

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1440 CD 2017

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August 19, 2018



CAPTION

The Faithful Laurentians, By Their
Trustees Ad Litem, Carolyn Devine
and Venise Whitaker,
Appellants

v.

City of Philadelphia, Zoning Board of
Adjustments

v.

1600 Berks, LLC

CASE INFORMATION

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: May 10, 2018 Awaiting Consideration

Journal Number:

Case Category: Civil Case Type(s): Zoning/Land Use

CONSOLIDATED CASES

RELATED CASES

COUNSEL INFORMATION

Appellant Whitaker, Venise

Pro Se: No

IFP Status:

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Appellant The Faithful Laurentians

Pro Se: No

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COUNSEL INFORMATION

Appellant Devine, Carolyn

Pro Se: No

IFP Status:

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Appellee Linden Lane Captial Partners LLC

Pro Se: No

IFP Status:

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Appellee City of Philadelphia

Pro Se: No

IFP Status:

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Attorney: Diffily, Kelly Susan
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COUNSEL INFORMATION

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Pro Se: No

IFP Status:

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 Law Firm: Mattioni, Ltd.
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 Phone No: (215) 629-1600 Fax No:

Attorney: Alderfer, Sarah
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FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
09/29/2017	Notice of Appeal	85.50	10/16/2017	2017-CMW-H-002243	85.50
07/25/2018	Petition for Reconsideration - Original Jurisdiction	15.00	07/25/2018	2018-CMW-H-001716	15.00

AGENCY/TRIAL COURT INFORMATION

Order Appealed From: August 29, 2017 Notice of Appeal Filed: September 29, 2017
 Order Type: Order
 Documents Received: October 16, 2017

Court Below:

County: Division:
 Judge: Judicial District:
 Docket Number: Case No. 161200058 OTN:

Court Below: Philadelphia County Court of Common Pleas
 County: Philadelphia Division: Philadelphia County Civil Division
 Judge: Anders, Daniel J. Judicial District: 01
 Docket Number: December Term 2016 No. 00058 OTN:

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
Trial Court Record	November 30, 2017	
Trial Court Opinion	November 30, 2017	
Testimony	January 17, 2018	

Date of Remand of Record:

BRIEFING SCHEDULE

Appellant

Appellee

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BRIEFING SCHEDULE

Appellant		Appellee	
The Faithful Laurentians		1600 Berks, LLC	
Amended Brief		Brief	
Due: March 20, 2018	Filed: March 20, 2018	Due:	Filed: April 27, 2018
		Due: June 1, 2018	Filed: May 10, 2018
Brief			
Due: January 26, 2018	Filed: January 29, 2018	City of Philadelphia	
		Brief	
Reproduced Record		Due: June 1, 2018	Filed: May 10, 2018
Due: January 26, 2018	Filed: January 29, 2018		
Due: March 20, 2018	Filed: March 20, 2018	Linden Lane Captial Partners LLC	
		Brief	
		Zoning Board of Adjustment	
		Brief	

DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
September 29, 2017	Notice of Appeal Filed The Faithful Laurentians Devine, Carolyn Whitaker, Venise		Appellant Appellant Appellant	
October 20, 2017	Notice of Docketing Appeal Exited Commonwealth Court Filing Office			10/20/2017
November 30, 2017	Trial Court Record Received Philadelphia County Civil Division			
November 30, 2017	Trial Court Opinion Received Philadelphia County Civil Division			
November 30, 2017	Briefing Schedule Issued Commonwealth Court Filing Office			
December 12, 2017	Order Filed Cohn Jubelirer, Renee			12/13/2017
	Document Name: it appearing that the Appellant has failed to file and serve a docketing statement as required by Comment: Section 501 of the Commonwealth Court Internal Operating Procedures, 210 Pa. Code § 69.501, the Appellant is hereby ordered to file and serve a complete docketing statement with all attachments and a certificate of service in accordance with the instructions on the docketing statement form within 14 days of entry of this order or the above captioned matter will be dismissed as of course.			
December 27, 2017	Docketing Statement Filed Schirmer, Henry Louis Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn Whitaker, Venise	Appellant Appellant Appellant	

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
January 12, 2018	Dormant Order for Failure to File Appellant Brief Issued Leavitt, Mary Hannah			01/12/2018
	Document Name: It appearing that appellants' brief and reproduced record were due January 9, 2018, and that to date Comment: the same have not been filed, appellants' brief (4 copies) and reproduced record (4 copies) shall be filed and served within 14 days of the exit date of this Order or the above notice of appeal shall be dismissed as of course.			
January 16, 2018	Entry of Appearance Diffily, Kelly Susan	City of Philadelphia	Appellee	
January 17, 2018	Transcripts of Testimony Court Reporters, Digital Recording, and Interpreters Administration - First Judicial District of Pennsylvania			
January 29, 2018	Appellant's Brief and Reproduced Record Combined Filed The Faithful Laurentians		Appellant	
January 31, 2018	Application for Extension of Time to File Brief - First Request Diffily, Kelly Susan	City of Philadelphia	Appellee	
February 1, 2018	Order Granting Application for Extension of Time to File Appellee Brief Krimmel, Michael			02/02/2018
	Document Name: Upon consideration of appellee City of Philadelphia's request for ext. of time to file briefs, and Comment: it appearing that said request is not opposed, said request is granted and appellee City of Philadelphia's brief (4 copies) shall be filed on or before April 4, 2018.			
March 5, 2018	Entry of Appearance Mattioni, Michael J.	Linden Lane Captial Partners LLC	Appellee	
March 5, 2018	Application for Relief Mattioni, Michael J. Mattioni, Michael J. Paszamant, Brian S. Paszamant, Brian S.	Linden Lane Captial Partners LLC 1600 Berks, LLC Linden Lane Captial Partners LLC 1600 Berks, LLC	Appellee Appellee Appellee Appellee	
	Document Name: PRAECIPE Substitution of Party			
March 6, 2018	Application for Extension of Time to File Brief - First Request Mattioni, Michael J.	1600 Berks, LLC	Appellee	

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
March 6, 2018	Appellant's Brief Not Accepted - Directed to File Amended Brief Per Curiam			03/06/2018
	Document Name: it appears that appellants have filed a combined brief and reproduced record that does not comply Comment: with the Pennsylvania Rules of Appellate Procedure because:			
	a. the reproduced record lacks a table of contents as required by Pa.R.A.P. 2174;			
	b. the brief and reproduced record, combined, exceed the page limits. Pa.R.A.P. 2171(b); and			
	c. the pages in reproduced record are not properly numbered. Pa.R.A.P. 2173.			
	THEREFORE, it is hereby ordered:			
	1. Appellants' combined brief and reproduced record is not accepted.			
	2. Appellants shall file an amended combined brief and reproduced record (4 copies) that conforms to the requirements of Chapters I and 21 of the Pennsylvania Rules of Appellate Procedure on or before March 20, 2018, or this case will be dismissed as of course.			
	3. Appellees's brief shall be due, if at all, 30 days after service of appellants' amended combined brief and reproduced record.			
March 12, 2018	Send Back for Correction Commonwealth Court Filing Office			
	Document Name: DEFECT: The Substitution of Party may not be done by Praecipe, must be file Application for Relief.			
March 20, 2018	Amended Brief of Appellant Filed The Faithful Laurentians		Appellant	
March 20, 2018	Appellant's Reproduced Record Filed Schirmer, Henry Louis Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn Whitaker, Venise	Appellant Appellant Appellant	
	Document Name: Amended Reproduced Record			
April 3, 2018	Complied with Sendback Mattioni, Michael J. Mattioni, Michael J. Paszamant, Brian S. Paszamant, Brian S.	Linden Lane Captial Partners LLC 1600 Berks, LLC Linden Lane Captial Partners LLC 1600 Berks, LLC	Appellee Appellee Appellee Appellee	04/03/2018
	Document Name: Application for Relief filed			
April 3, 2018	Application for Relief Mattioni, Michael J.	1600 Berks, LLC	Appellee	
	Document Name: Application for Substitution of 1600 Berks LLC as Appellee Party as Assignee of All Rights and Comment: Duties of Linden Lane Captial Partners, LLC.			

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
April 18, 2018	Answer Filed Schirmer, Henry Louis Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn Whitaker, Venise	Appellant Appellant Appellant	
	Document Name: In opposition to 1600 E. Berks LLC's Application to Substitute Party			
April 19, 2018	Order Filed Brobson, P. Kevin			04/20/2018
	Document Name: upon consideration of the unverified Application for Substitution of 1600 Berks, LLC, As Appellee			
	Comment: Party As Assignee of All Rights and Duties of Linden Lane Capital Partners LLC, and appellants' unverified answer thereto, see Pa. R.A.P. 123(c), the parties shall file briefs in support of their respective positions on the issue of whether 1600 Berks, LLC may properly be substituted as appellee in this matter. The parties shall file and serve their briefs (4 copies) no later than May 4, 2018.			
	The briefing schedule on the merits of appellants' appeal is stayed pending disposition of the Application for Substitution.			
April 27, 2018	Appellee's Brief Filed Mattioni, Michael J.	1600 Berks, LLC	Appellee	
	Document Name: Brief in Support of Amended Application for Substitution of			
	Comment: 1600 Berks, LLC as Appellee			
April 27, 2018	Application for Relief Mattioni, Michael J. Mattioni, Michael J.	Linden Lane Capital Partners LLC 1600 Berks, LLC	Appellee Appellee	
	Document Name: Application for Leave to File an Amended Application for Substitute of 1600 Berks, LLC, as Assignee			
	Comment: of all Rights and Duties of Intervenor Appellee Linden Lane Capital Partners, LLC			
April 27, 2018	Amended Mattioni, Michael J.	1600 Berks, LLC	Appellee	
	Document Name: Amended Application for Substitution of 1600 Berks, LLC, as Appellee Party as Assignee of All Rights			
	Comment: and Duties of Linden Lane Capital Partners, LLC			
April 30, 2018	Answer Filed Diffily, Kelly Susan	City of Philadelphia	Appellee	
	Document Name: To App. for Relief/Substitution			
May 2, 2018	Order Granting Application for Relief McCullough, Patricia A.			05/03/2018
	Document Name: Upon consideration of 1600 Berks, LLC's application for leave to file an amended			
	Comment: application to substitute 1600 Berks, LLC, as assignee of all rights and duties of appellee Linden Lane Capital Partners, LLC (Linden Lane), for appellee Linden Lane, the application for leave is granted. The amended application for substitution of 1600 Berks, LLC for appellee Linden Lane (amended application for substitution), and the brief in support, filed April 27, 2018, are accepted. Further, upon consideration of the amended application for substitution and the brief in support, which appellee City of Philadelphia does not oppose, the amended application for substitution is granted. The Chief Clerk is directed to amend the caption in this matter as reflected above, naming 1600 Berks, LLC as appellee instead of Linden Lane. This Court's order dated April 19, 2018, is vacated, and the stay of the briefing schedule is lifted. Appellees' briefs (4 copies) shall be filed on or before June 1, 2018.			

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May 10, 2018	Appellee's Brief Filed Mattioni, Michael J.	1600 Berks, LLC	Appellee	
May 10, 2018	Joinder in Brief Diffily, Kelly Susan Document Name: Joins in the brief of appellee 1600 Berks	City of Philadelphia	Appellee	
June 21, 2018	Letter Krimmel, Michael Document Name: Letter to counsel and Vernice Whitaker			06/21/2018
June 22, 2018	Application for Relief Diffily, Kelly Susan Mattioni, Michael J. Mattioni, Michael J. Alderfer, Sarah Document Name: Jt. App for a Rule to Show Cause why the Appeal Should Not Be Dismissed as Moot for Lack of a Comment: Current Appellant	City of Philadelphia Linden Lane Captial Partners LLC 1600 Berks, LLC 1600 Berks, LLC	Appellee Appellee Appellee Appellee	
June 22, 2018	Praecipe Diffily, Kelly Susan Document Name: Praecipe to Attach Verification to Appellees Jt. App for A Rule to Show Cause	City of Philadelphia	Appellee	
July 16, 2018	Order Filed McCullough, Patricia A. Document Name: argument on appellees' "Joint Application For a Rule to Show Cause Why the Appeal Should Not Be Comment: Dismissed as Moot For Lack of a Current Appellant," which the Court shall treat as an Application To Dismiss and to which no answer has been filed, is scheduled for July 25, 2018, at 10:00 a.m., by telephone conference call. The conference call shall originate from the chambers of a judge designated by the Commonwealth Court and shall be made to the offices of counsel of record. Cell phones may not be used.			07/16/2018
July 24, 2018	Answer to Rule to Show Cause Why Action Should Not Be Dismissed For Failure to Prosecute Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn	Appellant Appellant	
July 25, 2018	Application for Reconsideration Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn	Appellant Appellant	

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
July 25, 2018	Order Granting Application for Relief Leadbetter, Bonnie Brigance			07/25/2018
	Document Name: upon consideration of appellees' "Joint Application For a Rule to Show Cause Why the Comment: Appeal Should Not Be Dismissed as Moot For Lack of a Current Appellant," and appellants' answer thereto, and the parties' arguments before this Court at the telephone conference held on July 25, 2018, the application is GRANTED. A Rule to Show Cause is hereby issued against appellants as to why the above-captioned action should not be dismissed as moot for lack of a current appellant. If appellants file a written response, they shall file and serve a copy thereof on appellees on or before August 3, 2018.			
	Hearing on the response to the Rule to Show Cause is set for August 9, 2018, at 1:30 p.m., in Courtroom Number 3001, Third Floor, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania.			
August 1, 2018	Order Filed Ceisler, Ellen H.			08/02/2018
	Document Name: Hearing on the response to the Rule to Show Cause set for August 9, 2018, at 1:30 p.m., is Comment: rescheduled to August 14, 2018, at 2:30 p.m., in Courtroom Number 3002, Third Floor, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania.			
August 3, 2018	Answer Filed Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn	Appellant Appellant	
	Document Name: Answer in Opposition to the Motion to Quash of the Faithful Laurentiens, Through Carolynne Devine Comment: and Venise Whitaker Trustees Ad Litem			
August 14, 2018	Filed - Other Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn	Appellant Appellant	
	Document Name: Verification of Carolyn Bechta - Devine			
August 17, 2018	Application to Strike Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn	Appellant Appellant	
	Document Name: Motion to Strike Appellees' Briefs			
August 17, 2018	Amended Schirmer, Henry Louis Schirmer, Henry Louis Schirmer, Henry Louis	The Faithful Laurentians Devine, Carolyn Whitaker, Venise	Appellant Appellant Appellant	
	Document Name: Amended App. to Strike			

REARGUMENT / RECONSIDERATION / REMITTAL

Filed Date: July 25, 2018
Disposition:
Disposition Date:
Record Remittal: