

Case# 2018-26722-0 Docketed at Montgomery County Prothonotary on 11/12/2018 11:10 AM, Fee = \$68.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

SCHOOL DISTRICT OF UPPER MORELAND TOWNSHIP

vs.

MONTGOMERY COUNTY BOARD OF ASSESSMENT
APPEALS

NO. 2018-26722

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: JUSTIN D BARBETTA, Esq., ID: 318221

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No

Money Damages Requested

Commencement of Action:

Amount in Controversy:

Petition

Case Type and Code

Civil Appeals:

Board of Assessment

Other:

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Sweet, Stevens, Katz & Williams LLP
 By: Justin D. Barbeta, Esquire
 Identification No.318221
 331 E. Butler Avenue
 New Britain, PA 18901
 (215) 345-9111

Solicitor for Petitioner,
 School District of Upper Moreland Township

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

SCHOOL DISTRICT OF UPPER MORELAND TOWNSHIP	:	
	:	
	Petitioner	
	:	
v.	:	No.: _____
	:	
BOARD OF ASSESSMENT APPEALS OF MONTGOMERY COUNTY, COUNTY OF MONTGOMERY, TOWNSHIP OF UPPER MORELAND and ABINGTON MEMORIAL HOSPITAL	:	
	:	
	:	Tax Parcel No.: 59-00-03082-00-9
	:	Owner: Abington Memorial Hospital
	:	Address: 3941 Commerce Avenue.
Respondents.	:	Municipality: Upper Moreland Township

PRELIMINARY DECREE

AND NOW, this _____ day of _____, upon consideration of the School District of Upper Moreland Township’s Petition for Appeal, it is hereby ORDERED and DECREED as follows:

1. The appeal to court is permitted and said case is to proceed in conformity with the Pennsylvania Rules of Civil Procedure.
2. Within five days from the date of this Preliminary Decree, the Petitioner shall serve a copy of the Petition and Preliminary Decree upon:
 - a. The Montgomery County Board of Assessment Appeals
 - b. The Commissioners of Montgomery County
 - c. The Township of Upper Moreland
 - d. Abington Memorial Hospital
3. The aforesaid taxing authorities and the taxpayer are hereby entitled to intervene as party appellees.
4. The appeal shall be scheduled by the Court Administrator pursuant to Local Rule of Civil Procedure.

BY THE COURT:

Sweet, Stevens, Katz & Williams LLP
By: Justin D. Barbeta, Esquire
Identification No.318221
331 E. Butler Avenue
New Britain, PA 18901
(215) 345-9111

Solicitor for Petitioner,
School District of Upper Moreland Township

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

SCHOOL DISTRICT OF UPPER MORELAND	:	
TOWNSHIP	:	
	:	
Petitioner	:	
	:	
v.	:	No.: _____
	:	
BOARD OF ASSESSMENT APPEALS OF	:	
MONTGOMERY COUNTY, COUNTY OF	:	
MONTGOMERY, TOWNSHIP OF UPPER	:	
MORELAND and ABINGTON MEMORIAL	:	Tax Parcel No.: 59-00-03082-00-9
HOSPITAL	:	Owner: Abington Memorial Hospital
	:	Address: 3941 Commerce Avenue.
Respondents.	:	Municipality: Upper Moreland Township

PETITION FOR APPEAL

Petitioner, School District of Upper Moreland Township, by its Solicitors, SWEET, STEVENS, KATZ & WILLIAMS LLP, files this Petition for Appeal based upon the following statements of fact:

1. Petitioner is the School District of Upper Moreland Township (“Petitioner”) with its mailing address being 2900 Terwood Road, Willow Grove, Montgomery County, Pennsylvania 19090.

2. Respondent is the Montgomery County Board of Assessment Appeals (“the Board”), with the County of Montgomery, Montgomery Township and Abington Memorial Hospital as Interested Parties/Potential Intervenors.

3. The property in question is owned by Abington Memorial Hospital located in Montgomery County as follows: Tax Mapping Parcel No. 59-00-03082-00-9, 3941 Commerce Avenue, Upper Moreland Township, Montgomery County, Pennsylvania (“the Property”).

4. Abington Memorial Hospital (“the Taxpayer”) filed an Application for Property Tax Exemption with the Board (“the Application”), seeking an exemption for the Property pursuant to the Consolidated County Assessment Law at 53 PA. C.S.A. §8812(a)(1).

5. After hearing on the aforesaid Application on October 2, 2018, the Board gave notice of its decision on October 19, 2018, to grant the Application and re-classify the Property as exempt from real estate taxes effective January 1, 2019, for township and county and July 1, 2019, for school purposes. Attached hereto, made a part hereof and marked as Exhibit “A” is the decision notice of the Montgomery County Board of Assessment Appeals for the above-referenced tax parcel.

6. Petitioner is aggrieved and dissatisfied with the aforementioned decision of the Board.

7. The decision of the Board to grant the Application for the Property was in error for the following reasons:

- a. the Taxpayer did not qualify for a charitable exemption from state or local taxes as a “purely public charity” under Article VIII, Section 2(a)(v) of the Pennsylvania Constitution;
- b. the Taxpayer did not satisfy the constitutional standards as a purely public charity under Article VIII, Section 2 (a)(v) of the Pennsylvania Constitution as set forth in the five (5) part test developed by the Supreme Court of Pennsylvania in

Hospital Utilization Project v. Commonwealth, 507 Pa. 1, 487 A.2d 1306 (Pa. 1985);

- c. the Taxpayer did not meet the statutory requirements for a purely public charity set forth in the Institutions of Purely Public Charity Act (Act 55), 10 P.S. 371, *et seq.*; and
- d. the Taxpayer did not satisfy any of the exemptions from taxation set forth in 53 PA. C.S.A. § 8812 of the Consolidated County Assessment Law, 53 PA. C.S.A. § 8801, *et seq.*

8. This appeal is filed in accordance with the applicable law pertaining to the filing of appeals to the Court of Common Pleas from a decision of the Board of Assessment Appeals. The School District of Upper Moreland Township files this appeal in order that this Honorable Court may hold a hearing thereon and determine the exemption status of the Property in accordance with the provisions of the applicable law.

9. The names and address of the taxpayer and all other interested parties are as follows: County of Montgomery c/o Board of Commissioners of Montgomery County, Swede and Airy Streets, Norristown, Pennsylvania 19404; Montgomery County Board of Assessment Appeals, One Montgomery Plaza Suite 301, 425 Swede Street Norristown, Pennsylvania 19404; Upper Moreland Township, 117 Park Avenue, Willow Grove, Pennsylvania 19090; and Abington Memorial Hospital, 225 Newtown Road Warminster, Pennsylvania 18974.

WHEREFORE, Petitioner, the School District of Upper Moreland Township, respectfully requests that this Honorable Court reverse the decision of the Montgomery County Board of Assessment, order that the Property be placed on to the tax rolls, and make such other orders as may be just and equitable.

Respectfully submitted,

SWEET, STEVENS, KATZ & WILLIAMS LLP

Date: November 12, 2018


By: 
Justin Barbetta, Esquire
Attorney for Intervenor,
School District of Upper Moreland Township

EXHIBIT "A"

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**MONTGOMERY COUNTY
BOARD OF COMMISSIONERS**

VAL A. ARKOOSH, MD, MPH, CHAIR
KENNETH E. LAWRENCE, JR., VICE CHAIR
JOSEPH C. GALE, COMMISSIONER



BOARD OF ASSESSMENT APPEALS

MONTGOMERY COUNTY COURTHOUSE • PO BOX 311
NORRISTOWN, PA 19404-0311
610-278-3761
WWW.MONTCOPA.ORG

JOSEPH S. FOSTER, CHAIRMAN
PATRICK J. COSTELLO, BOARD MEMBER
ROBERT L. ADSHEAD, BOARD MEMBER

Mail Date: OCTOBER 19, 2018

ABINGTON MEMORIAL HOSPITAL
225 NEWTOWN ROAD
WARMINSTER, PA 18974

NOTICE OF CHANGE IN ASSESSMENT

As a result of the testimony presented at the recent hearing covering the assessment on the property located at:

3941 COMMERCE AVENUE
Upper Moreland
Parcel No. 59-00-03082-00-9

the Montgomery County Board of Assessment Appeals has placed this parcel on the Exempt list effective 1/1/2019 and thereafter. This exemption shall apply to all tax bills issued on or after the effective date.

You have thirty (30) days from the above mailing date to appeal this decision to the Montgomery County Court of Common Pleas. Said appeal must be filed with the Prothonotary of Montgomery County.

Very truly yours,

THE BOARD OF ASSESSMENT APPEALS

Cc:
SEAN KILKENNY, ESQUIRE
DAVID A. DODIES, MANAGER
MATTHEW J. MALINOWSKI, BUSINESS MANAGER
SHARON W. MONTANYE, ESQUIRE
JOAN RIGHTER PRICE, ESQUIRE
Montgomery County BOAA