2) the design certified by a professional engineer and 3) operated in a safe manner. Both Township Ordinances in question clearly indicate they are not intended to suppress or interfere with any activities protected by the Second Amendment.

A. Pre-Ordinance Factual Background

Brady Township is a relatively small and principally rural Township located in Clearfield County. In what the Court believes was the late Spring of 2006, the Brady Township Planning Commission received an application for a real estate subdivision from Matson Lumber Company. Matson Lumber proposed selling a large tract of property to Defendant Linda London.

Olan and Linda London are husband and wife. Lonnie and Montie London are their adult sons. The subdivision area includes what has been described in this case as the upper shooting range and the hillside on which a small trailer was placed where .50 caliber rifles were shot by the Londons. An addendum to the subdivision request contained language as follows:

Additional activities proposed on Lot number 1 include two private rifle ranges. A 250-yard range will be located along the southern boundary of the parcel, and a 600 yard range, shooting from Lot number 1 onto the adjacent parcel owned by Olan L. and Michael L. London (C7-28), will be located in the northeastern part of the parcel. The ranges will include shooting rests and canopies in the shooting area, earthen backstops in the target area, and will be constructed following National Rifle Association standards. Sewage and water supply facilities are not planned for the rifle range.

See Plaintiff's Exhibit 3, pg. 4. Also See Plaintiff's Exhibit 12, pg. 3 under Section F project narrative dated July, 2006.

Township minutes indicate that the first meeting by a Supervisor with Olan London on his property concerning the potential shooting range(s) was May 1, 2006. Thereafter, Olan and

Lonnie London attended many Township meetings concerning their desire to establish a shooting range(s). The Township asked the Londons for drawings or plans and a layout of any shooting range(s) at their meeting of June 5, 2006. At that time Olan and Lonnie London indicated that they were still working on it. The discussions over the establishment of a shooting range among Olan and Lonnie London and the Township Supervisors during Township meetings continued in 2006. Plaintiff's Exhibit 13 is a summary of discussions held and statements made beginning with May 1, 2006 through June 21, 2007 at Township meetings regarding establishment of a shooting range. The Township was always principally concerned with safety issues and continually asked for appropriate plans and blueprints of any shooting ranges to be constructed.

During the non-jury trial the Township presented the testimony of Wilson Fisher. Mr. Fisher is a registered engineer. His firm provides consulting and technical advice to the Clearfield County Sewage Agency as well as being a consulting engineer to Brady Township. He reviewed the original Matson subdivision plan which referenced two shooting ranges, one of 250 yards and another of 600 yards. Mr. Fisher found the plan lacking as it provided no specific details regarding the scope of the ranges, the number of people who may use it or the frequency of use. "[I]t was deficient as far as the planning requirements were concerned." Transcript of Testimony, September 21, 2012, page 11. These concerns were discussed by him with Township officials, as there was no indication the ranges were going to comply with any particular standards. Mr. Fisher is familiar with NRA "detailed standards for shooting ranges in order to protect public health and safety." Transcript, September 21, 2012, page 18. Mr. Fisher expressed further concerns that shooting at the 600 yard range would be over property not owned by the Londons; also Mr. Fisher felt there was a significant safety problem at the lower range with shooting being parallel to a township road which was only 25 feet away.

Olan and Lonnie London agreed that any shooting range would be constructed according to specifications as recommended by the NRA. Ultimately the Matson subdivision plan was granted on August 23, 2006 with the understanding on the part of the Township that any shooting

ranges would be constructed by the Londons pursuant to NRA recommended specifications. During the fall and early winter of 2006, as well as into later winter and early spring of 2007 there were continuous discussions between the Supervisors and Olan and Lonnie London (and to a lesser degree with Montie London) concerning establishment of any shooting range(s).

In the late summer and early fall of 2006, the Supervisors started to receive a volume of complaints from various Township residents who lived in the area as to shooting activities which they believed were coming from the London property. Township residents were complaining that the shooting would sometimes go on for an entire day, sometimes from noon until 7:00 p.m., sometimes for one, two or three days in a row. It could be at any time or day, or at night. The complaints also included bullets or shrapnel passing over, or through, residents' property and township roads.

The circumstances involving Dr. and Mrs. Edward Shok is an example of the concerns and difficulties experienced by Township residents living in the area. In 2002, the Shoks purchased property from Olan and Linda London. This property was previously where the London's had their home and a horse boarding business. Upon purchasing the property and moving in, the Shoks continued to operate the stable. Dr. Shok knew the Londons liked to shoot and had concerns prior to the purchase about how any shooting would affect the horses and stable. At that time Olan London had a plan to open a shooting range in Penn Township, Clearfield County, and indicated there would not be much shooting in Brady Township. After Mrs. London purchased the Matson property, the Londons and the Shoks became next door neighbors. Apparently the plan for the Penn Township shooting range was not successful. The shooting on the London property then escalated, with the upper range being located immediately adjacent to the Shok property line. Shooting was occurring at any given day and time at the upper range perpendicular to the Shok property and also across public roads from the shoot house. Discussions with Olan London ultimately proved fruitless. Ultimately, due to safety concerns, in 2006 the Shoks closed the stable business.

As a result of residents' complaints concerning shooting of firearms over and across Township roads, the Supervisors on September 5, 2006 enacted Ordinance 45. This Ordinance regulated the discharge of bows and firearms over public roadways. A petition dated October 2, 2006 was presented to the Supervisors signed by approximately 27 area residents concerned with the establishment of any shooting range and suggesting certain considerations and restrictions. Plaintiff's Exhibit 14. As the London properties were posted 'No Trespassing', the Supervisors had great difficulty in determining where any shooting activities may actually have taken place. It is clear from the Exhibits and testimony that by early 2007 the Township Supervisors believed that the Londons had failed to comply with the assurances that they had made for the appropriate and safe establishment of any shooting ranges as set forth in the Matson subdivision, and had presented no formal engineering plans or blueprints or NRA sanctioned designs to the Township. As a result of their frustration with the Londons and the number of complaints being received from Township residents as to unsafe shooting, the Supervisors felt their only recourse was to pass an ordinance regulating private or public shooting ranges. The Supervisors believed that the provisions of the subdivision related to shooting ranges could not otherwise be enforced. Therefore, Brady Township Ordinance 46 was enacted by the Supervisors on March 5, 2007, to be effective 5 days after enactment.

B. The Township Ordinances

(i) The Shooting Range Ordinance

Brady Township's Ordinance 46 is entitled as "An Ordinance of the Township of Brady, Clearfield County, Pennsylvania, to provide for the regulation of any person or persons operating for profit, not for profit, or non-profit a private, or a public, shooting range and to prescribe fines and penalties for violations." The Court will refer to it as the 'shooting range ordinance'.

Notable definitions in Section 2 of the Ordinance include the following:

1. **NRA Sourcebook** – means a 1999 technical publication of the NRA that contains suggested practices and procedures for shooting range builders and operators.

2. **Operator** – means a person or persons operating for profit, not for profit, or non-profit or corporation, or partnership operating either a private or public shooting range.
3. **Shooting Range** – means a place that is designed or intended for the safe discharge, *on a regular and structured basis*, of firearms for the purpose of target practice or target shooting competitions.

Section 3 of the Ordinance indicates that the regulations contained within the Ordinance apply to an **operator** who submits plans to the Board (of Supervisors), for a proposed shooting range. Section 4 requires that the **operator** must submit a request for approval to the Township and provide information such as the proposed days and hours of operation of the shooting range (paragraph 1(c)) and with respect to each operator, each owner of the shooting range and each employee who handles firearms (paragraph 1(c)). Section 4 also requires that any plans submitted for a shooting range to the Township will be done by a registered professional engineer and that **all “rifle ranges” will follow the applicable suggested practices and procedures in the National Rifle Association Range Source book.**

It is important to note that by its own terms the shooting range ordinance only applies to an operator of a range. It is not applicable to other individual which may be associated with the range, including the individual(s) who may own the property on which a shooting range is located. For an area where firearms are discharged to be classified as a shooting range, the Ordinance provides that it must be used to discharge firearms “on a regular and structured basis”. There is no definition or interpretation in the Ordinance as to what constitutes a regular and structured basis. Although an operator of a shooting range must provide the Township with information as to the proposed days and hours of operation of the shooting range, the Ordinance contains no restrictions or limitations on actual use of any shooting range. Therefore, hypothetically, an operator of a shooting range could run the same 7 days a week from dawn to dusk. The Ordinance does not limit or restrict in any way the size of a shooting range, how many users may shoot at the same time or the caliber of firearms to be used on the shooting range.

Section 4, 2(k) merely provides that the request for the approval of a shooting range must contain evidence of the caliber of guns proposed to be used. Lastly, the Ordinance contains no provision regulating any noise associated with a shooting range.¹ Quite clearly, the Ordinance is for the purpose of ensuring the safe design of a shooting range in order to protect the safety and welfare of area residents. Assuming the shooting range is then operated in a safe manner, the Ordinance is not an attempt to regulate or restrict the actual use of the range, nor does it attempt in any way to interfere or regulate the London's Second Amendment rights to own, discharge and enjoy firearms.

One of the difficulties in this case is that while the NRA Shooting Range Sourcebook is referenced in the Ordinance and was referred to many times during the course of the non-jury trial,² a copy of that document itself was never offered to be entered into evidence. This is notwithstanding the fact that the NRA Range Sourcebook was setting on the counsel table throughout the course of the case. This has created a deficiency in the record and made it more difficult for the Court to interpret the definition of a shooting range and to better understand the testimony of Engineer Richard Hughes, the Township's witness who discussed safe design of shooting ranges. The same applies to the testimony of Olan London in his description of his establishment of the shooting ranges.

(ii) The shooting over Public Roads Ordinance

Brady Township Ordinance 45, was enacted "to protect the health, safety, comfort and welfare of its citizens." Section 2 of the Ordinance makes it unlawful for any person "... to discharge any bow or firearm over any public roadway (township road)." Section 3 makes it unlawful for anyone, including corporations, "to authorize or permit the discharge of any bow or firearm over any public roadway... from their property." Excluded from the Ordinance is

¹ Although it is not part of the record in this case, apparently the Township has some type of noise (nuisance) ordinance from 1977 which predates this dispute.

² The NRA Shooting Range Sourcebook was referenced during the non-jury trial by numerous witnesses and by counsel as follows: Day One - Transcript pages 11, 49, 84 - 86, 94, 116 and pages 3 - 4 of Plaintiff's Exhibit 3. Day Two - pages 18, 19, 20 and 92. Day Three - 19, 23 - 25, 29, 32, 37 - 38 and 46. Day Four - 17 - 25, 44 - 46 and 53.

discharge of bows or firearms over public roads during "lawful hunting" as permitted by the State Game laws. 34 Pa.C.S.A. § 2504, entitled Shooting on or across Highways, makes it unlawful for any person to shoot at game or wildlife at any time while the game is on a road. It is unlawful to shoot at game across a road "unless the line of fire is high enough above the elevation of the highway to preclude any danger to the users of the highway."

C. Procedural History

On March 3, 2008, the Brady Township Supervisors filed a civil enforcement proceeding before Magisterial District Judge Patrick Ford. The enforcement proceeding alleged a violation under Section 10 of Brady Township Ordinance 46, which provides for the regulation of private or public shooting ranges and prescribes fines and penalties for violations thereof. The Township alleged that the shooting range ordinance had been violated by Linda London, Olan London, Lonnie London and Montie London. There had actually been two separate civil enforcement proceedings filed by the Township against both Olan London and Linda London. One involved allegations of a violation of the Ordinance for a shoot at the lower shooting range on March 31, 2007. The other relates to the alleged construction by Olan and Linda London of the upper shooting range area by the London home. The enforcement proceedings against Lonnie and Montie London related only to the alleged March 31, 2007 shoot. Following the proceedings before the Magisterial District Judge, the members of the London family were found guilty of violating Ordinance 46 in each case. Pursuant to the provisions of the Ordinance, a judgment was entered against Lonnie London and Montie London in the amount of \$600.00 plus costs for a total of \$610.00. Two such judgments were entered against Olan London and Linda London. The judgments were entered on June 19, 2008. Thereafter, each Defendant filed a timely Notice of Appeal to the Court of Common Pleas from the entry of the judgment by the Magisterial District Judge. A Praecipe was entered on the Township to file a complaint with the Court.

The Township thereafter in response to the appeal documents filed the five suits as captioned above. Complaints were filed on or about August 4, 2008. In regard to Linda London,

case 2008-1295-CD relates to the alleged violation of the shooting range ordinance for the March 31, 2007 shoot on the lower range, while the case filed to number 2008-1290-CD relates to the alleged construction of the upper shooting range. The complaint against Olan London to number 2008-1291-CD also relates to the alleged March 31, 2007 shoot, while the case filed to number 2008-1292-CD relates to the alleged construction of the upper shooting range. An Answer and New Matter was filed on behalf of the Defendants on or about September 5, 2008 by their joint counsel, Patrick Lavelle, Esquire. Under the heading of New Matter, the Defendants set forth certain affirmative defenses including that any shooting range on the property was in existence prior to the enactment of the ordinance and as a pre-existing use is not subject to the regulatory provisions of the ordinance. The Londons also complained that the Shooting Range Ordinance is being enforced against them in a discriminatory manner and that the ordinance is so vague and ambiguous that it should be held to be constitutionally void. The pleadings were closed by the Township filing a Response to New Matter in September 2009.

In July 2010, the Township filed a Motion to Consolidate the six cases, which request was granted by the Court. The Township then filed a Petition for Special Relief requesting a preliminary injunction against the Defendants for violation of Ordinance 46, as well as violation of Brady Township Ordinance 45, related to the discharge of firearms over Brady Township roadways. Testimony was presented before the Court on August 20, 2010 as to the Township's request for a preliminary injunction. This Court's Order of September 10, 2010 granted the request for the injunction. The preliminary injunction was ordered to remain in effect during the pendency of the proceedings, and the Defendants were prohibited from conducting any shoots and any shooting range type of activity on the properties subject to the litigation. The Court notes that this injunction did not prohibit the Defendants from engaging in personal shooting activities on their property, only in regard to shooting range conduct as described within Ordinance 46. In addition, by this Court's Order of December 8, 2011, the Court granted Defendant Montie London's Motion for Summary Judgment. The Township's Complaint against him for violation of

Township Ordinance 46 was dismissed. There was no evidence that Montie London at any time was an operator of a shooting range.

On January 3, 2012 the Township filed a Motion for Leave to Amend their Complaint. Ultimately, by this Court's Order of April 5, 2012, the Motion to Amend the Complaint was granted. An Amended Complaint was thereafter filed on April 20, 2012 raising an additional claim against each of the Defendants for a violation of Ordinance 45. In the Defendants' New Matter, they claimed, *inter alia*, that any shooting that may have occurred was done in furtherance of lawful hunting activities permitted under the provisions of the State Game Law. On August 28, 2012 the Township filed a Motion for Contempt against the Defendants alleging a violation of the Court's preliminary injunction. Testimony was held on September 12, 2012 and following the same the Court concluded that the Plaintiff had not met its burden of proof and dismissed the Petition for Contempt against each of the Defendants in each case.

Non-jury trial was scheduled in the consolidated matter for September 20 and 21, 2012. The parties were unable to conclude within that period of time and additional testimony was held before the Court on September 24, 2012, as well as the final day of proceedings on November 15, 2012. On the afternoon of Friday, September 21, 2012, at the request of the parties, the Court visited the area of Brady Township in question for a view of the premises. The attorneys for each side as well as Mr. Olan London and Township Supervisor Darryl Beatty accompanied the undersigned for purposes of the view. Following the conclusion of non-jury trial the Court entered an Order giving the parties sixty days to submit appropriate briefs to the Court. Upon Motion for Extension of Time to File Brief presented on behalf of the Township and concurred with by the Defendants, the parties confirmed that they had not received trial transcripts until December 20, 2012 and were given an additional thirty days from January 20, 2013 in which to submit briefs. The Court notes that the trial transcripts have now been filed with the record and the parties' briefs have been received. The matter is set for the Court's decision.

D. The shooting ranges or areas

(i) The "Upper Shooting Range"

Plaintiff's Exhibit 4 is a blowup of an aerial photograph of the area in Brady Township in question. The upper range is to the west of the London home and is a long rectangle that runs in an east to west direction. Its southern boundary runs directly parallel to the northern boundary line between the London and Shok properties. The Shok home, barn and outbuilding area is directly southwest of the western end of the range. A long thin shed building exists as part of the shooting range in the southern right side of the range. This building is open on the northern side, somewhat like an elaborate lean-to. There are areas in the shed where small caliber firearms may be discharged from a south to north direction. The larger portion of the range runs east to west. Persons firing would shoot from the eastern side, very close to Short Mag Lane, to the earthen barrier at the western side. Defendants' Exhibit G is a photo of part of the range, looking from east to west at the earthen barrier. The shed is not shown. Olan London testified that this range is on the Matson subdivision property. He began actual construction of the range before the purchase was completed, with Mr. Matson's consent.

(ii) The "Lower Shooting Range"

The "lower shooting range" is located at the corner of Stoney Lonesome Road, a township road, and Short Mag Lane, which leads to the London's home and the upper shooting range area. It is at a much lower elevation than the upper range. Entry is on to a private lane owned by the Londons. There are ten shooting benches/rests placed in a line north to south along and just off of the private lane. Shooting is done from these benches at an uphill angle to an earthen area carved out of the side of a hill and built up with a medium sized bulldozer. Defendants' Exhibit H shows Stoney Lonesome Road on the right. Some of the shooting benches can be seen in the center. The cleared area for shooting leading to the earthen backstop is visible between the trees on the center left side of Exhibit H. Shooting on this range is done generally from west to east. It would have to be bullets or shrapnel from this range that Glenn Schuckers complained about. Olan

London testifies that this range is not on the Matson subdivision property, but instead the property was acquired by him around the year 2000 through his son's divorce. In any event, there is no disputing that the lower range is on property owned by Linda and/or Olan London.

(iii) The .50 caliber area

The .50 caliber area is also described in this case as the "shoot house". It is located in a field at the top of the highest elevation on the London property, west and slightly north of the London home. Access is by walking or driving through the field. This area is clearly not a shooting range per se, but instead an area at the very top of the hill which provides a scenic view for several miles in all directions. It is used according to Olan London and other defense witnesses as an area to do long distance hunting. It is an informal area where a small number of persons could shoot. Initially there was a small lean-to type of structure beside the area to provide protection from the elements. See Plaintiff's Exhibit 5 and 6. Apparently this lean-to was removed in 2009. It has been replaced by a small trailer, which is on wheels and appears, with an effort, to be moveable. During the view, Olan London, using shooting binoculars on a tripod type stand, showed the undersigned a shooting target they used, which was on a hillside more than a considerable distance away. The existing trailer is shown, at a distance, on Defendants' Exhibit D. Exhibit D also shows the beginning of Miknis Road, a township road that the Londons would fire across from the shoot house. This is the road that Mrs. Shok became too concerned to walk on. It is from the shoot house that .50 caliber rifles were discharged. The Court considers the .50 caliber or shoot house area relevant only in consideration of the provisions of Ordinance 45.

E. Claim of Prior Non-Conforming Use

The Londons argue that the shooting ranges were established upon their properties prior to the enactment of Ordinance 46 and as such are grandfathered and not subject to the regulatory provisions of the Ordinance. However, their argument fails on factual and legal grounds. From the beginning of this matter, prior to the approval of the Matson subdivision, the Londons had agreed with the Township that they would follow all NRA guidelines and safety standards to

create their shooting range or ranges on the property. The representations at various Township meetings by Olan and Lonnie London clearly indicate their agreement to the subdivision narrative addendum and that NRA design and safety guidelines applied to any potential shooting ranges. Nevertheless, Olan London began moving earth to begin construction of the upper range without regard for any subdivision approval or guideline whether from the NRA handbook or otherwise. Olan London admitted during his testimony that he began construction of the upper range prior to the actual transfer of the Matson's subdivision property to Linda London.

The Court notes that the burden of proving the existence or extent of a non-conforming use rests on the property owner who would claim the benefits. The right to maintain a non-conforming use is only available for uses that were lawful when they came into existence and which existed when an ordinance took effect. It is the burden of the party proposing the existence of such a use to establish both its existence and legality before the enactment of the ordinance at issue. This burden includes the requirement of conclusive proof by way of objective evidence of the precise extent, nature, time of creation and continuation of the alleged non-conforming use. *Lamar Advantage GP Co. vs. Zoning Hearing Bd. of Adjustments of the City of Pittsburgh*, 997 A.2d 423 (Pa.Cmwlt. Ct. 2010). The benefit of legal non-conforming use status is available only for a lawful use which existed on the land when the ordinance took effect and it is the burden of the party proposing the existence of such non-conforming use to establish both its existence and legality before the enactment of the ordinance at issue. *Lantos vs. Zoning Hearing Bd. of Haverford Twp.*, 621 A.2d 1208 (Pa.Cmwlt. 1993). Pre-existing illegal uses cannot become non-conforming uses with a protected right to exist upon enactment of an ordinance prohibiting them. *Hager vs. W. Rock Hill Twp. Zoning Hearing Bd.*, 795 A.2d 1104 (Pa.Cmwlt. 2002).

The record in this case does not reflect any specific testimony of the Londons nor evidence submitted to warrant a finding of prior non-conforming use. No reliable evidence indicates the date of establishment of a non-conforming use. No testimony or evidence was offered as to the extent of the shooting activities conducted on the properties. Bulldozing on the upper range

property, either before or following the approval of the subdivision, hardly constitutes a prior non-conforming use. Various statements made by Olan and Lonnie London at Township meetings indicate that they envisioned several potential options for the property, whether they were recreational hunting, private club, public shooting range or certain charitable endeavors related thereto. To meet their burden of establishing a prior non-conforming use the Londons are bound to establish the extent, nature, time of creation and duration of the non-conforming use. The Londons have failed to meet their factual burden in this regard. Lastly, without question the purchase of the land was strictly subject to language agreed upon relative the subdivision approval which required specific safety measures and adherence to NRA shooting range standards. Legally the Londons were bound by the subdivision requirements, but failed to follow through as had been agreed. This renders the establishment of any shooting range as illegal, even if the establishment did pre-date the enactment of Ordinance 46. The requirements of Ordinance 46 for safety and adherence to the NRA shooting range standards was in essence no different than the requirements contained within the subdivision approval, and as agreed to by the Londons.

Even assuming *arguendo* that the Londons' activities on the property are found to be a grandfathered shooting range, changes to the shooting range following enactment of Ordinance 46 undermine the prior use claim. The credible testimony of Dr. and Mrs. Shok showed that the character of the upper range changed dramatically from 2006 through the summer of 2007. The earthen embankment was constructed in 2007, after the Ordinance was passed and during the period of time that the Shoks were on vacation. Additionally, the testimony showed that the long lean-to structure on the upper range did not exist prior to June 2007. This is confirmed by the minutes of the June 21, 2007 Township meeting, Plaintiff's Exhibit 16, which notes that prior Supervisor Lester Wachob was on the London property. Olan London was constructing the "lean-to" shooting building on the upper range. Mr. Wachob was upset as Mr. London had no building or land use permit. Mr. London said he didn't think he needed one. This defeats any argument by

the Londons that the current use is sufficiently similar to the prior non-conforming use, such that it is exempt from the provisions of Ordinance 46.

F. The Claim that Ordinance 46 is Unconstitutional as Void for Vagueness

The Londons' claim that Ordinance 46 is constitutionally deficient as the definition of shooting range is so vague that no reasonable person could determine what is or is not a shooting range under its provisions. It is a basic legal principle that ordinances and statutes are presumed to be constitutional. A heavy burden is placed on the individual seeking to challenge the constitutionality of an ordinance. *Cmwlth. vs. Ebaugh*, 783 A.2d 846 (Pa.Cmwlth. 2001). A statute is constitutionally void only if it is so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application. A vague law impermissibly delegates basic policy matters for a resolution on a subjective basis, with the intended dangers of arbitrary and discriminatory application. However, a statute will not be deemed unconstitutionally vague if the terms, when read in context, are sufficiently specific that they are not subject to arbitrary and discriminatory application. *Cmwlth. vs. Cotto*, 753 A.2d 217 (Pa. 2000). *See also, Crews vs. City of Chester*, 35 A.3d 1267 (Pa.Cmwlth. 2012).

The Court has referenced different definitions of a shooting range and rifle range:

- A. 1. Rifle range – a place for practicing shooting with rifles.
2. Shooting range – an area provided with targets for the controlled practice of shooting.
See: www.Oxforddictionaries.com
- B. Rifle range – an area used for target practice with rifles
See: www.Collinsdictionary.com
- C. Rifle range – a place where people practice shooting with a rifle
See: www.Macmillandictionary.com
- D. Shooting range – a specialized facility designed for firearms practice. Each facility is typically overseen by one or more supervisory personnel, called a *range master* or "RSO – Range Safety Officer."
See: www.Wikipedia.org

Although poorly written in some regards, Ordinance 46 does afford a person of ordinary intelligence a readily comprehensible and reasonable understanding as to what is being regulated.

The various definitions of shooting range or rifle range set forth above do not differ materially from the definition in the Ordinance. The Londons may be confusing the proof required to show a violation of the shooting range Ordinance with an actual recognition of a shooting range based upon the definition contained within the Ordinance. This being said, there is no question but that the upper range and the lower range are both shooting ranges. The fact that they are shooting ranges was not contested by the Londons during the course of the non-jury trial. The Londons have argued that the shooting ranges existed prior to the enactment of Ordinance 46 and are grandfathered as non-conforming uses. Now, they indicate that they don't know what a shooting range is from the definition provided by Ordinance 46. The Court also notes that in both of the cases filed against Olan London, in his Response to Petition for Special Relief filed with the record on or about August 4, 2010, paragraph 1 thereof, Olan London in regard to the upper range provides an answer which states, "It is admitted that the Defendant has constructed a firing range on his Wife's property where he resides." The Court also notes that the other Defendants give the exact same response as just quoted in their response to the Township's Petition for Special Relief and Injunctive Relief. Although the response is clearly tailored to Olan London, in essence, that response is admitting that there is a shooting range in the area that has been described as the upper range. Clearly, the Londons know a shooting range when they construct and see it.

The Court also notes that during the view there was no doubt that the lower range and upper range are indeed shooting ranges. There was nothing vague about it. In addition, at the time of trial Olan and Lonnie London testified the Defendants had in fact obtained a report regarding the establishment of the ranges from a National Rifle Association engineer who allegedly came to the sites and made recommendations, including the construction of the earthen wall (described as a baffle by Olan London) identified by Mrs. Shok as having appeared in June or July 2007.³ This NRA engineer, Michael Banoski, is now alleged to be deceased. This report was

³ Lonnie London had also indicated during the Township meeting of February 5, 2007 that he didn't want representatives of the National Rifle Association to come in, and if the Township wanted the NRA it could pay the expenses. Plaintiff's Exhibit 16.

not available at time of the non-jury trial and according to Lonnie London allegedly could not now be located. Lonnie London claimed that at a prior Township meeting he had offered the report to the Supervisors but that they had refused to accept it.⁴ As the Township had consistently requested an engineering report of the design and establishment of the shooting ranges based upon NRA safety standards, testimony that such a report was offered by the Londons and refused by the Township Supervisors is clearly not credible. However, the testimony does show that Olan and Lonnie London were aware that shooting ranges had been established. There seemed to be no confusion as to what was a shooting range at that time.

In conclusion, upon review the evidence presented in this case it is reasonable to conclude that the areas designated as the upper and lower ranges fall within the Ordinance definition of a shooting range, and that the Defendants have not met their burden of the party seeking to challenge the constitutionality of the ordinance based upon vagueness of the definition of a shooting range or rifle range.

G. The Claim of Discrimination/Violation of Equal Protection

The Londons are claiming that their rights to Equal Protection under the United States and Pennsylvania Constitutions are being denied as they are being unfairly singled out for ordinance enforcement by the Township. The purpose of the Equal Protection clause of the Fourteenth Amendment of the United States Constitution is to secure every person within a state's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through state acting agents. *Village of Willowbrook vs. Olech*, 528 U.S. 562, 120 S.Ct. 1073 (2000). Here the Londons are required to show that they have been intentionally treated differently from other similarly situated and that there was no rational basis for the difference in treatment. Generally, a person relying upon an Equal Protection claim must show intentional discrimination because of the membership in a particular

⁴ The record reflects that at the February 15, 2007 Township meeting Lonnie London offered a print from the NRA Sourcebook for a 100 yard shooting range. This print was only a copy of a page from the NRA Sourcebook. It was in no way tailored to the Londons' ranges and not prepared by an engineer. See also The minutes of the Township meeting of March 5, 2007. Plaintiff's Exhibit 16. This Court also notes there is no reference to NRA engineer Michael Banoski in the Township minutes.

class, not merely that he or she was treated unfairly as an individual. *Uniontown Newspapers, Inc. vs. Roberts*, 839 A.2d 185 (Pa. 2003). Further, it would have to be shown that Brady Township's demands under the Ordinance were irrational, wholly arbitrary and motivated by animus or ill-will. *Golembiewski v. Logie*, 852 F.Supp.2d 908 (N.D. Ohio 2012); *see also, Probst v. Com., Dept. of Transp., Bureau of Driver Licensing*, 849 A.2d 1135 (Pa. 2004).

In essence, the Londons claim that their shooting ranges are being singled out for enforcement proceedings under Ordinance 46 when no other township shooting range is being requested to comply. As evidence of the same, the testimony of Montie London was presented on September 21, 2012; Defendants' Exhibit E was introduced purporting to show a photo of the shooting range on the Arbaugh property. An examination of Defendants' Exhibit E reveals no obvious shooting range depicted thereon, although it is possible that a target is shown in a field on the upper right hand corner of the photograph. Exhibit F purports to be a photograph of the Scrubmasters Shooting Range. However, an examination of Exhibit F shows no shooting range visible to the undersigned. Finally, Defendants' Exhibit C purportedly depicts the Jack Gray property shooting range which again is not visible to the undersigned. It is of interest to note that during his testimony Montie London indicated as to all three of the shooting ranges described in Exhibits C, E and F that he had never seen anyone shooting there. There was also testimony to another shooting range which existed in another part of Brady Township on Route 219 prior to the difficulties with the London property and the enactment of Ordinance 46. Testimony from the Township did indicate that there were no ordinance enforcement proceedings underway in regard to the 219 or any other shooting range.

It is difficult for the Court to see how any valid argument can be made by the Londons that they are being subjected to intentional discrimination and that their Equal Protection rights are being violated. Registered Engineer Wilson Fisher had discussed his concerns with the deficiencies of range design, standards and safety with Township officials relative the subdivision request. The provisions of the Matson subdivision approval which required shooting ranges

designed to NRA standards and specifications was agreed to by the Londons in advance. After the subdivision was approved, the Londons failed to comply, even though Olan London had already started excavating the upper range. The Township found itself in a quandary, where the Londons had made plenty of assurances and had followed through with none of them. Competent evidence showed that there was a high volume of shooting ongoing in the area causing a plethora of complaints by other Township residents. It is fairly easy for the Township to make a legitimate assumption that based upon circumstantial evidence the majority, if not all, of the shooting was coming from property owned by the Londons.

As a result of the Londons' failure to comply with what they had agreed following the subdivision approval, the Supervisors received legal advice indicating that enforcement would be impossible without a Township ordinance being in place. As previously detailed herein, an ordinance was ultimately passed after months of discussion with the Londons as to the content of the ordinance. The Township appears to have gone to great lengths to attempt to work with the Londons in 2006 and early 2007. This process is described in Plaintiff's Exhibits 13 and 16. This was both to attempt to ensure the safety of Township residents and the appropriate design of any shooting range, while at the same time trying to protect the Londons' Second Amendment Rights.

The Township ultimately decided to file violation proceedings against the Londons at the Magisterial District Judge's office. The Londons then claimed that on the one hand the shooting ranges were in existence before the passage of the ordinance and as such were grandfathered; on the other hand they claimed they didn't know how a shooting range was defined and that the ordinance was constitutionally unenforceable as vague. As to the discrimination claim, it is unclear if the alleged shooting ranges described by Montie London in his testimony pre-date the passage of the ordinance.

In order to further show the shooting ranges were not designed safely, the Township presented their witness Richard Hughes. Mr. Hughes is a registered engineer, with a BS in Civil Engineering and MS in Engineering Science from Penn State. He is registered in seven states and

has decades of experience in the engineering field and as an expert witness. Mr. Hughes is also an avid hunter, NRA member and has constructed his own rifle range using NRA standards.

Plaintiff's Exhibit 16 shows Mr. Hughes had been present for the Township meeting on November 6, 2006 where he discussed design and safety issues regarding shooting ranges; he suggested at that time involving Guardian Inspection and then calling in the NRA. Olan, Lonnie and Montie London were present at this meeting. Prior to trial, he visited the lower range and found its design and use to be unsafe due to shooting occurring parallel to the road with no berms or mitigation. In his opinion the end of the range had no appropriate backstop, just shale in the side of the hill off of which bullets can ricochet. As to the shoot house area, he considered the situation with shooting over the road to be extremely dangerous. Mr. Hughes did not see the upper range. The Court found his testimony to be relevant and credible.

In any event, it makes perfect legal sense for the Supervisors to attempt to deal with the Londons and test the legality of the ordinance with this Court under these circumstances before attempting to apply the ordinance to any other potential shooting range in the Township. Two engineers have advised the Township the ranges are unsafe. The ranges and the Londons are the subject of considerable public complaint. The Londons gave numerous assurances as to safe design following NRA standards and failed to follow through. The Township clearly attempted to work with the Londons in good faith. Under the circumstances the Township Supervisors have acted reasonably and cannot be said to have engaged in discrimination in violation of the Londons right of Equal Protection. This claim must fail.

H. Violation of Ordinance 46

The Court will now examine whether the Defendants have violated the provisions of the Township's Shooting Range Ordinance.

- (i) Linda London.** The Township claims that Mrs. London has violated the Shooting Range Ordinance on two occasions. One violation is for construction of the upper range, while the other is for the March 31, 2007 shoot at the lower range. As

previously noted, the regulatory provisions of the Ordinance only apply to an operator as defined by the Ordinance. There is no direct evidence in this case that Mrs. London is or was an operator of either range. The evidence showed no indication that Mrs. London ever appeared at any Township meeting to discuss the shooting ranges. Although Township secretary Sheryl DeBoer, who the Court found to be a competent and reliable witness, testified that Mrs. London "was to a couple" meetings, Plaintiff's Exhibits 13 and 16 exclude her attendance at any meetings described therein. Her name was mentioned in the minutes of the February 15, 2007 meeting noting she was the owner of the property and had filled out the Recreational Cabin Affidavit. (This recreation cabin was proposed by the Londons, but never built.) At the March 5, 2007 meeting she was not present even though the Supervisors apparently had requested her to attend. When Olan London was asked if he was authorized to speak for her, no answer was recorded. Instead, Attorney Lavelle rose and engaged in discourse with the Supervisors. *See generally* Plaintiff's Exhibit 16 for minutes of meetings.

No evidence shows she was at any shoot on either range or that she shot from the .50 caliber area. There is no evidence that she took any steps to construct, operate or maintain either shooting range. The Township argues that the actions of her husband Olan and son Lonnie are attributable to her, but this is not in any way direct proof. The Township could have called Mrs. London as a witness on cross during the non-jury trial and questioned her about her knowledge, actions and potential involvement, but it failed to do so.

Unfortunately the Township itself has created this difficulty. It would have been simple to include within the provisions of the ordinance language that would hold the OWNER of the property where a shooting range is located subject to the

regulatory provisions in the same manner as an operator.⁵ As the Township did not do so, it has by omission created an obstacle to enforcement. As the Court noted during the testimony of Mrs. DeBoer, it is inconceivable to believe that Mrs. London did not know what was going on in regard to the issues involving the shooting ranges. As owner of the property, wife of Olan London and mother of Lonnie and Montie London these issues undoubtedly were discussed. However, under the definitions contained with the Ordinance, knowledge does not an operator make. Operation requires action and deeds, not mere knowledge. As the Township has not met its burden of proof to show she was an operator of a shooting range, the Court will dismiss the two violations of Ordinance 46 against Linda London.

- (ii) **Montie London.** As previously set forth, by Order of December 8, 2011 the violation of Ordinance 46 claim against Montie London was dismissed.
- (iii) **Olan London and Lonnie London.** Lastly, the Court must determine if Olan and/or Lonnie London have violated the shooting range Ordinance. As previously stated, two instances for Olan London must be considered, being construction of the upper range and for the March 31, 2007 shoot. For Lonnie London only as to the March 31, 2007 shoot.

The first issue to determine is whether the evidence has shown that either or both of the said Defendants are an "operator" as defined by Ordinance 46. The Court believes that the evidence submitted does show that both Defendants are properly considered as operators. The record shows that both Defendants attended many Township meetings and discussed a plethora of proposals as to how they intended to operate their two shooting ranges. These proposals as well as their trial testimony included operating the ranges on regular hours, days,

⁵ The evidence clearly shows Linda London is the owner of the property where the upper range and the .50 caliber area are located.

organized shoots and the number of people who may be present.⁶ The two shooting ranges were actually constructed. A mock shoot was held in September, 2006, as well as the shoot on March 31, 2007. Circumstantial evidence shows there was both regular and irregular use of the ranges. The proposals for use meet the definition of "a place . . . intended for the safe discharge, on a regular and structured basis, of firearms . . . for target practice or . . . competitions" set forth in the Ordinance for a shooting range. (Emphasis added).

Olan London constructed portions of the upper range and built the shooting lean-to⁷ after the Township Ordinance was passed. Olan and Lonnie London were both present for the March 31, 2007 shoot. It doesn't matter if the shooting ranges were for profit or not, as both instances are covered in the Ordinance. The Londons, by their own admission, did not comply with the design submission and receipt of Township approval requirements in the Ordinance. The Court has determined the Ordinance is valid. Accordingly, the two violations of the Ordinance by Olan London and the one violation by Lonnie London have been proven.

I. Violation of Ordinance 45

As to any violation of the shooting over the township roads Ordinance, no enforcement proceedings were filed by the Township against any of the Defendants at the Magisterial District Judge's office. As such, no fines were imposed that are subject to review by the Court of Common Pleas. Instead, the Township is requesting the Court to enter a permanent injunction against the Defendants to prevent them from shooting across any Township roads except when done for hunting in compliance with State Game Laws.

⁶ Lonnie London testified that up to 80 people at one shoot could use the lower range; use the 10 existing benches and shoot in sequence of 8 relays.

⁷ The shooting lean-to is of considerable length and is a fixed and substantial structure; it is not a shed or inconsequential building. It is unfortunate that apparently no photographs of it were taken for introduction into evidence. The same can be said as to no photographs of the upper range being introduced except one, which is only a partial view of the earthen wall, or 'baffle' as described by Olan London.

The evidence presented showed that Olan London, along with various family members and friends, would from time to time shoot over the Township road from the .50 caliber area. Shooting was not always with .50 caliber rifles. Smaller calibers were also used. Olan London says they were hunting groundhogs or deer. The Township says it was for target practice. As noted, during the view the undersigned was shown through binoculars a target which was used. The Court believes the competent evidence, direct and also to a significant length circumstantial, taken as a whole establishes multiple instances of shooting from the .50 caliber area for both targets and hunting, the former being in violation of the Ordinance.

As the Ordinance makes it unlawful to both discharge a firearm over a Township road and authorize or permit any discharge of any firearm over a Township road from a person's property, the scope of this Ordinance is broader than the one governing the shooting ranges. It covers Linda London as the owner of the property on which the .50 caliber range is located. It includes Olan and Lonnie London who shoot from the .50 caliber area. An injunction will be entered against Linda, Olan and Lonnie London precluding violation of the provisions of Ordinance 45.

In their New Matter to the Amended Complaint, the Londons raise the affirmative defenses of *res judicata* and *collateral estoppel*. No constitutional issues were pleaded or raised. No argument on the legal issues of *res judicata* or *collateral estoppel* was set forth in the Defendants' brief. The Court finds that these legal defenses are not relevant to this case. *Collateral estoppel* is defined as an affirmative defense barring a party from re-litigating an issue determined against that party in an earlier action. *Res judicata* is an issue that has been definitively settled by judicial decision; it is also defined as an affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction. See generally *Black's Law Dictionary, Seventh Edition, 1999*, West Group. As there has been no prior litigation among the parties as to Ordinance 45 or shooting over Brady Township roads, these affirmative defenses are not applicable.

J. Issuance of an Injunction

In this case Brady Township is requesting that the Court issue a permanent injunction in regard to both the shooting range Ordinance and the shooting over the highway Ordinance. In regard to the shooting ranges, the Court is being asked to find not only a specific violation under the Ordinance resulting in a civil penalty and costs being imposed, but also that the Defendants be enjoined from utilizing the shooting ranges until the requirements of the Ordinance are met and the Township authorizes their use. In regard to the shooting over the highway Ordinance, as noted no specific civil penalty is being requested, but instead that the Defendants be enjoined from shooting over Township roads with the exception of hunting in compliance with the Game Laws. In their brief, the Defendants claim that since a remedy for a violation already exists in each Ordinance, the Court cannot issue the injunction but instead the Township must rely on future alleged violation of either Ordinance and proceed to the Magisterial District Judge.

Generally speaking, a court operating in equity may not interfere to prevent an act merely because the act is illegal. Although a court may have equitable jurisdiction, that does not necessarily mean it can issue an injunction to enjoin a violation of a statute. *Cmwlt. Dep't. of Transp. v. Beam*, 756 A.2d 1179 (Pa. Cmwlt. 2000), reversed on other grounds, 788 A.2d 357 (Pa. 2002). The logic behind the general rule is that in many instances a court would have no practical method of assuring future compliance and may be assuming an impossible burden in attempting to enjoin the commission of the act. *Pennsylvania Soc'y for Prevention of Cruelty of Animals v. Bravo Enterprises, Inc.*, 237 A.2d 342 (Pa. 1968).

In order to establish a claim for a permanent injunction, the party must prove the following elements relevant to the claim; 1) the right to relief is clear; 2) the injunction is necessary to avoid an injury that cannot be compensated by damages; and 3) that greater injury will result if the court does not grant the injunction than if it does. *Doe v. Zappala*, 987 A.2d 190 (Pa. Cmwlt. 2009). These factors go hand in hand with the proposition that the Courts of the Common Pleas have jurisdiction to restrain public nuisances under certain circumstances. The

mere fact that there is a remedy at law will not alone prevent the exercise of the power. The equity court has the right to issue an injunction for the prevention or restraint of the commission or continuance of acts contrary to law and prejudicial to the interests of the community or the rights of individuals. *Cmwlt. ex rel. Woods v. Soboleski*, 153 A. 898 (Pa. 1931). *See also Boggs v. Werner*, 94 A.2d. 50 (Pa. 1953).

Our Commonwealth Court has held that a permanent injunction may issue to prevent the non-conforming use of a defendant's property in violation of a township zoning ordinance. In *Bd. of Supervisors of West Brandywine Twp. v. Matlack*, 394 A.2d 639 (Pa. Cmwlt. 1978), it was held that the Common Pleas Court had equity jurisdiction where the supervisors sought an injunction restraining further expansion of the non-conforming use of the property and that the court's powers were not limited to merely imposing penalties for specific violations. In the case of *Babin v. City of Lancaster*, 493 A.2d 141 (Pa. Cmwlt. 1985), the Commonwealth Court held it was not improper for the Court of Common Pleas sitting in equity to impose both an injunction and a civil fine on the owners of a health club which was in reality operating as a massage parlor in violation of zoning requirements. In *Canton Twp. v. Bedillion*, 7 Pa. D&C 2nd 716 (Washington Cnty. 1955), the Township had enacted an ordinance preventing the establishment of junk automobile yards and had indicated in the preamble to the ordinance that the junking or accumulation of wrecked cars within the township was a nuisance. In that case, the Court of Common Pleas imposed a permanent injunction against the defendants, restraining them from henceforth storing abandoned or junked automobiles upon their property.

The Court has previously noted that both Township Ordinances provide for civil enforcement of specific violations and penalties related thereto. The enforcement provisions for specific violations are to be filed originally with the office of the Magisterial District Judge. However, both Ordinances specifically indicate that "[F]urther, the Township may enforce any violation of this Ordinance through an equity action brought in the Court of Common Pleas..." Ordinance 46, page 8, section 10. Ordinance 45, page 2, section 5. Clearly this language was

inserted to permit the Township to request an injunction through the Court of Common Pleas sitting in equity.

Here, the evidence has shown that the Township has established the three required elements for an injunction against Olan and Lonnie London relative the shooting ranges. The Township has not proven a clear right to relief against Linda and Montie London in regard to the shooting range Ordinance. Concerning the shooting over the public road Ordinance, the required elements have been established for an injunction to be entered against Linda, Olan and Lonnie London. A clear right to relief has not been established against Montie London. Since the Londons have claimed they only shoot over Township roads for hunting, they should have no complaint about an injunction which prohibits target shooting over Township roads.

ORDER

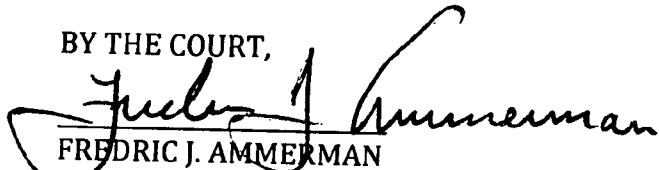
NOW, this 19th day of September, 2013, following non-jury trial, the filing of the trial transcript, receipt of the parties' briefs and the Court's review and consideration of the testimony of the witnesses, the exhibits, the Court's view of the property in question and the entire record, consistent with the foregoing Opinion; it is the findings and ORDER of this Court as follows:

1. The Court finds that Brady Township has not proven a violation of the shooting range Ordinance against Linda London. The original Complaints filed against Linda London to No. 2008-1290-CD and No. 2008-1295-CD are hereby DISMISSED.
2. Brady Township has established a violation of the shooting range Ordinance against Olan London in case 2008-1291-CD. A penalty in the amount of \$600.00, plus costs, is hereby imposed.

3. Brady Township has established a violation of the shooting range Ordinance against Olan London in case No. 2008-1292-CD. A penalty in the amount of \$600.00, plus costs, is hereby imposed.
4. Brady Township has established a violation of the shooting range Ordinance against Lonnie London in case No. 2008-1293-CD. A penalty in the amount of \$600.00, plus costs, is hereby imposed.
5. As noted in the Court's Opinion the shooting range violation claim against Montie London to case No. 2008-1294-CD was previously dismissed by this Court's Order of December 8, 2011.
6. Brady Township's Amended Complaint filed against Montie London requesting an injunction as to the shooting over the Township's roads is hereby DISMISSED.
7. The Township's request for a permanent injunction in its Amended Complaint precluding future violations of the shooting range Ordinance against Olan London and Lonnie London is hereby GRANTED. Olan London and Lonnie London are hereby enjoined and prohibited to conduct, or in any manner promote, permit, allow or participate in, any "shoots" and any shooting range type of activities on the property subject to this litigation until such time as Brady Township certifies that they have complied with the requirements of Ordinance 46. The Township's request for an injunction against Linda London and Montie London is hereby DENIED, and the Amended Complaints filed against them are DISMISSED.
8. The injunction entered by the Court in paragraph 7 above does not prohibit the said Defendants from engaging in personal shooting activities on their property. The injunction and prohibition is only in regard to shooting range conduct as defined and described within Ordinance 46.
9. The Township's request for a permanent injunction in its Amended Complaint precluding future violations of the shooting over public highways Ordinance against Linda London,

Olan London and Lonnie London is hereby GRANTED. Linda London, Olan London and Lonnie London are hereby enjoined and prohibited to conduct, or in any manner promote, permit , allow or participate in any target or non-hunting shooting activities across all public highways in Brady Township. Any hunting activities that involve shooting over any public highway must be done in compliance with the Pennsylvania State Game laws. The Township's request for an injunction against Montie London is hereby DENIED, and the Amended Complaint filed against him is DISMISSED..

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED

SEP 19 2013

William A. Shaw
Prothonotary/Clerk of Courts

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