

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Allegheny

County

For Prothonotary Use Only:

Docket No:

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint Writ of Summons Petition
 Transfer from Another Jurisdiction Declaration of Taking

Lead Plaintiff's Name:
John LeCornu, Anne Clarke Ronce

Lead Defendant's Name:
Borough of Sewickley

Are money damages requested? Yes No Dollar Amount Requested: within arbitration limits outside arbitration limits (check one)

Is this a *Class Action Suit*? Yes No Is this an *MDJ Appeal*? Yes No

Name of Plaintiff/Appellant's Attorney: Peter N. Georgiades, Esquire
 Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other _____
 Employment Dispute: Discrimination
 Employment Dispute: Other _____
 Other: _____

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other _____
 Zoning Board
 Other: _____

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other: _____

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other: _____

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations Restraining Order
 Quo Warranto
 Replevin
 Other: Complaint Under Sunshine Act

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional: _____

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JOHN LECORNU; and ANNE CLARKE
RONCE;

Plaintiffs,

vs.

BOROUGH OF SEWICKLEY,

Defendant.

CIVIL DIVISION

Case No. GD-16-_____

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiffs

Counsel of Record for this Party:

Peter N. Georgiades, Esquire
Pa. I.D. No. 25554
peterg@pnglaw.us

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IN THE COURT OF COMMON PLEAS OF ALLEGHEY COUNTY, PENNSYLVANIA

JOHN LECORNU; and
ANNE CLARKE RONCE

Case No. GD _____

Plaintiffs,

vs.

BOROUGH OF SEWICKLEY,

Defendant.

NOTICE TO DEFEND

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 any further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiffs. You may lose money or property or other rights important to you.

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

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

**Lawyer Referral Services
The Allegheny County Bar Association
11th Floor Koppers Building, 436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 261-5555**

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JOHN LECORNU; and,
ANNE CLARKE RONCE

: No. GD-17 _____

Plaintiffs,

vs.

BOROUGH OF SEWICKLEY,

Defendant.

COMPLAINT IN CIVIL ACTION

Nature of this Action

1. This is an action brought by residents of the Borough of Sewickley for violation of the Pennsylvania Sunshine Act, 65 Pa.C.S. § 701, et seq.

Parties Before the Court

2. Plaintiff John LeCornu is an adult individual who resides at 601 Locust Place, Borough of Sewickley, County of Allegheny, Pennsylvania.

3. Plaintiff Anne Clarke Ronce is an adult individual who resides at 540 Academy Avenue, Borough of Sewickley, County of Allegheny, Pennsylvania.

4. Defendant Borough of Sewickley is a municipal authority constituted pursuant to the laws of the Commonwealth of Pennsylvania, and an “agency” as that term is defined in the Sunshine Act, 65 Pa.C.S. § 703. Its offices are at 601 Thorn Street, Borough of Sewickley, Allegheny County, Pennsylvania.

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Facts Which Give Rise to this Complaint

5. Pursuant to the Borough of Sewickley Zoning Ordinance and the Pennsylvania Municipalities Planning Code, the City Council of the Borough of Sewickley is the agency vested with the authority and responsibility of hearing and deciding upon applications for conditional use permits for the Borough of Sewickley.

6. On November 21, 2016, the Sewickley Borough Council held a public hearing upon conditional use and land development applications sought by a developer, Hoey's Run, LLC, with respect to a land development project Hoey's Run, LLC has undertaken in Sewickley Borough. This proceeding shall hereinafter be referred to as "the Hearing."

7. The project for which Hoey's Run, LLC sought a conditional use approval and land development approval consists of the development of two condominium buildings in a commercial district within Sewickley known as "the Village."

8. There is a high level of interest in the Hoey's Run project among citizens of Sewickley, a number of whom have joined together to form an unincorporated, non-profit association known as "Character Matters."

9. All of the members of Character Matters are concerned with the effect the Hoey's Run Project will have upon the historical nature of the commercial and shopping section of Sewickley generally known as "the Village," with resulting effect upon the Borough of Sewickley proper.

10. The Plaintiffs, and the members of the Character Matters organization, are also concerned that the conduct of the business of the Borough of Sewickley by its elected officials be fair, open, transparent, and compliant in every way with the laws of the Commonwealth of Pennsylvania.

11. Plaintiff Anne Clarke Ronce is the Secretary/Treasurer of Character Matters. In this action Ms. Ronce seeks to assert her interests as a property owner and resident of the Borough of Sewickley, as well as the interests of the membership of Character Matters.

12. The decision of the Sewickley Borough Council upon the conditional use application of Hoey's Run, LLC constitutes "official action" within the meaning of the Sunshine Act, 65 Pa.C.S. § 703.

13. At the Hearing, Sewickley Borough Council took testimony, accepted some public comment, and then deliberated and voted upon the application of Hoey's Run, LLC for a conditional use.

14. The venue for the Hearing was a hearing room within the Sewickley Borough Building, located at 601 Thorn Street in the Borough of Sewickley.

15. There are 40 seats within the hearing room where the Hearing was held, which is the place the Sewickley Borough Council made its deliberations and voted on the conditional use application.

16. Due to the unusually high level of interest among the citizens of Sewickley, more people appeared to observe the Hearing than is common for hearings upon land use permits or applications within the Borough of Sewickley.

17. From the outset of the Hearing, all 40 seats within the hearing room were filled, and people were standing three abreast in two aisles that run down either side of the seating area within the hearing room.

18. The crowd of people who sought to attend and observe the Hearing backed up into a vestibule area just outside the hearing room, and backed up further out into a hallway beyond the vestibule.

19. Those standing in the vestibule area and in the hallway beyond the vestibule could not gain access to the Hearing due to a lack of space for any more people within the hearing room.

20. With the exception of those who might be standing in two doorways separating the vestibule from the hearing room, those standing in the vestibule could neither see nor hear the proceedings within.

21. Those who were standing in the two doorways separating the vestibule from the hearing room could see into the hearing room, but were unable to see exhibits proffered by the parties to the proceeding, and could not hear much of what was being said during the Hearing.

22. Those who were standing in the hallway outside the vestibule of the hearing room could neither see nor hear what was transpiring in the hearing room.

23. A number of people who went to the Sewickley Borough building to observe the Hearing were unable to gain entry, and eventually left rather than stand in a hallway where they could not see or hear the proceedings. These people were effectively turned away.

24. No public address system was in use during the Hearing. Nor was any other provision made to accommodate the desire of those who could not fit into the hearing room to observe what was transpiring during the Hearing.

25. Due to the number of people in the hearing room and the lack of any public address system, even many within the hearing room could not hear what was being said by those who testified at the Hearing or gave public comment at the Hearing. This caused a number of those present to from time-to-time shout out the fact that they could not hear what was being said.

26. The Sewickley Borough Council made no response to the entreaties of those present who could not hear the proceedings.

27. Nor did the Sewickley Borough Council take any action in response to the obvious fact the hearing room could not accommodate the number of people who had come to attend the Hearing.

28. At the end of the Hearing, the Sewickley Borough Council voted to approve the conditional use applied for by Hoey's Run, LLC, and voted to approve the land development submitted by Hoey's Run, LLC.

29. The written decision of the Sewickley Borough Council was handed down on December 13, 2016.

30. On December 21, 2016 John LeCornu filed a statutory appeal, challenging the legality of the Sewickley Borough Council on the conditional use and land development applications of Hoey's Run, LLC. *John LeCornu, Appellant, vs. Borough of Sewickley, Appellee, vs. Hoey's Run, LLC, Intervenor*, Case No. SA – 16 – 00926.

31. Among the grounds asserted by Mr. LeCornu challenging the action of the Sewickley Borough Council at the Hearing was that the venue was insufficient to allow all those who had come to see and hear the proceedings to see and hear the proceedings.

32. More particularly, Mr. LeCornu alleged that Sewickley Borough Council did not hold the November 21, 2016 meeting “at a venue that could accommodate the large crowd of residents ... many of whom were prevented from fully participating in the meeting by virtue of being forced to stand in the hallway outside the meeting room,” and that a “change of venue was obviously called for given that the number of residents who appeared at the previous meeting on the ... proposed project on October 5th, 2016 also overflowed the Borough Council room.”

33. Anne Clarke Ronce, among others, then sought to intervene in the Statutory Appeal. This Court (per the Hon. Joseph M. James) granted Anne Clarke Ronce leave to intervene.

34. Hoey’s Run, LLC, filed a Motion to Quash the Statutory Appeal at Case No. SA – 16 – 00926.

35. Following a hearing on March 20, 2017, the Court (Per the Hon. Joseph M. James) quashed the appeal. The Court held that the Appellant and Intervenors’ claim the Borough of Sewickley violated the Sunshine Act could not or should not be adjudicated as a statutory appeal under the Municipalities Planning Code, 53 P.S. § 10101, *et seq.*, and should be brought as a civil action on the General

Docket of this Court. A true and correct copy of the Court's Order, dated March 20, 2017, is attached to this Complaint and marked for identification as "Exhibit 1."

36. The Plaintiffs hereby assert this action for violation of the Sunshine Act pursuant to 65 Pa.C.S. § 713.

Claim for Relief

37. The Sunshine Act gives all interested persons the right to be present at all public meetings of agencies of their municipalities, and to witness the deliberations and decision-making of that agency.

38. By conducting the Hearing on November 21, 2016 without taking reasonable steps to assure that all interested members of the public could see and hear the proceedings, the Sewickley Borough Council violated the rights of citizens to attend the Hearing and witness the proceedings, in violation of 65 Pa.C.S. § 704.

WHEREFORE, the Plaintiffs respectfully pray this Court will hold the meeting of the Sewickley Borough Council at the November 16, 2016 Hearing did not meet the requirements of the Sunshine Act, and declare the action of the Sewickley Borough Council at the November 16, 2016 Hearing to therefore be invalid.

Respectfully submitted,



Peter N. Georgiades (Pa.I.D. No. 25554)
Georgiades & Associates, P.C.
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Pittsburgh, PA 15203
(412) 381-5190
Attorneys for the Plaintiffs.

VERIFICATION

I HEREBY VERIFY that I am a Plaintiff named in the foregoing "Complaint in Civil Action, and that the statements of fact set forth therein are true and correct. I understand that the statements made herein are made subject to the penalties of perjury, pursuant to 18 Pa.C.S.A. § 4904 (relating to unsworn falsification to authorities).


Dated: 3/30/2017



VERIFICATION

I HEREBY VERIFY that I am a Plaintiff named in the foregoing Complaint in Civil Action, and that the statements of fact set forth therein are true and correct. I understand that the statements made herein are made subject to the penalties of perjury, pursuant to 18 Pa.C.S.A. § 4904 (relating to unsworn falsification to authorities)

Dated: 5-28-17


Anne Clark Roney

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JOHN LECORNU,

Appellant,

v.

BOROUGH OF SEWICKLEY,

Appellee,

and

HOEY'S RUN, LLC,

Intervenor.

CIVIL DIVISION

Case No. SA 16 - 000926

ORDER OF COURT

AND NOW, to wit, this 20th day of MARCH, 2017, it is hereby

ORDERED that the Motion to Quash is granted. The claim for violation of the Sunshine ~~Act~~ must be filed as a separate Complaint.

BY THE COURT:

Joseph James J.

EXHIBIT 1
to
COMPLAINT