



EDUCATING THE COMPLETE LAWYER

June 27, 2024

Cambridge Township Board of Trustees
Mr. Bill Gentner, Supervisor

Cc: Cambridge Township Planning Commission
Mr. Tom Kissel, Chairperson

Re: Status of Conservation Easement Review Related to SSP Leasing LLC

Last year Citizens Protect Irish Hills (CPIH) provided you with information related to a conservation easement on property purchased by SSP Leasing LLC to build a housing development and mining operations for sand and gravel. The September 15, 2023 CPIH letter to Cambridge Township is attached as Exhibit 1. SSP Leasing LLC has applied for a conditional use permit for the subject property. The CPIH letter included the easement language that the property is subject to, and their opinion as to why the housing development and sand and gravel mine could not be permitted on the site nor on the adjacent property that SSP Leasing LLC has also purchased.

It is CPIH's understanding that you have surveyed the area to verify the parcel information relative to the easement language, and in doing so, found CPIH's letter to be accurate. If the survey confirmed the location as it appears on the deed, CPIH is curious as to why the Township has not acted and informed the applicant that this land can't be disturbed by the proposed uses now or in the future?

As this matter had been dragging on for months, CPIH retained me as their counsel and asked me to conduct a review of the easement language and applicable law. We have invested substantial time investigating the language contained in the conservation easement and researched both state and federal law related to its application. Our conclusion is that this land cannot now, or ever, be mined or developed.

The plain language of the conservation easement is clear and unambiguous, its language must be strictly adhered to and enforced as written. Installing a gravel mine operation would go directly against the easement's stated purpose and explicit restrictions, and would violate the right of the United States to manage the easement area. Further, operation of a gravel mine would be in direct conflict with the express language of the easement, the stated purpose of the easement, and the current adjacent uses of the land by the Irish Hills community. For these reasons, the easement requires Cambridge Township to deny SSP Leasing's conditional use permit application. Even if Cambridge Township were to find that the proposed gravel mine complies with the new sand and gravel ordinance, or granted SSP Leasing's conditional use

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permit application, the conservation easement would still block the development. It is well-settled precedent that zoning ordinances or variances of the same cannot override, annul, abrogate, or otherwise relieve land from the lawful easement restrictions that it is subject to. No exceptions are present that would weigh against this general enforcement rule.

The matter that CPIH put before the Township in September, and once again today, is simple and clear. The conservation easement is in place and limits the use of the land in perpetuity. The buyer purchased the land with the easement on the deed. The buyer decided to proceed with the development and mining application despite the existence of the easement. The buyer went further and purchased adjacent property, not subject to its own easement, but in doing so they put that additional parcel of land under the easement due to common ownership. The Township was not aware of the conservation easement until being informed by CPIH. CPIH has subsequently learned that the Township has surveyed the site and validated the accuracy of the easement locations contained in the deed.

The easement and deed will not allow, now or ever, mining activity on the proposed site. We ask the Township to act quickly so that the applicant can limit their time and investment in this proposal and so the citizens of Cambridge Township can move on without this threat to shared water resources and potential impacts to the use and enjoyment of their own property.

Sincerely,

A handwritten signature in blue ink, appearing to read 'N. Schroeck'.

Nicholas J. Schroeck
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