IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION LAW

BRUCE PETRIE and GINGER PETRIE, ANDREW G. KRASNANSKY and TINA-LOUISE KRASNANSKY, ROBERT DUANE BLASKO and ELIZABETH A. BLASKO, and ROBERT McKELLIN and CYNTHIA McKELLIN, **Plaintiffs**	:	**NO. C-48-CV-2023-6089**
v.	:	
LOWER SAUCON TOWNSHIP, BETHLEHEM LANDFILL COMPANY, & IESI PA BETHLEHEM LANDFILL CORPORATION, **Defendants**	:	
and	:	
ST. LUKE'S HOSPITAL – ANDERSON CAMPUS, BETHLEHEM TOWNSHIP and DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR, INC., **Intervenors**	:	

ORDER AND REASONS

AND NOW, this 8th day of December, 2025, upon consideration of the Motions for Judgment on the Pleadings by Plaintiffs and Intervenors, and the responses thereto, it is hereby **ORDERED** and **DECREED** that the Motions are **GRANTED** in part as follows:

1. Judgment as a matter of law is entered in favor of Plaintiffs/Intervenors, and without opposition by Defendant, Lower Saucon Township, as to the claims against Lower Saucon Township set forth at Count II and Count III of the Amended Complaint.

2. The release of the scenic and conservation easements recorded in the

Northampton County Recorder of Deeds at Vol. 1994-6, Pg. 102081 and Vol. 1994-6, Pg. 102074 and attached to the Amended Complaint as Exhibits A and B (collectively the "Scenic and Conservation Easements") was void ab initio.

3. The Scenic and Conservation Easements are hereby reinstated and reestablished.

4. Defendant, Lower Saucon Township, is prohibited from releasing the Scenic and Conservation Easements without Orphans' Court approval.

5. The Motions for Judgment on the Pleadings as to any remaining claims raised in the Amended Complaint are denied.

STATEMENT OF REASONS

1. This matter was assigned to the Honorable Abraham P. Kassis on the November 18, 2025 argument list.

2. Plaintiffs, Bruce Petrie and Ginger Petrie, Andrew Krasnansky and Tina-Louise Krasnansky, Robert Duane Blasko and Elizabeth A. Blasko, and Robert McKellin and Cynthia McKellin, and Intervenors, St. Luke's Hospital – Anderson Campus, Delaware and Lehigh National Heritage Corridor, Inc., and Bethlehem Township,[1] filed an Amended Complaint on January 18, 2024, asserting causes of action for declaratory judgment, equitable relief, and injunction against Defendants, Lower Saucon Township and Bethlehem Landfill Company. This matter arises out Lower Saucon Township's revocation of scenic and conservation easements and woodland easements encumbering property now owned by Bethlehem Landfill Company.

3. Following disposition of Preliminary Objections in an Order of Court dated April

[1] Intervention by St. Luke's Hospital – Anderson Campus, Delaware and Lehigh National Heritage Corridor, Inc., and Bethlehem Township was granted by Order of Court dated January 5, 2024, following stipulation by the parties.

16, 2025, Defendant, Bethlehem Landfill Company (hereinafter "BLC" or Landfill) filed an Answer and New Matter on May 6, 2025. Defendant, Lower Saucon Township, (hereinafter "LST"), filed an Answer and New Matter on May 15, 2025.

4. Intervenors, Bethlehem Township, St. Luke's Hospital (hereinafter "SLH"), and Delaware and Lehigh National Heritage Corridor, Inc. (hereinafter "D&L") filed a response to BLC's New Matter on May 27, 2025. On May 28, 2025, Plaintiffs filed a response to BLC's New Matter and LST's New Matter. Defendant BLC filed a response to LST's New Matter on June 3, 2025. Intervenors, SLH and D&L filed a response to LST's New Matter on June 5, 2025. Intervenor, Bethlehem Township, filed a response to LST's New Matter on June 12, 2025.

5. SLH and D&L filed a Motion for Judgment on the Pleadings on September 25, 2025, and a brief in support thereof. Plaintiffs filed a Motion for Judgment on the Pleadings on September 26, 2025, joining in SLH's brief. LST filed an answer to both motions, and briefs in support thereof, on October 17, 2025, admitting all averments of the motions for judgment on the pleadings. Bethlehem Township also filed a Motion for Judgment on the Pleadings on October 21, 2025, and a brief in support thereof. LST filed a response on October 29, 2025. BLC filed an omnibus response in opposition to the Motions for Judgment on the Pleadings on November 13, 2025.

6. According to Pa.R.C.P 1034(a), any party may move for judgment on the pleadings after the relevant pleadings are closed, but within such time as not to unreasonably delay the trial. The court shall then enter such judgment or order as shall be proper on the pleadings. Pa.R.C.P. 1034(b). In order to succeed on a motion for judgment on the pleadings, the moving party's right to prevail must be so clear that a trial would clearly be a fruitless

exercise. Coal Operators Cas. Co. v. Charles T. Easterby & Co., 269 A.2d 671, 673 (Pa. 1970), quoting Bata v. Central Penn Nat. Bank of Phila., 224 A.2d 174, 178 (Pa. 1966). A motion for judgment on the pleadings is similar to a demurrer. Rubin v. CBS Broadcasting Inc., 170 A.3d 560, 564 (Pa. Super. 2017). Furthermore, a motion for judgment on the pleadings should be granted only where the pleadings demonstrate that no genuine issue of fact exists, and the moving party is entitled to judgment as a matter of law. Hammerstein v. Lindsay, 655 A.2d 597, 600 (Pa. Super. 1995).

7. In the instant matter, LST is not opposing the Motions for Judgment on the Pleadings and is conceding that judgment in favor of Plaintiffs and Intervenors should be entered. BLC, however, asserts that material issues of fact remain, precluding the entry of judgment.

8. The Amended Complaint sets forth the following claims: Count I – Declaratory Judgment, Plaintiffs and Intervenors v. Landfill; Count II[2] - Declaratory Judgment, Plaintiffs and Intervenors v. Township; Count III[3] – Equitable Relief, Plaintiffs and Intervenors v. Township and Landfill; and Count IV – Injunction, Plaintiffs and Intervenors v. Landfill. With regard to the claims against LST, as stated above, LST is not opposing the Motions for Judgment on the Pleadings. In support of its position, LST admits the following averments of the Amended Complaint:

> 21. The majority of the Property is encumbered by a pair of substantively identical Scenic and Conservation Easements (collectively the "Conservation Easements") which serve to preserve approximately 208 acres of the Property for scenic and conservation purposes and which specifically preclude landfill activities.
> 22. The Conservation Easements are recorded in the Northampton County Recorder of Deeds at Vol. 1994-6, Pg. 102081 ("Easement 1") and Vol. 1994-6 Pg. 102074

[2] BLC intervened in Count II by stipulation of the parties dated June 7, 2024.
[3] By stipulation of the parties dated June 7, 2024, BLC intervened in certain portions of Count III: Paragraph 99, Paragraphs (a) of the prayer for relief (subsequently stricken by preliminary objections) and Paragraphs (b) of the prayer for relief.

("Easement 2").
23. Approximately eight (8) acres of the Property along the Southern boundary are also subject to a 100' Woodlands Protection Easement (the "Woodland Easement"), incorporated into Easement 1, which is intended to preserve undisturbed woodlands except for the limited purposes of culling dead trees and promoting healthy tree growth.

. . .

28. The Conservation Easements and Woodland Easement were established by the City of Bethlehem for the purposes of protecting the land subject to the easements and for ensuring that relevant portions of the Property would serve as a buffer to the landfill activities in perpetuity.
29. The City of Bethlehem specifically described the land subject to the Conservation Easements and Woodland Easement as buffer land intended to shield the portions of the Property subject to the Conservation Easements and Woodland Easement from the northern most activities of the Bethlehem Landfill in perpetuity.
30. The Conservation Easements, as well as the Woodland Easement run with the land and have been serving their intended purpose and benefiting the public since 1994, stating in full:

> The restrictions and easements shall constitute a covenant running with the all of the property described herein *and shall be binding upon the City and all other persons and parties claiming through the City herein, and for the benefit of and limitation upon all future owners of said land and premises,* this declaration of restrictions being designed for the purposes of assuring the preservation of the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park; and during such operation of the Landfill to as great a degree as possible, to preserve the original character and scenic nature of the land.

. . .

42. On July 11, 2023, . . . the Township authorized Ordinance No. 2023-05 (the "Ordinance") to be advertised for a hearing by a vote of 3-2.
43. The Ordinance proposed to rezone the Property from the Rural Agricultural (RA) zoning designation to Light Industrial (LI) and reclassifies landfills and waste disposal facilities from uses permitted by conditional use to uses permitted by-right.
44. The Township scheduled a hearing on the Ordinance for August 30, 2023, and passed the Ordinance despite public opposition and despite the existence of the Conservation Easements.

. . .

46. On August 30, 2023, the Township voted to remove the Conservation Easements and Woodland Easement from the Property without seeking approval from the Orphans' Court.

. . .

83. Plaintiffs are third-party beneficiaries of the Conservation Easements.

. . .

87. The [Donated or Dedicated Property Act] DDPA requires the Township, as fiduciary and trustee of property which is
donated or dedicated to the public trust, to seek permission from the Orphans' Court before it is able to assent to any change in the public use of that property.
88. The DDPA requires the Township to prove the public use (I) is no longer feasible

and (2) no longer serves a public purpose.
89. The DDPA permits the public and the Office of the Attorney General to participate and oppose any proposed change in a public use.
90. The Conservation Easements and Woodland Easement and the protections therein are incorporeal property rights held by the Township which have been dedicated to the public trust since 1994.
91. The Township did not seek permission from the Orphans' Court to rezone the Property to expressly permit landfill activities or to grant approval of the Land Development Plan in violation of the Conservation Easements and Woodland Easement.
92. The Township did not seek permission from the Orphans' Court to terminate the Conservation Easements and Woodland Easement.
93. The Township did not seek permission from the Orphans' Court to remove the scenic views and outdoor recreation uses of the D&L Trail.
94. The Township has a legal obligation to seek permission from the Orphans' Court to dispose of property in the public trust pursuant to the DDPA yet has failed to do so.

. . .

97. Plaintiffs and Intervenors have a substantial, direct, and immediate interest in the instant matter for the reasons set forth herein.
98. This Honorable Court has the ability to enter equitable relief.
99. An Order to void the adoption of the Ordinance, the approval of the Land Development Plan and the termination of the Conservation Easements and Woodland Easement is necessary for the following reasons:

i. Adoption of the Ordinance, grant of approval to the Land Development Plan imposed actual harm on property owners abutting or in close proximity to the Property while negatively affecting the health, safety, and welfare of Plaintiffs and patients, residents, or patrons of Intervenors;
ii. Adoption of the Ordinance and grant of approval to the Land Development Plan deprived Plaintiffs and Intervenors of the rights guaranteed by the Environmental Rights Clause of the Pennsylvania Constitution, Article I, Section 27;
iii. Adoption of the Ordinance and grant of approval to the Land Development Plan violated the Conservation Easements and the Woodland Easement;
iv. Adoption of the Ordinance, grant of approval to the Land Development Plan and termination of the Conservations Easements and Woodland Easement violated the common-law public trust doctrine;
v. Adoption of the Ordinance grant of approval to the Land Development Plan and termination of the Conservations Easements and Woodland Easement was legally impossible and *void ab initio* without approval of the Orphans' Court pursuant to the Donated or Dedicated Property Act;
vi. Termination of the Conservation Easements and Woodland Easement was an intentional violation of the public trust doctrine and is an unlawful assent to the disposition of public property without approval of the Orphans' Court pursuant to the Donated or Dedicated Property Act.

See Amended Complaint; LST Answer to Amended Complaint. LST further averred as follows

in New Matter:

> 120. In addition to the averments set forth by the Plaintiffs in their Amended Complaint, answering Defendant is subject to requirements of the Donated or Dedicated Property Act at 53 P.S. § 3381 et. seq. ("The Act").
> 121. Pursuant thereto, all lands donated to a political subdivision for public use "shall be deemed to be held by the political subdivision as trustee" and accordingly such lands "shall be used for the purpose or purposes for which they were originally dedicated or donated, except insofar as modified by court order [pursuant to §3384 of the Act]." 53 P.S. § 3383.
> 122. In vacating the Scenic and Conservation and the Landfill Woodlands Easement, enacting Ordinance 2023-05, and approving the land development plans of Bethlehem Landfill Company and IESI PA Bethlehem Landfill Corporation, Answering Defendant made changes affecting the Property without seeking Court approval as required by the Act.
> 123. Accordingly, such acts by Answering Defendant are void ab initio.

See LST's New Matter at Paragraphs 120-123.

9. Judgment on the pleadings is available in a declaratory judgment action. Moreover, when a question involves purely a construction of written documents, as is the case here, the matter is a question of law and is amenable to judgment on the pleadings. See Jarl Investments, L.P. v. Fleck, 937 A.2d 1113, 1122 (Pa. Super.2007).

> Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise, and obtain a declaration of rights, status, or other legal relations thereunder.

42 Pa.C.S.A. § 7533.

10. In the instant matter, based upon the averments of the pleadings, and the admissions thereto, there are no genuine issues of material fact between Plaintiffs/Intervenors and Defendant LST, specifically with regard to the claims asserted directly against LST in Counts II and III of the Amended Complaint. Consequently, the question before the Court is whether, based upon the admitted facts, the Conservation and Woodlands Easements at issue fall within the Donated and Dedicated Property Act ("DDPA"), as is argued both by Moving

Plaintiffs and Intervenors, and also by Responding Defendant LST. We note that BLC argues that Plaintiffs/Intervenors have not established standing to bring their claims. We disagree. In ruling on Preliminary Objections, this Court determined that Plaintiffs/Intervenors have sufficient standing to bring their claims. Specifically, Intervenor D&L is explicitly named as a beneficiary of the conservation easements, and the Commonwealth Court has held that "residents have a private right of action to enforce the mandatory duty set forth in Section 3 of the Donated or Dedicated Property Act." White v. Twp. of Upper St. Clair, 799 A.2d 188, 200 (Pa. Cmwlth. 2002). Furthermore, LST is now conceding that the Conservation and Woodlands Easements at issue are governed by the DDPA. To resolve the instant motions, this Court is only required to determine whether, as a matter of law, and in light of the agreed facts, the easements fall within the purview of the DDPA.

11. As previously addressed in ruling on Preliminary Objections, the Donated or Dedicated Property Act (DDPA), 53 P.S. § 3381 et. seq., commands that lands held by a political subdivision as trustee shall be used for the purposes for which they were originally dedicated or donated, except as modified by court order pursuant to the DDPA. In re Wilkinsburg Taxpayers & Residents Interest in Green Street Park Sale to a Private Developer & Other Park-Systems Conditions, 200 A.3d 634, 641 (Pa. Cmwlth. 2018). Specifically, the DDPA states:

> All lands or buildings heretofore or hereafter donated to a political subdivision for use as a public facility, or dedicated to the public use or offered for dedication to such use, where no formal record appears as to acceptance by the political division, as a public facility and situate within the bounds of a political subdivision, regardless of whether such dedication occurred before or after the creation or incorporation of the political subdivision, shall be deemed to be held by such political subdivision, as trustee, for the benefit of the public with full legal title in the said trustee.

53 P.S. § 3382. Section 3 of the Act requires "[a]ll such lands and buildings held by a political subdivision, as trustee, shall be used for the purpose or purposes for which they were originally

dedicated or donated, except insofar as modified by court order pursuant to this act." 53 P.S. §3383.

Plaintiffs and Intervenors assert, and Lower Saucon Township now agrees, that the conservation easements granted to Lower Saucon Township constitute a dedication to public use, which Lower Saucon Township could not unilaterally abandon without the approval of the Orphan's Court. See 53 P.S. § 3384. Section 3384 provides:

> When, in the opinion of the political subdivision which is the trustee, the continuation of the original use of the particular property held in trust as a public facility is no longer practicable or possible and has ceased to serve the public interest, or where the political subdivision, as trustee for the benefit of the public, is in doubt as to the effectiveness or the validity of an apparent dedication because of the lack of a record of the acceptance of the dedicated land or buildings, the trustee may apply to the orphans' court of the county in which it is located for appropriate relief. The court may permit the trustee to--
> (1) Substitute other lands or property of at least equal size and value held or to be acquired by the political subdivision in exchange for the trust property in order to carry out the trust purposes.
> (2) If other property is not available, sell the property and apply the proceeds to carry out the trust purposes.
> (3) In the event the original trust purpose is no longer practicable or possible or in the public interest, apply the property or the proceeds therefrom in the case of a sale to a different public purpose.
> (4) Relinquish, waive or otherwise quitclaim all right and title of the public in and to such land and buildings as have been apparently dedicated but for which no formal acceptance appears of record: Provided, only, That the court is satisfied upon hearing the evidence that there is no acceptance by implication arising out of public user or otherwise, the court shall also determine the consideration, if any, to be paid to the political subdivision.

53 P.S. § 3384.

12. BLC argues that the Conservation and Woodlands Easements cannot be considered a public use. First, we cannot conclude that natural resource conservation is not a "public use" within the meaning of the DDPA, particularly considering that environmental

preservation is recognized as a Constitutional right in this Commonwealth.[4] Second, in the context of restrictive deed covenants, the Commonwealth Court has held that the DDPA applies. See Petition of Borough of Westmont, 570 A.2d 1382, 1384 (Pa. Cmwlth. 1990). Further, the DDPA applies to fully-realized dedications, as well as to ones where there may be uncertainty as to the acceptance. In re Erie Golf Course, 992 A.2d 75, 89 (Pa. 2010). In their ruling, the Pennsylvania Supreme Court noted the important interests protected by deed restrictions, specifically those intended for conservation and natural resource preservation. Id. Consequently, even if we accept BLC's argument that there was ambiguity regarding the application of the DDPA to the easements, the matter should have been submitted to the Orphans' Court for determination, and the Township's unilateral rescission of the easements was unlawful.

13. Here, Easement 1[5] states, in relevant part:

> That the City grants to the Township a restrictive easement for scenic and conservation purposes on the tract of approximately 66 acres
>
> . . .
>
> The City has granted a woodlands protection easement for approximately eight (8) acre area. The woodlands protection easement provides that the woodlands shall be preserved as undisturbed woodlands, except for the removal of dead or diseased trees, and/or except for normal removal of trees for prudent forest management to allow for proper tree growth.
>
> . . .
>
> The restrictions and easements shall constitute a covenant running with all of the property described herein and shall be binding upon the City and all other persons and parties claiming through the City herein, and for the benefit of and limitation upon all future owners of said land and premises, this declaration of restrictions being designed for the purposes of assuring the preservation of the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park; and during such operation of the Landfill to as great a degree as possible, to preserve the original character and scenic nature of the land.

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[4] See In re FDR Park, 344 A.3d 461, 475 (Pa. Cmwlth 2025): "[T]he Donated Property Act must be read through the lens of the Environmental Rights Amendment. Further, the Donated Property Act established the procedures for vindicating public trust principles, including those arising from the Environmental Rights Amendment."

[5] Recorded at Northampton County Recorder of Deeds Vol. 1994-6, Page 102081.

See Amended Complaint at Exhibit A. Similarly, Easement 2[6] applies to approximately 142 acres of the subject property, and states, in relevant part:

> The restrictions and easements shall constitute a covenant running with all of the property described herein and shall be binding upon the City and all other persons and parties claiming through the City herein, and for the benefit of and limitation upon all future owners of said land and premises, this declaration of restrictions being designed for the purposes of assuring the preservation of the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park; and during such operation of the Landfill to as great a degree as possible, to preserve the original character and scenic nature of the land.

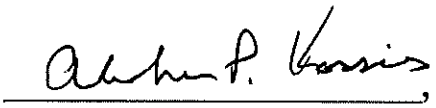
See Amended Complaint at Exhibit B.

14. As noted above, the Township was required to act as the trustee of the land subject to the Conservation and Woodlands Easements for the benefit of the public. Section 3 of the DDPA requires "[a]ll such lands and buildings held by a political subdivision, as trustee, shall be used for the purpose or purposes for which they were originally dedicated or donated, except insofar as modified by court order pursuant to this act." 53 P.S. §3383. By releasing the conservation and woodlands easements without court approval, the Township failed to fulfill its obligations as trustee of its interests in the land to manage it for the public's benefit, thereby subordinating the public interest in maintaining the land for scenic and conservation purposes to the private rights of the landfill. For these reasons, we conclude that Lower Saucon Township was required to seek judicial approval from the Orphans' Court under Section 3384 of the DDPA in order to rescind the easements in question. Judgment as a matter of law is entered in favor of Plaintiffs/Intervenors, and without opposition by Defendant, Lower Saucon Township, on this limited basis. The release of the scenic and conservation easements recorded in the Northampton County Recorder of Deeds at Vol. 1994-6, Pg. 102081 and Vol. 1994-6, Pg. 102074 and attached to the Amended Complaint as Exhibits A and B (collectively the "Scenic and Conservation

[6] Recorded at Northampton County Recorder of Deeds Vol. 1994-6, Page 102074.

Easements") was void ab initio. The Scenic and Conservation Easements are hereby reinstated and reestablished. Lower Saucon Township is prohibited from releasing the Scenic and Conservation Easements without Orphans' Court approval. The Motions for Judgment on the Pleadings as to any remaining claims raised in the Amended Complaint are denied.

BY THE COURT:



ABRAHAM P. KASSIS, J.