

Declaration Amendments
in light of the
Lake Naomi Club v
Rosado

When Best Intentions Are
Not Enough

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The Uniform Planned Community Act (Emphasis added)

68 Pa.C.S. § 5219

Pa.C.S. documents are current through 2023 Regular Session Act 1; P.S. documents are current through 2023 Regular Session Act 1

Pennsylvania Statutes, Annotated by LexisNexis® > Pennsylvania Consolidated Statutes (§§ 101 — 9901) > Title 68. Real and Personal Property (Pts. II — III) > Part II. Real Property (Subpts. A — F) > Subpart D. Planned Communities (Chs. 51 — 54) > Chapter 52. Creation, Alteration and Termination of Planned Communities (§§ 5201 — 5223)

§ 5219. Amendment of declaration

(a) Number of votes required.

(1) The declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least:

- (i)** 67% of votes in the association are allocated; or
- (ii)** a larger percentage of the votes in the association as specified in the declaration; or
- (iii)** a smaller percentage of the votes in the association as specified in the declaration if all units are restricted exclusively to nonresidential use.

(2) Paragraph (1) is limited by subsection (d) and section 5221 (relating to rights of secured lenders).

(3) Paragraph (1) shall not apply to any of the following:

- (i)** Amendments executed by a declarant under:
 - (A)** section 5210(e) or (f) (relating to plats and plans);
 - (B)** section 5211(a) (relating to conversion and expansion of flexible planned communities); or
 - (C)** section 5212(a) (relating to withdrawal of withdrawable real estate).
- (ii)** Amendments executed by the association under:
 - (A)** subsection (f);
 - (B)** section 5107 (relating to eminent domain);
 - (C)** section 5207(d) (relating to leasehold planned communities);

- (D) section 5209 (relating to limited common elements); or
- (E) section 5215 (relating to subdivision or conversion of units).

(iii) Amendments executed by certain unit owners under:

- (A) section 5209(b);
- (B) section 5214(a) (relating to relocation of boundaries between units);
- (C) section 5215; or
- (D) section 5220(b) (relating to termination of planned community).

(iv) Amendments executed by a declarant which conform the maximum time limit for exercising declarant options to the time limit authorized by sections 5205(13) and (14) (relating to contents of declaration; all planned communities) and 5206(2) (relating to contents of declaration for flexible planned communities).

(b) Limitation of action to challenge amendment. — No action to challenge the validity of an amendment adopted by the association under this section may be brought more than one year after the amendment is recorded.

(c) Recording amendment. — The following shall apply:

(1) Every amendment to the declaration must be recorded in every county in which any portion of the planned community is located in the same records as are maintained for the recording of deeds of real property and shall be indexed in the name of the planned community in both the grantor and grantee index. An amendment is effective only upon recording.

(2) Except for counties which do not maintain a uniform parcel identifier number system of indexing, all counties shall assign a master parcel number to each planned community, and every amendment to the declaration shall be indexed against the master parcel. If required by the county, an amendment may be indexed against a parcel assigned to each unit within the planned community, but no fees shall be charged to each unit unless the indexing against each parcel is requested by the declarant or association.

(3) The provisions of this subsection shall control over any conflicting provisions in any other statute, regulation or ordinance.

(d) When unanimous consent or declarant joinder required.

(1) Except to the extent expressly permitted or required by other provisions of this subpart, without unanimous consent of all unit owners affected, no amendment may create or increase special declarant rights, alter the terms or provisions governing the completion or conveyance or lease of common facilities or increase the number of units or change the boundaries of any unit, the common expense liability or voting strength in the association allocated to a unit or the uses to which any unit is restricted. In addition, no declaration provisions pursuant to which any special declarant rights have been reserved to a declarant shall be amended without the express written joinder of the declarant in such amendment.

(2) As used in this subsection, the term “uses to which any unit is restricted” shall not include leasing of units.

(e) Officer authorized to execute amendment. — Amendments to the declaration required by this subpart to be recorded by the association shall be prepared, executed, recorded and certified by an officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

(f) Technical corrections. — Except as otherwise provided in the declaration, if any amendment to the declaration is necessary in the judgment of the executive board to do any of the following:

- (1)** cure an ambiguity;
- (2)** correct or supplement any provision of the declaration, including the plats and plans, that is defective, missing or inconsistent with any other provision of the declaration or with this subpart;
- (3)** conform to the requirements of any agency or entity that has established national or regional standards with respect to loans secured by mortgages or deeds of trust or units in planned community or so-called “PUD” projects, such as Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; or
- (4)** comply with any statute, regulation, code or ordinance which may now or hereafter be made applicable to the planned community or association, or to make a reasonable accommodation or permit a reasonable modification in favor of handicapped, as may be defined by prevailing Federal or State laws or regulations applicable to the association, unit owners, residents, tenants or employees;

then, at any time, the executive board may, at its discretion, effect an appropriate corrective amendment without the approval of the unit owners or the holders of liens on all or any part of the planned community, upon receipt of an opinion from legal counsel who is independent from the declarant to the effect that the proposed amendment is permitted by the terms of this subsection.

History

[Act 1996-180](#) (H.B. 1757), P.L. 1336, § 1, approved Dec. 19, 1996, eff. in 45 days; [Act 2004-189](#) (H.B. 1329), P.L. 1486, § 2, approved Nov. 30, 2004, eff. in 60 days; [Act 2013-37](#) (H.B. 1122), P.L. 204, § 1, approved July 2, 2013, eff. immediately; [Act 2016-21](#) (H.B. 1340), § 1, approved April 20, 2016, effective June 20, 2016; [Act 2016-162](#) (S.B. 1282), § 1, approved November 4, 2016, effective January 3, 2017; [Act 2020-11](#) (H.B. 1578), § 10, approved March 27, 2020, effective May 26, 2020.

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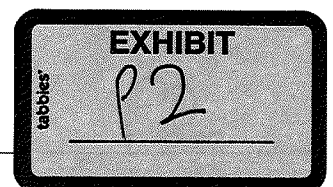
Tax Parcel Number: See attached

**AMENDMENT TO
AMENDED AND RESTATED DECLARATION OF
COVENANTS, RESTRICTIONS & EASEMENTS
for Lake Naomi, A Planned Community,
Tobyhanna Township, Monroe County, Pennsylvania**

This is an amendment made by the **POCONO PINES COMMUNITY ASSOCIATION, INC.** (the "Association"), a Pennsylvania nonprofit corporation with offices located at Route 423, Post Office Box T, Pocono Pines, PA 18350 (the "Association") and the **LAKE NAOMI CLUB**, a Pennsylvania nonprofit corporation with offices located at Route 423, Post Office Box T, Pocono Pines, PA 18350 (the "Club"), on the 30 of March, 2016, to the Declaration, defined below, identified below, as follows:

RECITALS

- I. The Lake Naomi planned community (the "Community") is located in Pocono Pines, PA.
- II. The developers of the Community declared the Lots within it subject to a schedule of fourteen (14) protective covenants and restrictions (the "Deed Covenants"), which by their own terms are intended to run with the land.
- III. The Club and the Association are collectively the successors in interest to the declarant rights for the Community and together own all of the rights in, to and affecting the real property comprising the common area in the Community.
- IV. The Deed Covenants were renewed through January 1, 2005 (the "Renewal Date") by a Declaration for the Community dated June 7th, 1997 and recorded in Monroe County Record Book 2038 at page 0376, etc.
- V. In order to provide for continuity of development and operation of the Community after the Renewal Date, an "Amended and Restated Declaration of Covenants, Restrictions & Easements for Lake Naomi" (the "Amended Declaration"), dated June 4, 2005, was adopted by the Community's Lot owners. The Amended Declaration was substantively the same as the prior Deed Covenants except for the deletion of the original paragraph 13. The Amended Declaration is recorded in Monroe County Record Book 2199 at page 4272, etc. and is binding in perpetuity on all Lots in the Community.
- VI. The Amended Declaration does not address the presence of sex offenders within the Community.



TAX PARCEL NUMBERS

19/5c/1/86-1	19/10a/1/21	19/10a/1/95-1	19/5g/2/18-8
19/5a/1/12	19/10a/1/87	19/5h/1/125	19/5a/1/103
19/5g/1/60-7	19/5g/1/81	19/5h/1/22	19/5g/1/60-6
19/5d/1/30	19/5h/1/54	19/5e/1/31-3	19/5g/1/55-1
19/5c/1/26	19/5f/2/64	19/5d/2/14	19/6/2/4-3
19/5f/2/19	19/10a/1/180	19/5c/1/92	19/5f/1/5-6
19/5g/1/31	19/5g/2/11	19/5d/2/49	19/5b/1/111
19/5f/2/53	19/5f/2/59	19/10a/1/184	19/5g/2/25-4
19/5e/1/12	19/5g/2/18-4	19/5e/1/18-1	19/5f/1/8-14
19/5c/1/51	19/5b/1/84	19/5f/1/8-8	19/10a/1/165
19/5c/1/2	19/5d/2/96	19/5h/1/17	19/10a/1/66
19/5h/1/47	19/5h/1/61	19/5f/1/8-41	19/5d/2/87
19/5h/1/48	19/5g/2/14	19/10a/1/163	19/10a/1/63-1
19/5h/1/46	19/5g/1/76	19/5d/1/85	19/5a/1/34
19/5d/2/110	19/5d/2/52	19/10a/1/36	19/5f/1/8-15
19/5g/1/54-2	19/5g/1/20	19/5A/1/83	19/5a/1/45
19/5e/1/32-2	19/5a/1/76	19/5b/1/26	19/10a/1/31
19/5d/1/48-5	19/10A/1/94-1	19/5a/1/35	19/5c/1/141
19/5d/1/82	19/5h/1/39	19/10a/1/45	19/5g/1/26-4
19/5e/1/15	19/5g/1/55-19	19/10a/1/146	19/6/2/84
19/5g/1/7	19/5g/2/12-1	19/5g/2/21-9	19/5c/1/73
19/5a/1/5	19/10a/1/30	19/5g/1/28-3	19/5d/2/27
19/5d/2/142	19/5d/1/74	19/10a/1/15	19/5b/1/48
19/5f/2/22	19/5d/1/73	19/5a/1/43	19/5d/2/100
19/5g/1/60-4	19/5b/1/25	19/5h/1/128	19/5g/2/23
19/5b/1/64	19/5h/1/113	19/5e/1/19-1	19/5g/1/32-5
19/5f/1/9-22	19/10a/1/88-3	19/5c/1/16-1	19/5f/2/31
19/5a/1/30	19/10a/1/87-3	19/5g/1/34-3	19/5d/2/192
19/5h/1/95	19/5g/2/30	19/5b/1/23	19/5h/1/11
19/10A/1/91-1	19/5e/1/11-4	19/5g/1/54-1	19/10a/1/46
19/10a/1/58	19/5b/1/138	19/5e/1/13	19/5g/1/53
19/5f/2/34	19/94352	19/5e/1/48	19/6/2/9-7
19/5d/2/38	19/5d/1/69	19/5h/1/77	19/5b/1/89
19/10a/1/78	19/5c/1/42	19/5g/2/20-7	19/5d/1/32
19/5d/2/175	19/5b/1/120	19/5f/1/9-25	19/5b/1/80
19/5f/2/8	19/5g/1/35-1	19/5g/1/45-2	19/5f/1/8-38
19/5g/2/20-16	19/5f/1/9-8	19/5b/1/63	19/10a/1/175
19/10a/1/97	19/5a/1/3	19/5a/1/52	19/5a/1/26
19/5e/1/28-3	19/6/2/8-1	19/10a/1/90-5	19/5d/2/118

TAX PARCEL NUMBERS

19/5d/2/52-1	19/5g/1/54-5	19/5d/2/57	19/5b/1/34
19/5e/1/32-4	19/5c/1/127	19/5g/2/20-29	19/5d/2/140
19/5g/1/37	19/5g/1/73	19/5e/1/34	19/5c/1/31
19/5g/2/24-12	19/5g/1/60-3	19/5A/1/38	19/5d/2/167
19/5d/1/25	19/10a/1/96	19/5d/2/55	19/10a/1/41
19/5f/1/8-5	19/5f/1/9-21	19/10a/1/154	19/5g/1/58
19/5g/2/18-15	19/5c/1/38	19/5F/1/8-12	19/5b/1/13
19/5d/1/36	19/5g/1/31-2	19/5H/1/74	19/5f/1/8-45
19/5c/1/90	19/5b/1/72	19/5g/2/17-3	19/5H/1/63
19/5d/1/10	19/5h/1/6	19/10a/1/93-2	19/10a/1/91-2
19/10a/1/32	19/5h/1/154	19/10a/1/99-2	19/5f/2/9
19/5c/1/30	19/10a/1/145	19/5H/1/139	19/10a/1/89-2
19/5f/2/3	19/5E/1/23-2	19/5e/1/29-3	19/5a/1/29
19/5h/1/42	19/5d/1/5	19/5D/2/5	19/5g/2/20-2
19/6/2/81	19/5G/2/19-3	19/5d/2/3	19/5f/2/45
19/5c/1/53	19/5D/1/8	19/10a/1/97-1	19/5e/1/33-2
19/10a/1/162	19/10a/1/71	19/5b/1/68	19/5e/1/33-4
19/10a/1/87-1	19/5h/1/40	19/5g/1/104	19/5F/2/46
19/5g/1/32-3	19/5g/1/74	19/5c/1/70	19/10a/1/13
19/5b/1/12	19/5c/1/157	19/5a/1/11	19/5g/2/17-7
19/5a/1/33	19/5G/2/19-2	19/5g/1/22	19/5E/1/8-1
19/5G/2/18-17	19/5e/1/44	19/5d/2/59	19/5F/1/8-50
19/10a/1/16	19/6/2/4-2	19/5c/1/130	19/5b/1/57
19/5G/1/31-3	19/5g/1/85	19/10a/1/80	19/5f/1/8-26
19/5C/1/88	19/5d/1/18	19/5g/1/45-1	19/5f/1/8-25
19/5d/2/45	19/5c/1/87	19/10a/1/149	19/10a/1/85
19/5f/2/24	19/5d/1/13	19/5G/1/46	19/5d/1/54
19/5g/1/88	19/10a/1/114	19/5H/1/102	19/5c/1/15
19/10a/1/90-7	19/5c/1/151	19/5d/1/4	19/5e/1/32-9
19/5d/1/24	19/10a/1/173	19/5g/1/38-6	19/5D/2/67
19/5c/1/41	19/5g/2/4-1	19/5b/1/86	19/5g/1/9-1
19/10a/1/4	19/5e/1/7	19/5a/1/68	19/6/2/18-6
19/5g/1/2	19/10a/1/94-2	19/5a/1/61-1	19/5d/2/44
19/5b/1/76	19/5d/2/105	19/5g/1/35-2	19/5f/1/9-32
19/5e/1/29-9	19/5b/1/125	19/10a/1/106	19/5F/1/8-35
19/5d/1/78	19/5G/2/27	19/5f/1/8-34	19/5H/1/153
19/5e/1/47	19/5e/1/10	19/5f/1/8-33	19/5h/1/94
19/10a/1/116	19/5e/1/20	19/5a/1/49	19/5e/1/31-2
19/5g/1/54-3	19/5c/1/143	19/5G/2/24-17	19/5b/1/17

TAX PARCEL NUMBERS

19/5b/1/60	19/5b/1/75	19/5F/1/8-20	19/5G/2/19-8
19/5a/1/59	19/5G/2/24-11	19/5d/2/166	19/5d/2/76
19/5e/1/32-8	19/5a/1/108	19/5H/1/70	19/5f/2/40
19/10a/1/99-11	19/10a/1/161	19/5h/1/87	19/5f/2/41
19/10a/1/99-10	19/5D/2/15	19/5c/1/80	19/5a/1/78
19/5e/1/28-8	19/5e/1/16-1	19/5e/1/8-2	19/5d/2/145
19/5d/2/177	19/5c/1/103	19/5d/2/13	19/5H/1/131
19/5a/1/104	19/5d/1/49-1	19/10a/1/99-5	19/5C/1/82
19/5h/1/28	19/5B/1/59	19/10a/1/110	19/5b/1/145
19/5a/1/62	19/6/2/7-4	19/5h/1/60	19/5g/1/17
19/5e/1/24	19/5f/2/44	19/5e/1/22-4	19/5d/1/37
19/5c/1/54	19/5a/1/120	19/5g/1/105	19/5G/2/21-1
19/5d/1/20	19/5g/1/45	19/5H/1/5	19/5B/1/66
19/5g/2/21-2	19/10a/1/87-2	19/5C/1/20	19/5g/1/38-1
19/5g/1/55-18	19/5B/1/123	19/5d/1/71	19/5a/1/81
19/5h/1/50	19/5e/1/8-3	19/10a/1/126	19/5h/1/71
19/5h/1/51	19/5h/1/146	19/5g/2/24-14	19/5G/1/60-2
19/5F/1/8-53	19/5g/1/38	19/10a/1/96-11	19/5f/1/8-48
19/5e/1/29-7	19/5d/2/42	19/10a/1/135	19/5G/1/58-3
19/5a/1/102	19/10a/1/69	19/5f/2/57	19/5d/2/2
19/6/2/75	19/10a/1/44	19/5g/1/57	19/5g/1/19
19/5B/1/53	19/5d/2/90	19/5a/1/14	19/5e/1/25-1
19/5G/1/31-1	19/5h/1/68	19/5B/1/156	19/5h/1/115
19/5H/1/92	19/5h/1/33	19/5a/1/122	19/5C/1/14
19/10a/1/57-1	19/10a/1/150	19/5d/1/41	19/5a/1/41
19/5d/2/162	19/5d/2/147	19/5g/2/20-25	19/5g/1/37-2
19/5g/2/25-8	19/5f/2/43	19/10a/1/177	19/5d/2/124
19/10a/1/105	19/5a/1/84	19/5D/2/189	19/5d/2/83
19/5d/2/121	19/5G/2/20-12	19/5f/1/8-2	19/5d/2/50
19/5d/2/84	19/5c/1/110	19/5C/1/46	19/5D/2/39
19/5g/2/17	19/10a/1/12	19/10a/1/82-1	19/5c/1/12
19/5g/1/43-1	19/5b/1/135	19/5d/2/168	19/10a/1/120
19/5g/2/4-2	19/10a/1/90-1	19/5d/2/89	19/6/2/18-3
19/5g/1/102	19/5f/1/5-2	19/5f/1/9-29	19/10a/1/51
19/5b/1/29	19/5f/1/6-4	19/5g/1/101	19/5e/1/12-2
19/5g/2/18-5	19/5b/1/39	19/5g/2/25-15	19/5d/2/134
19/5d/1/93	19/5d/2/9	19/5b/1/96	19/5H/1/133
19/5a/1/40-1	19/5F/2/29	19/5b/1/87	19/5B/1/95
19/5F/1/8-1	19/5g/1/55-2	19/5d/1/64	19/5d/1/87

TAX PARCEL NUMBERS

19/5e/1/31-6	19/5H/1/67	19/5G/2/19-5	19/5d/1/47-2
19/5g/1/55-17	19/5d/2/40	19/5b/1/120-1	19/5g/2/24-3
19/5h/1/44	19/5F/2/30	19/5h/1/117	19/10a/1/139
19/10a/1/86	19/5g/1/50	19/5G/1/55-9	19/10a/1/96-12
19/10a/1/7	19/10a/1/34	19/5A/1/23	19/5g/1/78
19/5E/1/22-9	19/5g/2/25	19/5f/2/16	19/5a/1/7
19/10a/1/90-2	19/5b/1/90	19/5g/2/25-2	19/5d/2/119
19/5G/2/18-18	19/5g/1/79	19/5h/1/134	19/5f/1/5-1
19/5G/2/24-22	19/5f/1/8-37	19/5h/1/121	19/5F/1/5-8
19/10a/1/93-1	19/5f/1/8-31	19/5h/1/13	19/5A/1/36
19/10a/1/18	19/5d/2/41	19/10a/1/39	19/5d/2/66
19/5C/1/140	19/5b/1/154	19/5d/2/91	19/5f/2/23
19/5F/1/5-4	19/5H/1/45	19/5c/1/109	19/5h/1/140
19/5d/2/131	19/5a/1/60	19/5c/1/40	19/10a/1/87-5
19/5G/2/24-10	19/5d/2/81	19/5A/1/40	19/5g/1/65
19/5b/1/74	19/5d/2/112	19/10a/1/95-4	19/5g/1/86
19/10a/1/55-1	19/5d/2/143	19/5c/1/11	19/5d/2/13-1
19/5d/2/85	19/5d/2/36	19/5F/2/15	19/5H/1/145
19/5d/1/57	19/10a/1/99	19/5g/2/20	19/5g/1/38-4
19/6/2/80	19/5b/1/85	19/5E/1/31-1	19/6/2/9-5
19/5a/1/42	19/10a/1/170	19/5d/2/160	19/5g/1/55-15
19/5h/1/137	19/5f/1/8-11	19/10a/1/131	19/10a/1/100-2
19/5a/1/75	19/5g/2/21-6	19/5e/1/31	19/5b/1/107
19/5h/1/123	19/5d/1/72	19/10a/1/49	19/5b/1/9
19/5f/2/39	19/5d/2/80	19/5d/2/171	19/5G/2/24-1
19/5b/1/102	19/5h/1/43	19/10a/1/89	19/10a/1/17
19/5b/1/11	19/5d/2/12	19/5d/1/49-4	19/5c/1/37
19/5B/1/124-2	19/5d/2/71	19/5G/1/26-2	19/5g/2/16-9
19/5h/1/119	19/5b/1/18	19/5g/2/20-22	19/5d/2/69
19/5d/1/51	19/5b/1/98	19/5c/1/3	19/5f/1/9-5
19/10a/1/60	19/5f/1/9-14	19/5d/1/14	19/5b/1/1
19/5G/2/18-11	19/5c/1/33	19/5c/1/48	19/5b/1/61
19/5C/1/78	19/5c/1/67	19/5F/1/8-17	19/10a/1/99-1
19/10a/1/108	19/5E/1/29-8	19/6/2/9-10	19/5a/1/25
19/5d/2/56	19/10a/1/74	19/5g/2/17-6	19/10a/1/59
19/6/2/18-4	19/5a/1/20-1	19/10a/1/155	19/5d/2/24
19/5h/1/148	19/5d/1/6	19/10a/1/11	19/5g/1/60-10
19/5d/2/33	19/5e/1/29-12	19/5e/1/19	19/10a/1/10
19/10a/1/95-3	19/5g/2/24-8	19/5a/1/118	19/5F/1/5-7

TAX PARCEL NUMBERS

19/5d/1/15	19/10a/1/62-1	19/10a/1/9	19/5c/1/64
19/10a/1/99-7	19/5g/2/12	19/5d/2/137	19/5E/1/33-3
19/5f/1/9-15	19/5H/1/24	19/5d/1/42	19/5d/2/34
19/10a/1/160	19/5a/1/17	19/5D/1/27	19/5d/2/20
19/5e/1/46	19/10a/1/98-1	19/10a/1/65	19/5g/2/16-8
19/5e/1/25-6	19/5B/1/43	19/5d/1/88	19/5g/2/16-3
19/5g/1/43-2	19/5f/1/8-29	19/5G/1/52	19/5d/2/7
19/5d/1/48-1	19/5A/1/16	19/5B/1/73	19/5E/1/11-2
19/5g/2/10	19/10a/1/157	19/10a/1/134	19/5d/2/43
19/10a/1/96-2	19/5c/1/147	19/5f/1/9-26	19/10a/1/48
19/10a/1/172	19/5c/1/116	19/5a/1/54	19/5F/2/17
19/5B/1/36	19/5e/1/41	19/5c/1/56	19/5g/2/24-23
19/5d/1/70	19/5f/1/6-1	19/5C/1/16	19/10a/1/96-3
19/5c/1/145	19/5f/1/5-3	19/5g/2/24-16	19/5e/1/33-1
19/5f/2/28	19/5b/1/99	19/5g/2/21-8	19/5a/1/8
19/5c/1/39	19/5g/2/20-3	19/5H/1/25	19/10a/1/5
19/5d/1/49	19/5F/2/42	19/5g/2/18-7	19/5e/1/22-2
19/5g/2/17-8	19/5b/1/105	19/5b/1/24	19/93897
19/5d/2/73	19/5G/2/20-10	19/5g/2/25-12	19/5G/1/43-3
19/5C/1/36	19/5c/1/83	19/5f/1/9-12	19/5h/1/152
19/5d/2/4	19/5g/2/20-28	19/5f/1/9-11	19/5b/1/67
19/10a/1/96-7	19/5b/1/3	19/5d/2/152	19/5D/1/47-10
19/5c/1/29	19/5G/1/71	19/5B/1/22	19/5D/2/174
19/5g/1/58-2	19/5g/1/27	19/5d/1/48-2	19/5c/1/124
19/5d/2/93	19/5C/1/62	19/5b/1/14	19/5g/1/25
19/5b/1/33	19/5h/1/114	19/5a/1/65	19/5d/1/26
19/5g/1/9	19/5c/1/60	19/5d/2/48	19/10a/1/159
19/5g/2/13	19/10a/1/100-1	19/5e/1/9-1	19/5f/1/9-34
19/5a/1/97	19/5F/2/7	19/5d/1/44	19/5g/1/75
19/5a/1/98	19/5g/2/20-20	19/6/2/77	19/5E/1/14
19/5g/2/24-19	19/5a/1/28	19/5g/1/55-14	19/5h/1/73
19/5g/2/20-23	19/5g/1/54-4	19/5g/1/55-13	19/5g/1/54-7
19/5e/1/22-1	19/5b/1/115	19/5a/1/21	19/5H/1/110
19/5e/1/26	19/5b/1/103	19/5c/1/77	19/5c/1/59
19/5a/1/82	19/5g/1/60-9	19/5G/1/6	19/5b/1/4
19/5d/1/7	19/5C/1/17	19/5d/1/47-22	19/5b/1/79
19/5A/1/87	19/5h/1/14	19/5B/1/54	19/5f/1/9-19
19/5E/1/11-5	19/5g/2/10-2	19/5A/1/71	19/5g/2/16-11
19/10a/1/96-9	19/5b/1/50	19/5e/1/24-1	19/5a/1/74

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19/5b/1/41	19/5G/2/19	19/5c/1/166	19/5F/1/6-2
19/5b/1/41-2	19/5g/1/62	19/5g/1/26-1	19/5g/1/53-1
19/6/2/72	19/5D/1/55	19/5f/1/9-30	19/5a/1/63
19/5f/1/8-30	19/5e/1/9-2	19/5h/1/120	19/5d/1/22
19/5F/2/54	19/5g/1/21	19/5g/1/32-1	19/5H/1/109
19/6/2/7	19/10a/1/23	19/5E/1/17	19/5g/1/42
19/5e/1/22-5	19/5f/1/9-1	19/5g/1/49	19/5H/1/38
19/5e/1/25-5	19/5a/1/69	19/5g/2/16	19/5f/1/8-42
19/5b/1/71	19/5g/2/20-6	19/5H/1/32	19/5a/1/96
19/5H/1/52	19/5g/1/55-5	19/5c/1/76	19/5d/2/151
19/5d/2/114	19/5G/2/20-26	19/5e/1/28-6	19/5g/1/92
19/5d/2/30	19/5g/1/59-1	19/5g/2/18-12	19/5A/1/15
19/5F/1/3	19/5g/2/24-2	19/5G/2/24-13	19/5d/1/50
19/5c/1/8	19/5D/2/72	19/5c/1/101	19/5h/1/143
19/5e/1/30-2	19/6/2/7-2	19/5g/1/33	19/5F/2/25
19/5h/1/80	19/5d/2/92	19/5c/1/149	19/5d/1/76
19/5h/1/103	19/5e/1/29-1	19/5g/2/28	19/10a/1/109
19/5f/1/9-17	19/5a/1/89	19/5a/1/4	19/5b/1/31
19/5D/2/173	19/5d/1/49-5	19/5G/2/25-5	19/5g/2/19-6
19/10a/1/28	19/5d/1/47-11	19/5F/2/37	19/5a/1/44
19/10a/1/88	19/5a/1/53	19/5b/1/106	19/5c/1/43
19/5f/1/9-9	19/5g/1/32-4	19/5g/2/20-17	19/5g/1/103
19/5b/1/81	19/5e/1/28-1	19/10a/1/29	19/5h/1/111
19/5d/2/75	19/10a/1/99-6	19/5c/1/7	19/10a/1/6
19/5h/1/84	19/5d/2/51	19/5a/1/94	19/5E/1/5
19/10a/1/111	19/5d/2/164	19/5c/1/132	19/5e/1/4
19/5h/1/10	19/5H/1/118	19/10a/1/174	19/5E/1/21
19/5f/1/9-27	19/5f/2/56	19/10a/1/27	19/5d/1/11
19/5g/1/26-5	19/5G/1/106	19/5d/1/29	19/5f/1/9-4
19/5c/1/107	19/5h/1/101	19/5d/2/88	19/5h/1/149
19/5d/1/59	19/5g/1/66	19/5c/1/69	19/5d/1/19
19/5d/1/47-12	19/5g/2/15-1	19/5e/1/23	19/5e/1/29-14
19/5c/1/72	19/5a/1/93	19/5d/2/188	19/5e/1/29-13
19/5C/1/137	19/5C/1/57	19/5h/1/127	19/5g/2/18-10
19/5D/1/47-5	19/5b/1/121	19/5f/2/20	19/5A/1/32
19/5f/1/8-13	19/5G/2/19-7	19/5B/1/42	19/10a/1/35
19/5h/1/138	19/5g/2/20-27	19/5g/2/15	19/5h/1/31
19/5g/1/55-12	19/5b/1/69	19/5f/2/5	19/5g/1/90
19/5h/1/130	19/10a/1/75	19/5d/2/21	19/5g/1/15

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19/5F/1/9-13	19/5d/1/2	19/5h/1/20	19/5F/1/8-43
19/5C/1/23	19/5c/1/79	19/5h/1/107	19/10a/1/81
19/5e/1/31-7	19/6/2/76	19/5a/1/124	19/5h/1/34
19/5D/1/21	19/5a/1/19	19/5c/1/128	19/5E/1/32-7
19/5F/2/18	19/10A/1/24	19/5h/1/37	19/10a/1/76
19/5D/1/47-3	19/5D/2/6	19/10a/1/43	19/5d/2/62
19/5D/1/47-4	19/5g/2/25-7	19/5a/1/51	19/5d/2/153
19/10a/1/14	19/5e/1/11-6	19/5d/1/75	19/5e/1/6
19/5e/1/28-2	19/5F/2/14	19/5g/1/55-11	19/5g/2/20-15
19/10a/1/122	19/5h/1/8	19/5h/1/27	19/5B/1/2
19/5g/2/24-24	19/5A/1/77	19/5g/2/3	19/10a/1/125
19/5h/1/99	19/5a/1/95	19/5h/1/15	19/5d/1/47-6
19/5g/2/20-30	19/5f/1/6-6	19/5d/2/26	19/5h/1/147
19/5c/1/91	19/5f/1/8-22	19/5g/1/55-7	19/5g/1/5
19/5d/2/53	19/5d/2/109	19/5F/1/6	19/5d/2/68
19/5h/1/59	19/5f/2/12	19/5F/1/9	19/5E/1/29-10
19/5f/1/2	19/5d/1/65	19/5b/1/62	19/5G/1/46-1
19/10a/1/103	19/5d/2/64	19/5b/1/5	19/5b/1/78
19/5b/1/118	19/5f/2/63	19/5g/2/20-8	19/5d/2/94
19/5A/1/91	19/5f/2/62	19/5h/1/144	19/5g/1/55-3
19/5g/2/17-5	19/5h/1/69	19/5c/1/75	19/5d/2/25
19/5g/2/5	19/5d/2/176	19/10a/1/143	19/10a/1/101
19/5g/1/56	19/5g/1/35	19/5d/1/84	19/5E/1/11-3
19/5g/2/7	19/10a/1/84	19/10A/1/121	19/5h/1/135
19/5c/1/63	19/5G/1/46-4	19/5a/1/57	19/5g/1/84
19/5d/1/79	19/5h/1/142	19/5b/1/10	19/5e/1/25-3
19/5b/1/112	19/5c/1/74	19/5d/2/126	19/5g/1/60-5
19/5h/1/26	19/5d/2/172	19/5G/2/20-5	19/5b/1/55
19/5g/1/53-5	19/5a/1/47	19/5F/2/55	19/5c/1/21
19/5g/2/16-2	19/5d/2/74	19/5a/1/79	19/5g/1/32
19/5f/1/8-9	19/5a/1/27	19/5f/1/9-28	19/5d/2/157
19/5g/2/19-4	19/5h/1/64	19/5d/1/48-4	19/5d/1/12
19/5f/1/9-20	19/5g/2/20-18	19/5f/1/8-28	19/5d/2/58
19/5a/1/13	19/6/2/78	19/5g/2/18-1	19/5e/1/19-2
19/5g/1/55-16	19/5B/1/124-1	19/10a/1/144	19/5f/1/6-3
19/5b/1/82	19/5C/1/35	19/5d/2/32	19/5a/1/72
19/5f/2/38	19/5g/1/28	19/5h/1/23	19/10a/1/132
19/5c/1/32	19/5E/1/32-3	19/5D/1/33	19/5h/1/2
19/5G/1/72	19/5H/1/21	19/5g/1/40-1	19/5d/2/161

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19/5b/1/143	19/5D/1/23	19/10a/1/91	19/5c/1/172
19/5b/1/40	19/10a/1/99-9	19/5d/2/113	19/10a/1/98
19/5b/1/93	19/10a/1/148	19/5g/2/9	19/10a/1/64
19/5c/1/44	19/5g/2/20-21	19/5c/1/47	19/5c/1/84
19/5d/1/17	19/6/2/9-12	19/5c/1/28	19/5g/1/87
19/5d/2/8	19/5g/1/60-12	19/5g/2/24-7	19/5c/1/168
19/5e/1/30	19/5d/1/52	19/5a/1/24	19/10a/1/166
19/5g/2/18-3	19/5d/2/156	19/5e/1/49	19/5a/1/10
19/5e/1/22-6	19/5d/2/28	19/5g/2/16-1	19/5f/2/61
19/5b/1/128	19/5c/1/52	19/5d/1/35	19/5g/1/61
19/5b/1/126	19/5d/2/127	19/5F/1/9-3	19/5G/1/8
19/5b/1/131	19/5g/2/24-5	19/5f/1/7	19/5e/1/31-4
19/5c/1/49	19/5g/2/18-13	19/5d/2/146	19/5d/2/101
19/5E/1/10-2	19/5a/1/100	19/5f/2/6	19/10a/1/147
19/5e/1/28-4	19/5g/2/13-1	19/10a/1/100	19/5e/1/22-8
19/5h/1/106	19/5B/1/38	19/5B/1/15	19/5a/1/20
19/5d/2/82	19/6/2/73	19/5d/2/60	19/5g/1/40
19/5G/1/44	19/5g/1/96	19/5a/1/90	19/5d/1/91
19/5g/1/38-3	19/5g/2/25-1	19/5f/2/48	19/6/2/9-8
19/5G/1/70	19/5e/1/8	19/5G/1/58-1	19/5f/2/11
19/5D/1/56	19/10a/1/133	19/10a/1/164	19/5g/1/34
19/6/2/9-13	19/5g/1/80	19/10a/1/26	19/5g/2/25-11
19/10a/1/88-2	19/5a/1/70	19/5c/1/6	19/10a/1/178
19/5g/2/24-4	19/5e/1/29-6	19/5c/1/25	19/6/2/85
19/5G/1/60-11	19/5A/1/85	19/5c/1/45	19/5g/2/14-1
19/10a/1/55	19/5g/1/94	19/5d/1/49-2	19/5D/2/10
19/5a/1/50	19/5g/1/93	19/5F/1/4	19/5h/1/65
19/5g/1/91	19/5e/1/28-5	19/10a/1/92	19/5G/1/53-3
19/5b/1/77	19/5g/2/22-2	19/10a/1/93	19/10a/1/89-1
19/5g/2/16-10	19/5g/1/23	19/5f/1/8-32	19/5d/2/47
19/5d/1/60	19/5g/1/23-1	19/5b/1/20	19/5d/2/169
19/5c/1/5	19/5D/1/53	19/5d/2/98	19/5g/1/38-5
19/5c/1/170	19/10a/1/90-4	19/5d/2/97	19/5D/2/190
19/5C/1/89	19/5d/2/123	19/5E/1/10-3	19/5g/1/41
19/5g/2/20-1	19/5c/1/22	19/5G/1/13	19/5d/2/86
19/5h/1/124	19/5b/1/49	19/5g/1/37-1	19/5g/2/18-14
19/10a/1/67	19/5D/1/3	19/5G/2/22-1	19/5h/1/91
19/10a/1/40	19/5d/2/35	19/10a/1/96-5	19/5d/1/63
19/5e/1/29-5	19/5g/2/24-20	19/10a/1/185	19/5b/1/122

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19/5d/2/133	19/5D/1/16	19/5d/2/117	19/5e/1/22-3
19/5d/2/155	19/10a/1/128	19/5d/2/116	19/5F/1/9-31
19/5f/2/32	19/10a/1/129	19/5g/1/89	19/10a/1/2
19/10a/1/63	19/6/2/8	19/10a/1/37	19/10a/1/171
19/5E/1/22	19/5G/2/18-9	19/10a/1/127	19/6/2/18-2
19/5c/1/34	19/5e/1/25-2	19/5d/1/47-13	19/5g/2/20-11
19/5h/1/141	19/5g/1/28-1	19/10a/1/99-4	19/10a/1/54
19/5c/1/129	19/5d/2/108	19/5b/1/70	19/5D/2/46
19/5c/1/159	19/5a/1/86	19/5f/2/10	19/10a/1/90-6
19/5d/1/47-1	19/5d/1/38	19/5E/1/32-10	19/5g/2/24-21
19/10a/1/186	19/5g/1/99	19/5d/1/1	19/5f/2/50
19/10a/1/94	19/5g/2/1	19/5d/2/11	19/5g/2/16-6
19/5c/1/118	19/5g/1/98	19/5B/1/130	19/5d/2/79
19/5c/1/24	19/5D/1/47-8	19/5d/2/31	19/5f/2/52
19/5b/1/65	19/5c/1/18	19/5g/2/24-6	19/5g/2/18-16
19/5e/1/32	19/5F/1/9-24	19/5f/2/49	19/10a/1/19
19/5a/1/73	19/5A/1/56	19/10a/1/123	19/5d/2/120
19/5E/1/9	19/5d/2/135	19/6/2/4	19/5d/1/47-17
19/5C/1/155	19/10a/1/42	19/5a/1/6	19/5e/1/35
19/5G/1/55-6	19/5h/1/116	19/10a/1/142	19/5e/1/35-1
19/10a/1/83-2	19/10a/1/72	19/5g/1/64	19/5d/2/111
19/10a/1/83-1	19/5G/2/18	19/5h/1/155	19/5d/2/22
19/10a/1/50	19/5E/1/42	19/5D/1/34	19/10a/1/113
19/5g/2/17-9	19/5C/1/65	19/5h/1/53	19/10a/1/181
19/5a/1/92	19/5G/1/60-8	19/5b/1/35	19/5g/1/48
19/5h/1/57	19/5g/2/26	19/5d/2/163	19/5h/1/72
19/5H/1/108	19/5f/1/9-18	19/5A/1/115	19/10a/1/55-2
19/5e/1/19-3	19/5g/1/55	19/5g/2/17-4	19/5g/2/17-2
19/5d/2/170	19/5b/1/32	19/5a/1/22	19/5E/1/31-5
19/5d/2/99	19/5f/1/9-6	19/5c/1/81	19/10a/1/182
19/5f/2/51	19/10a/1/96-10	19/5g/2/20-13	19/10a/1/167
19/5g/2/24-25	19/5B/1/58	19/5d/2/61	19/10a/1/169
19/5d/2/103	19/5h/1/93	19/5h/1/62	19/5g/2/25-10
19/5g/2/18-2	19/5g/2/20-14	19/5h/1/104	19/5G/1/31-4
19/5c/1/10	19/5h/1/122	19/5h/1/105	19/5G/1/11
19/10a/1/96-1	19/5H/1/41	19/10a/1/96-8	19/5f/2/47
19/5f/1/8-19	19/10a/1/96-4	19/5H/1/150	19/5e/1/27
19/10a/1/8	19/5c/1/120	19/5H/1/151	19/5D/2/130
19/5f/1/8-52	19/5d/2/78	19/5h/1/49	19/5f/2/60

TAX PARCEL NUMBERS

19/5b/1/21	19/5G/1/34-2	19/5D/1/41-1	19/5e/1/16
19/5g/2/25-9	19/5E/1/22-7	19/5E/1/11-1	19/5g/1/69
19/5B/1/88	19/5f/1/8-44	19/5g/1/54-6	19/5G/2/18-19
19/5G/1/60	19/5b/1/97	19/10a/1/90-8	19/5b/1/27
19/10a/1/183	19/5B/1/108	19/5b/1/129	19/5D/1/39
19/5d/1/47-14	19/5g/2/10-1	19/5d/1/68	19/5c/1/164
19/5d/2/107	19/10a/1/33	19/5H/1/55	19/5a/1/88
19/5g/1/47	19/5F/1/8-23	19/10a/1/47	19/5g/2/6
19/5g/1/26	19/5g/1/51	19/10a/1/156	19/5c/1/4
19/10a/1/176	19/5B/1/52	19/5d/2/29	19/5c/1/161
19/5B/1/92	19/5b/1/83	19/5g/2/4	19/5E/1/32-11
19/5f/1/9-7	19/5g/1/4	19/5d/2/37	19/5g/1/95
19/10a/1/138	19/5e/1/18-2	19/5g/1/77	19/5f/1/6-8
19/10a/1/68	19/5f/1/6-5	19/5H/1/9	19/5h/1/3
19/6/2/74	19/5D/1/58	19/5e/1/29-11	19/10a/1/153
19/10a/1/151	19/5d/2/165	19/5g/2/21	19/5e/1/10-1
19/5A/1/37	19/5g/1/34-1	19/5d/1/94	19/5g/1/46-3
19/5b/1/100	19/10a/1/124	19/10a/1/88-1	19/5a/1/126
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19/5a/1/80	19/5d/2/148	19/5g/1/32-2	19/5G/1/67
19/5b/1/133	19/5g/1/68	19/5d/2/115	19/5H/1/66
19/5b/1/47	19/5A/1/55	19/5g/2/19-1	19/5G/1/30
19/5d/1/28	19/5f/2/58	19/5F/1/9-2	19/5h/1/56
19/5g/2/21-3	19/5C/1/85	19/5d/2/16	19/5B/1/19
19/5f/1/8-46	19/5g/2/16-7	19/10a/1/152	19/5a/1/101
19/5e/1/28-7	19/5d/1/47-16	19/5e/1/11	19/10a/1/107
19/5A/1/2	19/5g/1/55-8	19/5g/2/12-2	19/5g/2/2
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19/5C/1/68	19/5h/1/75	19/5d/2/18	19/5g/1/26-6
19/5a/1/64	19/5b/1/51	19/5h/1/58	19/5H/1/4
19/5c/1/86	19/5g/2/20-24	19/5e/1/25	19/5F/1/9-16
19/5g/1/3	19/6/2/7-1	19/5E/1/2	19/5h/1/12
19/5g/1/53-2	19/10a/1/38	19/5e/1/33	19/5c/1/134
19/5F/1/8-27	19/5G/1/16	19/5d/1/9	19/5f/2/33
19/5g/1/39	19/10a/1/61	19/5h/1/7	19/5e/1/45
19/5c/1/122	19/5h/1/36	19/10a/1/52	19/5g/2/22
19/5e/1/18	19/5g/1/36	19/10a/1/97-3	19/5a/1/106
19/5A/1/116	19/5G/2/20-4	19/10a/1/73	19/5d/1/47-18
19/5E/1/3	19/5h/1/98	19/5g/1/60-1	19/5d/2/138

TAX PARCEL NUMBERS

19/5a/1/18	19/10a/1/102	19/5G/1/12	19/10a/1/83
19/10a/1/56	19/5e/1/23-1	19/5c/1/61	19/5g/2/20-31
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19/5g/1/18	19/5d/1/90	19/5g/2/16-4	19/5b/1/30
19/5H/1/35	19/5b/1/117	19/5g/1/32-6	19/5g/2/18-6
19/5d/1/48	19/5g/1/14	19/5f/1/6-7	19/5a/1/67
19/5d/1/40	19/5h/1/136	19/10a/1/79	19/5G/2/25-14
19/5h/1/100	19/5d/2/141	19/5g/2/25-13	19/5E/1/32-5
19/5f/2/13	19/5f/1/5	19/5b/1/140	19/5h/1/29
19/5c/1/58	19/10a/1/70	19/5d/1/77	19/5h/1/30
19/5c/1/97	19/5d/1/49-3	19/5a/1/46	19/10a/1/22
19/5d/2/54	19/5c/1/55	19/5G/2/21-5	19/5g/2/11-1
19/5d/1/31	19/5c/1/9	19/5g/1/34-6	19/10a/1/97-2
19/5d/2/95	19/5g/2/24-18	19/5g/1/34-4	19/5d/2/17
19/5c/1/50	19/5f/2/21	19/6/2/4-1	19/10a/1/99-8
19/10a/1/20	19/5g/1/46-2	19/5g/1/100	19/10a/1/77
19/5d/1/62	19/10a/1/158	19/10a/1/25	19/5E/1/29-4
19/6/2/18-5	19/5f/1/5-5	19/5D/2/23	19/5g/1/82
19/5b/1/124	19/5d/2/63	19/5c/1/99	19/5a/1/31
19/5B/1/28	19/5c/1/112	19/5A/1/9	19/5a/1/99
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19/5g/1/43	19/5a/1/66	19/5f/2/26	19/5d/2/70
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19/5F/1/8-51	19/5g/2/20-9	19/5g/2/24-9	19/5d/1/47-19
19/5d/1/47-15	19/5f/1/9-33	19/5f/1/8-7	19/5d/1/81
19/10a/1/82	19/5g/1/28-2	19/10a/1/90-9	19/6/1/18
19/5b/1/104	19/10a/1/130	19/5h/1/83	19/6/1/107
19/6/2/86	19/5c/1/153	19/5g/2/21-4	19/6/1/27-1
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19/10a/1/89-4	19/5d/1/47-24	19/5E/1/16-2	19/6/2/25
19/5b/1/37	19/10a/1/57	19/5h/1/97	19/6/1/22
19/5g/2/21-7	19/5h/1/85	19/5g/1/83	19/6/2/22-1
19/5d/1/67	19/5h/1/126	19/10a/1/90-3	19/6/1/7
19/5a/1/58	19/5c/1/19	19/5c/1/13	19/6/2/5
19/5g/2/8	19/10a/1/115	19/5h/1/18	19/6/1/26
19/10a/1/87-4	19/5H/1/19	19/5f/1/8-21	19/6/2/66

TAX PARCEL NUMBERS

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19/6/2/9-4	19/5B/1/16	19/5/1/2
19/6/1/25	195B/1/158	19/5/1/6-6
19/6/2/6	19/5f/1/8-36	19/5H/1/89
19/6/1/9-1	19/5d/2/122	19/5D/1/1-2
19/6/2/1-1	19/5F/1/8-39	19/5H/1/89-1
19/6/2/70	19/5e/1/25-7	19/5H/1/157
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19/6/2/10-1	19/5e/1/25-4	19/117136
19/6/2/16	19/5b/1/91	19/119136
19/6/1/21	19/5b/1/161	19/10A/1/53
19/8/1/15	19/5b/1/147	
19/6/1/24	19/117594	
19/6/2/30	19/117593	
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19/5H/3/52	19/5c/1/115	
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19/6/2/24	19/5f/2/35	
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19/6/2/31	19/5g/1/55-10	
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19/112804	19/5b/1/110	
19/6/1/41	19/5f/1/8-4	
19/10a/1/137	19/5b/1/137	
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19/5g/2/20-19		
19/5f/1/8-24	19/10/1/2	
19/5d/2/132	19/10/1/2-1	
19/5d/1/86	19/113511	
19/5c/1/114	19/92528/1C	
19/5d/1/61	19/5/1/5	
19/5b/1/114	19/5H/2/108	
19/10a/1/95	19/9/1/5	
19/5B/1/116/	19/9/1/1	
19/10a/1/104	19/10A/1/187	

VII. Pursuant to Section 5219 of the Pennsylvania Uniform Planned Community Act, the Amended Declaration may be further amended based on the agreement of Lot owners holding at least 67% of the votes in the Association.

VIII. The Association has obtained the written agreement of Lot owners to which at least 67% of the votes in the Association are allocated, thereby authorizing the addition of certain language to the Amended Declaration related to sex offenders.

IX. The Club, through its Board of Trustees, agrees to the addition of this language to the Amended Declaration related to sex offenders.

NOW THEREFORE, the Amended Declaration is amended to, in addition to its already existing provisions, also include the following provision:

14. No person who is registered or is required to be registered for life in (a) Pennsylvania's Statewide registry of sexual offenders pursuant to 42 Pa.C.S. § 9799.10 et seq., as amended from time to time, or (b) the sex offender registry of any other state or the United States under a corresponding statute (a "Prohibited Person") shall occupy or reside in any Lot, dwelling or common area within the boundaries of, or under the jurisdiction of the Pocono Pines Community Association (an "Association Property"). No Owner or agent of an owner shall knowingly allow such a Prohibited Person to occupy or reside in any such Association Property. Without limiting any other right or remedy available to the Association or Owners in the Association, and notwithstanding anything herein to the contrary, the Association, shall have the right, which it may exercise according to the sole discretion of its Board of Directors, to seek any and all remedies available at law or in equity to it and/or to individual Owners (who shall, if necessary and as requested by the Association, cooperate with, join and/or assist the Association), including without limitation, injunctive relief, for violation of this Provision that is actually known to it.

All other terms and provisions in the Amended Declaration shall remain in full force and effect.

IN WITNESS OF WHICH, the Association and Club have executed this Amendment to the Amended Declaration on the date and year stated above.

ATTEST:


Wendie Gorman
Executive Secretary
[Corporate Seal]

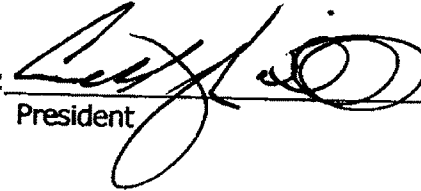
POCONO PINES COMMUNITY ASSOCIATION

By: 
President

ATTEST:


Executive Secretary
[Corporate Seal]

THE LAKE NAOMI CLUB

By: 
President

**CERTIFICATION OF THE MONROE COUNTY RECORDER OF DEEDS
REQUIRED UNDER UPCA SECTION 5219(C)**

This Amendment to the Declaration was recorded on _____,
201__ in Monroe County Deed Book Volume _____ at page _____, etc., and has
been indexed in both the Grantor index and Grantee index in the name of the Lake
Naomi planned community as required by Section 5219(c) of the Pennsylvania Uniform
Planned Community Act.

Recorder of Deeds, Monroe County, Pennsylvania

[SEAL]



COUNTY OF MONROE

RECORDER OF DEEDS
610 MONROE STREET
SUITE 125
STROUDSBURG, PA 18360
Area Code (570) 517-3969

Josephine Ferro - Recorder

Instrument Number - 201610962
Recorded On 5/11/2016 At 3:55:40 PM

Book - 2471 Starting Page - 3301
* Total Pages - 19

* Instrument Type - AMENDMENT

Invoice Number - 708188

* Grantor - POCONO PINES COMMUNITY ASSOCIATION INC

* Grantee - LAKE NAOMI CLUB

User - DAM

* Customer - YOUNG & HAROS LLC

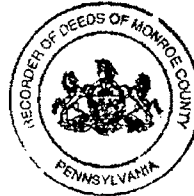
* FEES

STATE WRIT TAX	\$0.50
RECORDING FEES	\$41.00
COUNTY ARCHIVES FEE	\$2.00
ROD ARCHIVES FEE	\$3.00
TAX CODE	\$18,040.00
CERTIFICATION FEES	
TOTAL PAID	\$18,086.50

RETURN DOCUMENT TO:
YOUNG & HAROS LLC

MC GIS Registry UPI Certification
On April 26, 2016 By BH

TAX ID #
19/5C/1/86-1
19/5A/1/12
19/5G/1/60-7
Total Tax IDs: 1804



I Hereby CERTIFY that this document is recorded in the
Recorder's Office of Monroe County, Pennsylvania

Josephine Ferro

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW THE LAST PAGE
OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during
the verification process and may not be reflected on this page.

Book: 2471 Page: 3319



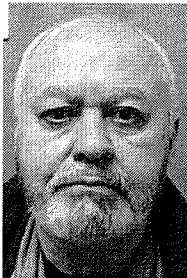
(http://www.psp.pa.gov/)

TOM WOLF, GOVERNOR (HTTP://WWW.GOVERNOR.PA.GOV)
LIEUTENANT COLONEL ROBERT EVANCHICK, ACTING
COMMISSIONER (HTTP://WWW.PSP.PA.GOV/PAGES/PSP-
COMMISSIONER-BIOGRAPHY.ASPX)

(http://www.pa.gov/)

Facebook (https://www.facebook.com/PASatePolice) Twitter (https://twitter.com/PASatePolice)

Physical Desc (/OffenderDetails/PhysDesc/38951) Addresses (/OffenderDetails/Addresses/38951)
Vehicles (/OffenderDetails/Vehicles/38951) Offenses (/OffenderDetails/Offenses/38951)
Aliases (/OffenderDetails/Aliases/38951) Photographs (/OffenderDetails/Photos/38951)



ERIC ROSADO

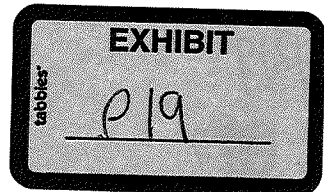
Offender Type Tier 3
Registration Start 9/28/2015
Last Updated 12/18/2018
Primary Offense [3126 \(/InformationalPages/](#)
[CrimesCode#3126\)](#) - INDECENT ASSAULT

- [Return to Search Results \(/Search/ReturnToSearch\)](#)
- [View Report \(/Reports/MegansOffenderReports?path=%2FMegans_Law%2FOffenderPublicRpt&OffenderID=38951&Ref\)](#)
- [Submit A Tip \(/SubmitATip/SubmitATip?OffenderID=38951&OffenderFullName=ERIC%20%20ROSADO%20\)](#)
- [Track This Offender](#)

Sexual Offense Conviction(s) Recorded In

PA Sexual Offender Registry

Offense	Offense Date	Conviction Date	Is Victim Minor
NY065 (/InformationalPages/ CrimesCode#999999999) - COURSE OF SEXUAL CONDUCT AGAINST A CHILD - 2ND DEGREE	6/1/2013	2/10/2016	Yes
3126 (/InformationalPages/ CrimesCode#3126) - INDECENT ASSAULT	2/20/2014	6/9/2015	Yes
6318 (/InformationalPages/ CrimesCode#6318) - UNLAWFUL CONTACT OR COMMUNICATION WITH MINOR	2/20/2014	6/9/2015	Yes



Sexual Offense Conviction(s) Recorded In
PA Criminal History Repository

Offense	Offense Date	Conviction Date
6318A1 (/InformationalPages /CrimesCode#6318) - UNLAWFUL CONTACT WITH MINOR	2/20/2014	6/9/2015

Offense	Offense Date	Conviction Date
3126A7 (/InformationalPages /CrimesCode#3126) - INDECENT ASSAULT - COMPLAINANT LESS THAN 13 YEARS OF AGE	2/20/2014	6/9/2015

Under Pennsylvania law, you are only entitled to the listed information of this offender. Every effort is made to provide accurate, up-to-date information at all times; however, please be advised that slight delays may occur from the time the offender reports any updated information to the actual posting of this information on the website to allow for administrative processing by the Megan's Law Section staff. If you believe the listed information is in error, you may contact the Megan's Law Section via the "Submit a Tip" button above, or by toll-free telephone at 1-866-771-3170.

THE INFORMATION PROVIDED ON THIS SITE IS INTENDED FOR COMMUNITY SAFETY PURPOSES ONLY AND SHOULD NOT BE USED TO THREATEN, INTIMIDATE, OR HARASS. MISUSE OF THIS INFORMATION MAY RESULT IN CRIMINAL PROSECUTION.

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This Website is for Informational Purposes Only - If you have an emergency, crime, or incident to report, please contact your nearest Police Agency or call 911.

Questions regarding the contents of the PSP Megan's Law Website?

Call 1-866-771-3170

The Uniform Planned Community Act (Emphasis added)

[68 Pa.C.S. § 5315](#)

Pa.C.S. documents are current through 2023 Regular Session Act 1; P.S. documents are current through 2023 Regular Session Act 1

Pennsylvania Statutes, Annotated by LexisNexis® > Pennsylvania Consolidated Statutes (§§ 101 — 9901) > Title 68. Real and Personal Property (Pts. II — III) > Part II. Real Property (Subpts. A — F) > Subpart D. Planned Communities (Chs. 51 — 54) > Chapter 53. Management of Planned Community (§§ 5301 — 5322)

§ 5315. Lien for assessments.

(a) General rule. — The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in a like manner as a mortgage on real estate. A judicial or other sale of the unit in execution of a common element lien or any other lien shall not affect the lien of a mortgage on the unit, except the mortgage for which the sale is being held, if the mortgage is prior to all other liens upon the same property except those liens identified in [42 Pa.C.S. § 8152\(a\)](#) (relating to judicial sale as affecting lien of mortgage) and liens for planned community assessments created under this section. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charged under section 5302(a)(10), (11) and (12) (relating to power of unit owners' association) and reasonable costs and expenses of the association, including legal fees, incurred in connection with collection of any sums due to the association by the unit owner or enforcement of the provisions of the declaration, bylaws, rules or regulations against the unit owner are enforceable as assessments under this section. If an assessment is payable in installments and one or more installments are not paid when due, the entire outstanding balance of the assessment becomes effective as a lien from the due date of the delinquent installment.

(b) Priority of lien.

(1) General rule. — A lien under this section is prior to all other liens and encumbrances on a unit except:

(i) Liens and encumbrances recorded before the recording of the declaration.

(ii)

(A) Mortgages and deeds of trust on the unit securing first mortgage holders and recorded before due date of the assessment if the assessment is not payable in installments or the due date of the unpaid installment if the assessment is payable in installments.

(B) Judgments obtained for obligations secured by any such mortgage or deed of trust under clause (A).

(iii) Liens for real estate taxes and other governmental assessments or charges against the unit.

(2) Limited nondivestiture. — The association's lien for assessments shall be divested by a judicial sale of the unit:

(i) As to unpaid common expense assessments made under section 5314(b) (relating to assessments for common expenses) that come due during the six months immediately preceding the date of a judicial sale of a unit in an action to enforce collection of a lien against a unit by a judicial sale, only to the extent that the six months' unpaid assessments are paid out of the proceeds of the sale.

(ii) As to unpaid common expense assessments made under section 5314(b) other than the six months' assessment referred to in subparagraph (i), in a full amount of the unpaid assessments, whether or not the proceeds of the judicial sale are adequate to pay these assessments. To the extent that the proceeds of the sale are sufficient to pay some or all of these additional assessments after satisfaction in full of the costs of the judicial sale and the liens and encumbrances of the types described in paragraph (1) and the unpaid common expense assessments that come due during the six-month period described in subparagraph (i), the assessments shall be paid before any remaining proceeds may be paid to any other claimant, including the prior owner of the unit.

(3) Monetary exemption. — The lien is not subject to the provisions of [42 Pa.C.S. § 8123](#) (relating to general monetary exemption).

(c) Liens having equal priority. — If the association and one or more associations, condominium associations or cooperative associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(d) Notice and perfection of lien. — Subject to the provisions of subsection (b), recording of the declaration constitutes record notice and perfection of the lien.

(e) Limitation of actions.— A lien for unpaid assessments is extinguished unless proceedings to enforce the lien or actions or suits to recover sums for which subsection (a) establishes a lien are instituted within four years after the assessments become payable.

(f) Other remedies preserved. — Nothing in this section shall be construed to prohibit actions or suits to recover sums for which subsection (a) creates a lien or to prohibit an association from taking a deed in lieu of foreclosure.

(g) Costs and attorney fees. — A judgment or decree in any action or suit brought under this section shall include costs and reasonable attorney fees for the prevailing party.

(h) Statement of unpaid assessments. — The association shall furnish to a unit owner upon written request a recordable statement setting forth the amount of unpaid assessments currently levied against his unit and any credits of surplus in favor of his unit under section 5313 (relating to surplus funds). The statement shall be furnished within ten business days after receipt of the request and is binding on the association, the executive board and every unit owner.

(i) Application of payments. — Unless the declaration provides otherwise, any payment received by an association in connection with the lien under this section shall be applied first to any interest accrued by the association, then to any late fee, then to any costs and reasonable attorney fees incurred by the association in collection or enforcement and then to the delinquent assessment. The foregoing shall be applicable notwithstanding any restrictive endorsement, designation or instructions placed on or accompanying a payment.

History

[Act 1996-180](#) (H.B. 1757), P.L. 1336, § 1, approved Dec. 19, 1996, eff. in 45 days; [Act 2004-189](#) (H.B. 1329), P.L. 1486, § 5, approved Nov. 30, 2004, eff. in 60 days; [Act 2016-21](#) (H.B. 1340), § 1, approved April 20, 2016, eff. June 20, 2016.

Pennsylvania Statutes, Annotated by LexisNexis®
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End of Document

Mulligan v. Panther Valley Property Owners Ass'n,

337 N.J. Super. 293, 766 A.2d 1186, 1192-1193, 2001 N.J. Super. LEXIS 59

[Plaintiff's] third [claim], however, gives us pause, at least in one regard. Although not contained within the record before us, we are aware that other similar common interest communities within the State have passed similar restrictions upon residency by Tier 3 registrants. 156 N.J.L.J. 361 (May 3, 1999). We do not know from the record how many common interest communities exist within the State and we do not know from the record how many of those communities have seen fit to adopt comparable restrictions and whether they have determined to include a broader group than Tier 3 registrants. We are thus unable to determine whether the result of such provisions is to make a large segment of the housing market unavailable to one category of individual and indeed perhaps to approach "the ogre of vigilantism and harassment," the potential dangers of which the Supreme Court recognized even while upholding the constitutionality of Megan's Law.

337 N.J. Super. at 305, 766 A.2d at 1192-1193, 2001 N.J. Super. LEXIS 59, *15-16

The Court also questioned whether:

large segments of the State could entirely close their doors to such individuals, confining them to a narrow corridor and thus perhaps exposing those within that remaining corridor to a greater risk of harm than they might otherwise have had to confront.

Common interest communities fill a particular need in the housing market but they also pose unique problems for those who remain outside their gates, whether voluntarily or by economic necessity. The understandable desire of individuals to protect themselves and their families from some of the ravages of modern society and thus reside within such communities should not become a vehicle to ensure that those problems remain the burden of those least able to afford a viable solution.

337 N.J. Super. at 306, 766 A.2d at 1193, 2001 N.J. Super. LEXIS 59, *17-18

Fross v. County of Allegheny,

20 A. 3d 1193 (Pa. 2011)

The Pennsylvania Supreme Court ruled that an Allegheny County ordinance which imposed residence restrictions on sex offenders required to register under Megan's Law was preempted by provisions of the Pennsylvania Prisons and Parole Code, 61 Pa.C.S. § 101 et. seq., ("Parole Code") and/or by the Pennsylvania Sentencing Code, 42 Pa.C.S. § 9701 et. seq. ("Sentencing Code"). The court held that the ordinance "impedes the accomplishment of the full objectives of the General Assembly, as expressed in the Sentencing and Parole Codes, and is, therefore, invalid pursuant to our conflict preemption doctrine." Id. at 20 A.3d 1195.

The Supreme Court reviewed the comprehensive nature of the treatment of sex offenders in the parole and sentencing codes in punishment and rehabilitation and noted:

The Ordinance fails to acknowledge, and effectively subverts, these goals of the General Assembly. The Ordinance banishes many sex offenders from their pre-adjudication neighborhoods and support systems. The Ordinance also consigns all offenders to isolated suburban areas of Allegheny County that presumably will provide less access to transportation, employment, counseling, and supervision. Moreover, it is not even apparent, from the record provided, whether there is appropriate residential housing available in the areas to which registrants would be banished; what we do know is that those areas, even if residential, are isolated from other aspects of most residential communities, such as parks and community and recreation centers. The Ordinance appears to attempt to ensure public safety, in certain parts of Allegheny County, by isolating all Megan's Law registrants in localized penal colonies of sorts, without any consideration of the General Assembly's policies of rehabilitation and reintegration.

20 A.3d at 1204.

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EDUCATION

Ph.D., Northwestern University, 1977
M.A., Northwestern University, 1975
B.S., University of Wisconsin, 1974

ACADEMIC APPOINTMENTS

University of California-Irvine: Professor of Social Ecology; Environmental Health Sciences; Criminology, Law and Society; Planning and Policy, 1988-Present.

Maine Medical Center Research Institute: Visiting Scientist, 2011-12.

University of Minnesota: Visiting Professor of Public Health (Epidemiology Division), 1998.

University of New Mexico: Associate Professor of Sociology, 1983-1988; Associate Director, New Mexico Statistical Analysis Center 1986-1988.

Human Relations Area Files, Yale University: Senior Research Scientist, 1986-1989.

University of Michigan: Instructor, ICPSR Summer Institute in Quantitative Social Science, 1983-1984.

State University of New York-Albany: Associate Professor of Criminal Justice, 1982-1983.

Arizona State University: Associate Professor of Criminal Justice, 1980-1982; Assistant Professor of Criminal Justice, 1978-1980; Director, Program in Applied Statistics, 1980-1982.

University of Illinois, Chicago: Assistant Professor of Criminal Justice and Sociology, 1977-1978; Lecturer in Criminal Justice, 1976-1977.

MEMBERSHIPS

Western Society of Criminology
American Statistical Association
Justice Research and Statistics Association

EDITORIAL BOARDS

Behavioral Assessment: Associate Editor, 1980-1984
Criminology and Public Policy, Senior Editor, 2006-2007
Evaluation Studies Review Annual: Associate Editor, 1986
J of Criminal Law and Criminology: Consulting Editor, 1982-Present
J of Quantitative Criminology: Associate Editor, 2001-2012
J of Research in Crime and Delinquency: Consulting Editor, 1981-Present
Justice Quarterly: Associate Editor, 1991-4
Law and Policy Quarterly: Associate Editor, 1978-88
New Direction for Program Evaluation: Advisory Editor, 1991-95
Research Methods in Social Relations, 4th Ed.: SPSSI Board of Advisors
Social Pathology: Associate Editor, 1994-Present

COMMUNITY SERVICE

Board of Directors, Prevent Child Abuse - Orange County, 1997-2003
Board of Directors, Orange County Youth and Family Services, 1995-2002
Technical Advisory Board (Health Link), Robert Wood Johnson Foundation
Executive Committee, UCI Mental Retardation Research Center, 1995-2000
Executive Committee, UC Institute for Brain Aging and Dementia, 1995-2003
Faculty Chair, UC Irvine School of Social Ecology, 2002, 2003
Member, UC Irvine Institutional Review Board "C" 2003-2009
Alternate Member, UC Irvine Institutional Review Board "C" 2010-present
Representative, UC Committee on Research Policy, 2004-2005
Chair, UC Irvine Council on Research, 2005-2007
Chair, UC Irvine Council on Student Experience, 2009-10

FINISHED WORK - Books

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Maltz, M.D. and R. McCleary. Recidivism and likelihood functions. *Evaluation Review*, 1979, 3:124-131.

McCleary, R. On becoming a client. *Journal of Social Issues*, 1978, 34:57-75.

Maltz, M.D. and R. McCleary. Rejoinder on "The stability of parameter estimates in the split population exponential distribution." *Evaluation Review*, 1978, 2:650-654.

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Maltz, M.D. and R. McCleary. The mathematics of behavioral change. *Evaluation Review*, 1977, 1:421-438.

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McCleary, R. How structural variables constrain the parole officer's use of discretionary power. *Social Problems*, 1975, 23(2)¹³

FINISHED WORK - Reviews

McCleary, R. Review of *The Great American Crime Decline* by F. Zimring. *Contemporary Sociology*, 2009, 38:45-46.

McCleary, R., R. Crepeau and K. Delaire. Chaos from disorder: a consumer's guide to the recent literature. *Social Pathology*, 1996, 2:230-242.

McCleary, R. Review of *Statistical Methods for Meta-Analysis* by L.V. Hedges and I. Olkin; *Issues in Data Synthesis* by W.H. Yeaton and P.M. Wortman (eds.); and *BASIC Meta-Analysis: Procedures and Programs* by B. Mullen and R. Rosenthal. *Contemporary Sociology*, 1987.

McCleary, R. Worker artifacts as a source of spurious statistics: a response to Ginsberg. *Evaluation and Program Planning*, 1984, 7, 290-1.

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FUNDED RESEARCH

Contract #16-70035-000 from the California Department of State Hospitals to the Regents of the University of California: “Discrete-Event Simulation Models for Forensic Populations in the DSH System,” \$516,671 (PI).

Contract #PO-SH-15321379-2 from the Los Angeles County Sheriff’s Office to the Regents of the University of California: “Discrete-Event Simulation Model of the County Jail Populations,” \$98,000 (PI).

Contract #14-70023-000 from the California Department of State Hospitals to the Regents of the University of California: “Discrete-Event Simulation Models for Forensic Populations in the DSH System,” \$398,927 (PI).

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Contract #5600004001 from the California Department of Corrections and Rehabilitation to the Regents of the University of California: "Consulting - UCI Population Projections," \$327,000 (PI).

Contract #C06.536 from the California Department of Corrections and Rehabilitation, OISB, to the Principal Investigator: "Consulting Services, Statistical Forecasting," \$70,000 (PI).

Grant from the Texas City Attorneys' Association to the Principal Investigator: "Secondary Effects of Off-Site Adult Businesses," \$50,000 (PI).

Grant #P30-95-S7 from the National Institute of Childhood Health and Development to the University of California Regents: "MRRC Biostatistics Core," \$580,000 (PI).

Grant #AGA24806 from the American Gaming Association to the University of California Regents: "Suicide in Casino Gaming Areas," \$35,000 (PI).

Contract #C91-37 from the City of Garden Grove to the Principal Investigator, "Public safety hazards associated with adult entertainment businesses," \$35,000 (PI).

Grant #JS2-47 from the U.S. Bureau of Justice Statistics to the University of New Mexico: "The New Mexico Criminal Justice Statistical Analysis Center," \$50,000 (Co-PI).

Contract #14-12-001-30300 from the U.S. Department of the Interior to Human Relations Area File, Yale University: "Alaskan OCS Social Indicators System," \$1,200,000 (Co-PI).

Contract #SOJ-85019 from the Alaska Department of Corrections to the Justice Center, University of Alaska, Anchorage: "A forecast of prison population through the year 2000," \$15,000 (Co-PI).

Contract #BJS-82-007 from the Alaska Department of Public Safety to the Justice Center, University of Alaska: "Forecasting crime rates in Alaska and Oregon," \$45,000 (Co-PI).

Contract #AG-82-1 from the Arizona Auditor General to the Principal Investigator: "An evaluation of Arizona's vehicle emissions inspection program," \$17,000 (PI).

Grant #CF-80-08-0070(a) from the Arizona JPA to the Center of Criminal Justice, Arizona State University: "Technical assistance project in evaluation research," \$40,000 (Co-PI).

Contract #22820 from the City of Phoenix to the co-principals: "Telephone survey of citizen attitudes toward team policing," \$10,000 (Co-PI).

Contract #0772 et seq. from the State of Arizona to the Principal Investigator: "Evaluation of 'scared straight'/PLIP program," \$17,000 (PI).

Contract #UIACC3-47-32-25-3-51 from the Illinois Department of Corrections to the

Center for Criminal Justice, University of Illinois, Chicago: “Re-evaluation of UDIS,” \$8,000 (PI).

Grant #77-NI-99-0073 from the National Institute of Law Enforcement and Criminal Justice to the Center for Research in Criminal Justice, University of Illinois, Chicago: “Measurement of recidivism,” \$225,000 (Co-PI).

EXPERT WITNESS - DEPOSITION AND TESTIMONY (2001-present)

Alaska Inter-Tribal Council *v.* State. Alaska Superior Court, Dillingham Branch, Case No. 113 CI.

Artistic Entertainment *v.* City of Warner Robins. U.S. District Court, Middle District of Georgia (97-00-95-CV-4-HL-5); U.S. Court of Appeals, Eleventh Circuit (02-10216).

Scamp’s *v.* California Alcoholic Beverage Commission (and the City of Westminster, CA), Alcoholic Beverage Control Board Administrative Hearing.

Washington Retailtainment, Inc. *v.* City of Centralia, WA. U.S. District Court, Western District of Washington at Tacoma (Case No. C03-5137FDB).

People of the State of Illinois *ex rel.* Edward C. Deters *v.* The Lion’s Den, Inc. Circuit Court for the 4th Judicial Circuit of Illinois (Case No. 04-CH-26).

New Albany DVD, LLC. *v.* City of New Albany, IN. U.S. District Court, Southern District of Indiana, New Albany Division (Cause No. 4:04-CV-0052-SEB-WGH).

Giovani Carandola Ltd. *et al.* *v.* Ann Scott Fulton *et al.* U.S. District Court, Middle District of North Carolina, Greensboro Division (Case No. 1:01 CV 115).

Fantasyland Video, Inc., *v.* County of San Diego. U.S. District Court, the Southern District of California (Case No. 02-CV-1909 LAB (RBB)).

Tollis, Inc. and 1560 N. Magnolia Ave., LLC. *v.* County of San Diego U.S. District Court, Southern District of California (Case No. 02-CV-2023 LAB (RBB))

Reliable Consultants, Inc., *et al.* *v.* City of Kennedale, TX U.S. District Court, Northern District of Texas, Fort Worth Division (Civil No. 4:05-CV-166-A).

Abilene Retail #30, Inc. *v.* County of Dickinson *et al.* U.S. District Court for the District of Kansas (Case No. 02:04-CV-02330-JWL).

Regensberger *v.* City of Waterbury *et al.*, U.S. District Court, District of Connecticut (Civil No. 3:04-CV-1900(PCD)).

Charlie’s Club, Inc. *v.* Mike Hale *et al.*, U.S. District Court, Northern District of Alabama, Southern Division (Case No. CV 05-CO-2189-S); and SJB, Inc., *et al.*, *v.* Troy King, *et*

al. U.S. District Court, Northern District of Alabama, Southern Division (Case No. CV-05-TMP-2477-S).

Giovani Carandola Ltd. *et al.* v. City of Greensboro. U.S. District Court, Middle District of North Carolina, Greensboro Division (Civil No. 01:05-CV-1166).

YYBC, Inc. v. Town of Davie. U.S. District Court, Southern District of Florida (Case No. 06-60111-CIV-UNGARO-BENAGES/ O=Sullivan).

Alameda Books, Inc. and Highland Books, Inc. v. City of Los Angeles (U.S. District Court, Central District of California, Case no. CV 95-7771 DDP [Ctx]).

High Five Investments, LLC, and Shannon Video, INC., v. Floyd County, GA. (U.S. District Court, Northern District of Georgia, Rome Division, Civil Action No. 4:06-CV-190 HLM).

Illusions-Dallas Private Club, Inc., *et al.* v. John T. Steen, Jr., *et al.* (U.S. District Court, Northern District of Texas, Dallas Division, Civil Action 3:04-CV-0201-R).

Harris News, Inc. v. Board of County Commissioners of the County of Bernalillo, NM (U.S. District Court for the District of New Mexico, Case No. CIV-07355MCA/DJS).

Ten's Cabaret Inc. v. City of New York *et al.* (Supreme Court, State of New York, County of New York, Index No. 121080/02).

For the People Theatres of NY v. City of New York *et al.* (Supreme Court, State of New York, County of New York, Index No. 121080/02).

Jose F. Fong *et al.* v. City of El Paso. (District Court of El Paso County, TX, 34th Judicial District Court, Cause No. 2007-2900).

Flanigan's Enterprises, Inc. *et al.* v. City of Sandy Springs. (U.S. District Court for the Northern District of Georgia, Atlanta Division, No. 1:09-CV-2747-RLV).

Karolina Obrycka *et al.* v. City of Chicago *et al.* (U.S. District Court for the Northern District of Illinois, No. 07-C-2372).

RIX 1040, LLC v. City of Hallandale Beach, Florida. (U.S. District Court for the Southern District of Florida, Miami Division, No. 10-60569-MORENO-TORRES).

Barry Gilfand *et al.* v. Sgt. Jeffrey Planey *et al.* (U.S. District Court for the Northern District of Illinois, No. 07 C 2566).

Entertainment Productions, Inc., *et al.* v. Shelby County, Tennessee *et al.* (U.S. District Court for the Western District of Tennessee, Western Division, No. 2:08-cv-02047-tmp).

Annex Books, Inc. *et al.* v. City of Indianapolis (U.S. District Court, Southern District of

Indiana, Indianapolis Division, No. 1:03-cv-918-SEB-TAB).

Fuery *et al.* v. City of Chicago *et al.* (U.S. District Court, Northern District of Illinois, Eastern Division, No. 07 C 5428)

J.L. Spoons, Inc. *et al.* v. Thomas Charles *et al.* (U.S. District Court, Northern District of Ohio, No. 1:04-cv-00314-DAP)

Michael A. McGuire v. City of Montgomery, *et al.* (U.S. District Court, Middle District of Alabama, Northern Division, Case No. 2:11-CV-1027-WKW)

Flanigan's Enterprises, Inc. of Georgia v. City of Sandy Springs *et al.* (U.S. District Court, Northern District of Georgia, Atlanta Division, No. 1:09-CV-2747-RLV)

John Does #3, #4, #5, #6, #7 v. Miami-Dade County, Florida (U.S. District Court, Southern District of Florida, No. 14-CV-23933-Huck/McAliley)

B & G Opa Holdings, Inc. v. City of Opa-Locka, FL and Newall J. Daughtrey (U.S. District Court, Southern District of Florida, Miami Division, No. 1:18-cv-23269-DPG).

John Does #1 - #5 v. Richard L. Swearingen, his Official capacity as Commissioner of the Florida Department of Law Enforcement. U.S. District Court for the Southern District of Florida, No. 1:18-CV-24145-KMW

Clifford J. Treese Biography

A nationally recognized practitioner in common interest community underwriting, risk management and insurance, Mr. Treese, also, has a substantial background in all phases of community association operations:

- Management including asset management and reserves
- Underwriting for association resale disclosures and association lender forms
- Information services and technology
- Process management involving national quality award criteria

Additionally, he has worked with developers and general contractors in all phases of the association development. Treese has developed infill housing using condominiums and cooperatives under conventional financing and FHA mortgage insurance programs.

Mr. Treese is a past national president of the [Community Associations Institute \(CAI\)](#) and of its [Foundation for Community Association Research](#). He is a recipient of CAI's Distinguished Service Award and he has nearly three decades of involvement in the Institute's professional management development programs. Also, he has authored several publications and conducted several seminars on risk management, insurance, and community associations including:

Community Association Risk Management & Insurance

- Wake Forest Law Review (with Professor Katharine Rosenberry), *Purchasing Insurance for the Common Interest Community*, 1992
- "Leadership and Cooperative Disputes: How Understanding Interests, Rights and Power Can Bring Better Solutions," published by Cooperative Housing Journal, National Association of Housing Cooperatives, 2002
- Community Association Institute, *An Introduction to Community Association Management, Governance and Services*
- Community Association Institute, (with Professor Katharine Rosenberry) *Community Association Insurance*, 2006
- Community Association Institute, *Community Association Risk Management*, 2013
- Federal Home Loan Mortgage Corporation (Freddie Mac), primary consultant, Reviewing Community Association Project Standards for Insurance and Risk Management, 2015

**Lake Naomi Club, Inc. and Pocono Pines Community Association, Inc.
v. Eric Rosado and Alice Quinones No. 962 CV 2019**

- *CIRMS Insurance Masters*, 2008 – 2020, created and moderated community association risk management and insurance programs at annual [CAI Law Seminars](#) on a variety of subjects:

Governance Including Directors & Officers Liability	Financial Operations Including Fidelity Crime & Cyber Risks	Physical Asset Management Including Mechanical Breakdown	Community Operations Including Statutory Disclosures
CGL & Commercial Umbrella	Property, Ordinance & Law	Earthquake & Tsunami	Commercial Auto & Hired/Nonowned
Workers Compensation & Employers Liability	Insurable Replacement Cost Valuations	Fannie Mae, Freddie Mac & FHA Project Standards	Reserves & Insurance Deductibles
Mixed Use Associations & Allocations	Unit Owner Related Insurance Issues	Mortgage Lending Questionnaires	FEMA & NFIP Flood & Issues
Insurance Program Renewals, Request for Qualifications	Disasters: Before & After the Loss	Association Assessment Lending	EQ and PML Issues

Community Associations – History, Operations & Governance – U.S. and Other Countries

- Contributing author to CAI’s *M100 Introduction to Association Management*
- *Changing Perspectives on Community Association Mortgage Underwriting and Credit Analysis*, 2001, published by the Research Institute for Housing America
- Contributing author to the *Residential Development Handbook (Third Edition)* published by the Urban Land Institute, 2004
- Primary author “*Comparative Perspectives on Government and Community Associations*” CAI National Conference, 2005
- Primary author “*Telework, Technology and Community Associations*” CAI Law Seminar 2006
- “*U.S. Perspectives on Community Associations*” for Griffith University Conference (Australia) on Strata Titles, September 2007
- “*United States Condominiums – An Important Extension of Homeownership and Community Governance*” for Renmin University, Beijing, China, Fall 2008
- “*U.S. Housing in Historical Perspective,*” CA Law Seminar 2011

**Lake Naomi Club, Inc. and Pocono Pines Community Association, Inc.
v. Eric Rosado and Alice Quinones No. 962 CV 2019**

A graduate of Stanford University, Mr. Treese attended graduate school at the University of Chicago and he has received the Chartered Property Casualty Underwriter (CPCU) and Associate in Risk Management (ARM) designations. He also has received the Community Association Risk Management & Insurance Specialist (CIRMS) designation from CAI. Mr. Treese has taught seminars in China, Europe, Eastern Europe, Russia and Australia on behalf of the European Network for Housing Research (ENHR) and other organizations. In matters relating to the association development, management and association risk management, he continues to work with both private and public entities in the U.S including the "Agencies" (Freddie Mac, Fannie Mae and FHA).

Michael J.

REAL
ESTATE

McKeown, Inc.



MICHAEL J. McKEOWN, Founder
THOMAS G. McKEOWN, GAA
CHARLES F. McKEOWN, CGA

956 North Ninth Street
Stroudsburg, PA 18360

570-424-2762
570-424-2755 FAX

State Licensed and Certified
E-MAIL: info@mckeownrealestate.com
WEBSITE: www.mckeownrealestate.com

QUALIFICATIONS OF APPRAISER-THOMAS G. MCKEOWN

The undersigned Real Estate Broker and Appraiser engages in independent fee appraisals and consultation assignments. Qualifications are described below. In addition to performing appraisal services for various individuals and attorneys, major clients have included:

PennStar Bank, Stroudsburg, PA
PNC Bank, Stroudsburg, PA
PHH Home Equity, Danbury, CT
CitiCorp, Woodcliff, NJ
First Valley Bank, Bethlehem, PA
M & T Bank, Stroudsburg, PA
Federal National Mortg. Assoc. (Fannie Mae)
Allstate Insurance Company
Federal Bureau of Investigation
Monroe County Tax Assessor, PA
Borough of East Stroudsburg, PA
Paradise Township, PA
Lehman Township, PA
Jackson Township, PA
Hamilton Township, PA
Washington Township, PA

Wayne Bank, Stroudsburg, PA
Valley Forge Savings & Loan, Bangor, PA
Mortgage Guaranty Ins. Corp., Milwaukee, WI
East Stroudsburg Savings Assoc., Stroudsburg, PA
North Penn Bank, Stroudsburg, PA
Federal Deposit Ins. Corp., (F.D.I.C.)
Federal Home Loan Mortg. Corp (Freddie Mac)
Dept. of the Interior/National Park Service
PA Department of Transportation
Borough of Stroudsburg, PA
Borough of Mount Pocono, PA
Smithfield Township, PA
Pocono Township, PA
Chestnuthill Township, PA
Stroud Township, PA
Bureau of Reclamation, Phoenix, AZ

APPRAISAL COURSES

R.E. Appr. Princ. Appraisal Inst. 4/92
Capitaliz. Theory & Tech (A)/Appr.Inst. 9/92
Standards of Prof. Prac. A & B/Appr. Inst. 5/92
Basic Valuation Proc./Appr. Inst. 5/92
Residential Appr. #2/Schicher-Katz 12/91
Real Estate Law/Penn State 1979

R.E. Appraising/Penn State 1977
R.E. Financing/Penn State 1978
Residential Valuation/App. Inst. 5/92
R.E. Investments/Penn State
Exam Prep. Seminar (Cert) Appr. Inst. 1/91
Plus Continuing Education Courses 1995-Present

BUSINESS EXPERIENCE

Licensed in real estate in Pennsylvania since 1971. Real Estate Broker and Independent Real Estate Appraiser and Consultant since 1979. Assignments have included most types of residential, commercial, industrial and special purpose realty. State Certified General Appraiser.

LICENSES, EDUCATION, ETC.

Attended Glassboro State College, NJ. Graduated from East Stroudsburg University with Bachelor of Science degree. Completed various appraisal courses offered by Penn State University, Appraisal Institute & Pocono Real Estate Academy. Member of Pocono Mountains Association of Realtors, Licensed Real Estate Broker and Auctioneer in PA, Candidate Member Appraisal Institute, Member National Association of Realtors.

STATE LICENSE #GA-000830-L

EXPERT WITNESS

Court of Common Pleas for Monroe, Carbon, Lebanon, Lehigh, Lackawanna, Pike, Northampton and Wayne Counties in PA. Warren County in NJ. Tax Appeal Board of Monroe, Pike and Northampton Counties in PA. Federal Court, Manhattan, NY, Wilkes-Barre and Scranton, PA, Tampa Fl. Zoning Hearing Board in Boroughs of Stroudsburg, E. Stroudsburg & Mt. Pocono & the Townships of Smithfield, Stroud, Pocono & Coolbaugh Township, all in Pennsylvania.

STANDARD AGREEMENT FOR THE SALE OF REAL ESTATE

This form recommended and approved for, but not restricted to use by, the members of the Pennsylvania Association of Realtors® (PAR).

ASR

PARTIES	
BUYER(S): _____ _____ _____	SELLER(S): _____ _____ _____
BUYER'S MAILING ADDRESS: _____ _____ _____	SELLER'S MAILING ADDRESS: _____ _____ _____

PROPERTY
ADDRESS (including postal city) _____ ZIP _____, in the municipality of _____, County of _____, in the School District of _____, in the Commonwealth of Pennsylvania. Tax ID #(s): _____ and/or Identification (e.g., Parcel #; Lot, Block; Deed Book, Page, Recording Date): _____

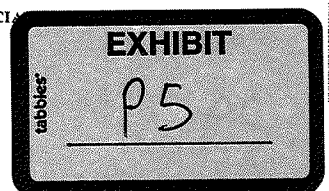
BUYER'S RELATIONSHIP WITH PA LICENSED BROKER	
<input type="checkbox"/> No Business Relationship (Buyer is not represented by a broker)	
Broker (Company) _____ Company License # _____ Company Address _____ Company Phone _____ Company Fax _____ Broker is (check only one): <input type="checkbox"/> Buyer Agent (Broker represents Buyer only) <input type="checkbox"/> Dual Agent (See Dual and/or Designated Agent box below)	Licensee(s) (Name) _____ State License # _____ Direct Phone(s) _____ Cell Phone(s) _____ Email _____ Licensee(s) is (check only one): <input type="checkbox"/> Buyer Agent (all company licensees represent Buyer) <input type="checkbox"/> Buyer Agent with Designated Agency (only Licensee(s) named above represent Buyer) <input type="checkbox"/> Dual Agent (See Dual and/or Designated Agent box below)
<input type="checkbox"/> Transaction Licensee (Broker and Licensee(s) provide real estate services but do not represent Buyer)	

SELLER'S RELATIONSHIP WITH PA LICENSED BROKER	
<input type="checkbox"/> No Business Relationship (Seller is not represented by a broker)	
Broker (Company) _____ Company License # _____ Company Address _____ Company Phone _____ Company Fax _____ Broker is (check only one): <input type="checkbox"/> Seller Agent (Broker represents Seller only) <input type="checkbox"/> Dual Agent (See Dual and/or Designated Agent box below)	Licensee(s) (Name) _____ State License # _____ Direct Phone(s) _____ Cell Phone(s) _____ Email _____ Licensee(s) is (check only one): <input type="checkbox"/> Seller Agent (all company licensees represent Seller) <input type="checkbox"/> Seller Agent with Designated Agency (only Licensee(s) named above represent Seller) <input type="checkbox"/> Dual Agent (See Dual and/or Designated Agent box below)
<input type="checkbox"/> Transaction Licensee (Broker and Licensee(s) provide real estate services but do not represent Seller)	

DUAL AND/OR DESIGNATED AGENCY
A Broker is a Dual Agent when a Broker represents both Buyer and Seller in the same transaction. A Licensee is a Dual Agent when a Licensee represents Buyer and Seller in the same transaction. All of Broker's licensees are also Dual Agents UNLESS there are separate Designated Agents for Buyer and Seller. If the same Licensee is designated for Buyer and Seller, the Licensee is a Dual Agent.
By signing this Agreement, Buyer and Seller each acknowledge having been previously informed of, and consented to, dual agency, if applicable.

Buyer Initials: _____

Seller Initials: _____



645 **20. RECORDING (9-05)**

646 This Agreement will not be recorded in the Office of the Recorder of Deeds or in any other office or place of public record. If Buyer
647 causes or permits this Agreement to be recorded, Seller may elect to treat such act as a default of this Agreement.

648 **21. ASSIGNMENT (1-10)**

649 This Agreement is binding upon the parties, their heirs, personal representatives, guardians and successors, and to the extent assign-
650 able, on the assigns of the parties hereto. Buyer will not transfer or assign this Agreement without the written consent of Seller unless
651 otherwise stated in this Agreement. Assignment of this Agreement may result in additional transfer taxes.

652 **22. GOVERNING LAW, VENUE AND PERSONAL JURISDICTION (9-05)**

653 (A) The validity and construction of this Agreement, and the rights and duties of the parties, will be governed in accordance with the
654 laws of the Commonwealth of Pennsylvania.

655 (B) The parties agree that any dispute, controversy or claim arising under or in connection with this Agreement or its performance
656 by either party submitted to a court shall be filed exclusively by and in the state or federal courts sitting in the Commonwealth of
657 Pennsylvania.

658 **23. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT OF 1980 (FIRPTA) (1-17)**

659 The disposition of a U.S. real property interest by a foreign person (the transferor) is subject to the Foreign Investment in Real Property
660 Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA authorized the United States to tax foreign persons on dispositions of U.S.
661 real property interests. This includes but is not limited to a sale or exchange, liquidation, redemption, gift, transfers, etc. Persons pur-
662 chasing U.S. real property interests (transferee) from foreign persons, certain purchasers' agents, and settlement officers are required
663 to withhold up to 15 percent of the amount realized (special rules for foreign corporations). Withholding is intended to ensure U.S.
664 taxation of gains realized on disposition of such interests. The transferee/Buyer is the withholding agent. If you are the transferee/
665 Buyer you must find out if the transferor is a foreign person as defined by the Act. If the transferor is a foreign person and you fail to
666 withhold, you may be held liable for the tax.

667 **24. NOTICE REGARDING CONVICTED SEX OFFENDERS (MEGAN'S LAW) (4-14)**

668 The Pennsylvania General Assembly has passed legislation (often referred to as "Megan's Law," 42 Pa.C.S. § 9791 et seq.) providing
669 for community notification of the presence of certain convicted sex offenders. Buyers are encouraged to contact the municipal
670 police department or the Pennsylvania State Police for information relating to the presence of sex offenders near a particular prop-
671 erty, or to check the information on the Pennsylvania State Police Web site at www.pameganslaw.state.pa.us.

672 **25. REPRESENTATIONS (1-10)**

673 (A) All representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Brokers, their licens-
674 ees, employees, officers or partners are not a part of this Agreement unless expressly incorporated or stated in this Agreement.
675 This Agreement contains the whole agreement between Seller and Buyer, and there are no other terms, obligations, covenants,
676 representations, statements or conditions, oral or otherwise, of any kind whatsoever concerning this sale. This Agreement will not
677 be altered, amended, changed or modified except in writing executed by the parties.

678 (B) Unless otherwise stated in this Agreement, Buyer has inspected the Property (including fixtures and any personal property speci-
679 fically listed herein) before signing this Agreement or has waived the right to do so, and agrees to purchase the Property
680 IN ITS PRESENT CONDITION, subject to inspection contingencies elected in this Agreement. Buyer acknowledges that
681 Brokers, their licensees, employees, officers or partners have not made an independent examination or determination of the
682 structural soundness of the Property, the age or condition of the components, environmental conditions, the permitted uses, nor of
683 conditions existing in the locale where the Property is situated; nor have they made a mechanical inspection of any of the systems
684 contained therein.

685 (C) Any repairs required by this Agreement will be completed in a workmanlike manner.

686 (D) Broker(s) have provided or may provide services to assist unrepresented parties in complying with this Agreement.

687 **26. DEFAULT, TERMINATION AND RETURN OF DEPOSITS (1-18)**

688 (A) Where Buyer terminates this Agreement pursuant to any right granted by this Agreement, Buyer will be entitled to a return of all
689 deposit monies paid on account of Purchase Price pursuant to the terms of Paragraph 26(B), and this Agreement will be VOID.
690 Termination of this Agreement may occur for other reasons giving rise to claims by Buyer and/or Seller for the deposit monies.

691 (B) Regardless of the apparent entitlement to deposit monies, Pennsylvania law does not allow a Broker holding deposit monies to
692 determine who is entitled to the deposit monies when settlement does not occur. Broker can only release the deposit monies:

693 1. If this Agreement is terminated prior to settlement and there is no dispute over entitlement to the deposit monies. A written
694 agreement signed by both parties is evidence that there is no dispute regarding deposit monies.

695 2. If, after Broker has received deposit monies, Broker receives a written agreement that is signed by Buyer and Seller, directing
696 Broker how to distribute some or all of the deposit monies.

697 3. According to the terms of a final order of court.

698 4. According to the terms of a prior written agreement between Buyer and Seller that directs the Broker how to distribute the
699 deposit monies if there is a dispute between the parties that is not resolved. (See Paragraph 26(C))

700 (C) Buyer and Seller agree that if there is a dispute over the entitlement to deposit monies that is unresolved _____ days (180 if not
701 specified) after the Settlement Date stated in Paragraph 4(A) (or any written extensions thereof) or following termination of the
702 Agreement, whichever is earlier, then the Broker holding the deposit monies will, within 30 days of receipt of Buyer's written
703 request, distribute the deposit monies to Buyer unless the Broker is in receipt of verifiable written notice that the dispute is the
704 subject of litigation or mediation. If Broker has received verifiable written notice of litigation or mediation prior to the receipt of
705 Buyer's request for distribution, Broker will continue to hold the deposit monies until receipt of a written distribution agreement
706 between Buyer and Seller or a final court order. Buyer and Seller are advised to initiate litigation or mediation for any portion of
707 the deposit monies prior to any distribution made by Broker pursuant to this paragraph. Buyer and Seller agree that the distribution
708 of deposit monies based upon the passage of time does not legally determine entitlement to deposit monies, and that the parties
709 maintain their legal rights to pursue litigation even after a distribution is made.

710 Buyer Initials: _____

ASR Page 12 of 14

Seller Initials: _____

1 Q. You have no close friends in Pennsylvania;
2 right?

3 A. None.

4 Q. And you only have one relative living in
5 Pennsylvania; right?

6 A. I have a cousin in Philly.

7 Q. You don't see him very often; right?

8 A. No, I haven't seen him in a little over two
9 months, maybe more.

10 Q. And you have a girlfriend -- you still have a
11 girlfriend I should ask you?

12 A. I have friends.

13 Q. She lives in New York; is that correct?

14 A. That's correct.

15 Q. And nobody lives with you in Lake Naomi; right?

16 A. No, never did.

17 Q. And Lake Naomi you, quote, live far away from
18 everybody that you know; right?

19 A. That's true. But I have a car.

20 Q. Okay. I'm going to show you what's been marked
21 as --

22 MR. HAROS: May I approach, Your Honor?

23 THE COURT: Yes.

24 BY MR. HAROS :

25 Q. -- Exhibit D-1. And at the back of D-1 will you

COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA

LAKE NAOMI CLUB, INC. and	:	No. 962 CV 2019
POCONO PINES COMMUNITY	:	
ASSOCIATION, INC.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
ERIC ROSADO and ALICE QUINONES,	:	
	:	
Defendants.	:	

FINDINGS OF FACT

Lake Naomi Club and Pocono Pines Community Association

1. Pocono Pines Community Association (PPCA) is the homeowners association for all deeded property owners in the Lake Naomi subdivision. It is organized as a nonprofit corporation. NT 6, April 8, 2021.

2. The subdivision was developed by Pocono Pines Corporation. *Id.* NT 12.

3. The Lake Naomi Club (LNC) owns the common areas and the amenities in the development. It is organized as a nonprofit corporation. Membership in LNC is voluntary. *Id.* NT 7.

4. LNC has the right to enforce covenants in the community and to control the common areas in the development by virtue of a deed from PPCA to LNC dated July 11, 1988, recorded in the Office for the Recording of Deeds in and for Monroe County, Pennsylvania at Record Book volume 1650 page 1328. *Exhibit P-14.*

5. With the exception of some small roads leading to amenities, LNC and PPCA do not maintain the roads in the Lake Naomi development. Tobyhanna Township owns and maintains the roads. *Id.* NT 7.

6. LNC and PPCA do not provide municipal services, such as sewage treatment, waste management services, recycling programs, police force, ambulance services, fire services, public transportation, schooling, mail facilities, leaf collection, composting, or municipal restaurant inspection. *Id.* NT 7-8.

7. Wendi Freeman is employed as community association manager for both PPCA and LNC. *Id.* NT 10.

8. Ms. Freeman testified that LNC is "very child-centered." There are summer children's camps and nighttime recreational activities, and a shuttle bus which takes children to and from these programs. *Id.* NT 48

Eric Rosado

9. Eric Rosado resides in the Lake Naomi development in a home he and Alice Quinones own at 106 Tupelo Trail, Pocono Pines, Pennsylvania. They purchased the property on September 11, 1998 by deed recorded in the Office for the Recording of Deeds in and for Monroe County, Pennsylvania in Record Book volume 2054, page 311. *Id.* NT 141, Plaintiff's Exhibit 10.

10. The deed to Defendants' property contains restrictive covenants governing the use of the property. These covenants are common to all residential properties in LNC and PPCA. *Id.* NT 14, Plaintiff's Exhibit 10, 11.

11. Number 11 of these covenants requires the property owner to abide by the present and future restrictive covenants of PPCA. *Id.* NT 14, Plaintiff's Exhibit 11.

12. The original restrictions and conditions provided for a July 1, 1985 expiration date. The property owners voted in 1984 to extend the covenants, conditions, and restrictions for another 20 years. Plaintiff's Exhibit 12. In 2004, the covenants were extended again, to continue in perpetuity. Plaintiff's Exhibit 13. The vote was approved by two-thirds of the property owners. *Id.* NT 16.

13. Mr. Rosado was convicted on February 10, 2016 of a Course of Sexual Conduct Against a Child in the second degree in New York State. NT 132-39, *February 19, 2021*. In Pennsylvania, he was convicted on June 9, 2015 of Indecent Assault; Unlawful Contact or Communication with Minor; and Indecent Assault, Complainant Less than 13 Years of Age. NT 132-139, *April 8, 2021*. Plaintiff's Exhibit 19.

14. Mr. Rosado's Pennsylvania convictions were for sexual crimes he committed against a minor child in his house in Lake Naomi/PPCA. *Id.* NT 41.

15. In Pennsylvania, Mr. Rosado is a Tier III sex offender subject to lifetime registration. In New York State, he is a Tier 1 sex offender. *Id.* NT 139.

16. As a result of his convictions and Tier III lifetime registration, Mr. Rosado has strict restrictions on where he may live. For instance, he may not live within 500 feet of places where minors congregate. He is supervised by Pennsylvania Parole Agent Seth Hendershot. NT 199-200, 206, *February 19, 2021*.

17. His current residence was approved by the State Parole Board.

18. While considering an appropriate residence for Mr. Rosado upon his release from prison, his state parole officer took a "holistic view," examining proximity to counseling services and whether the transportation in the area would help him meet his needs for treatment among other factors. *Id.* NT 199-200.

19. Mr. Rosado was released from prison on August 23, 2018, and returned to live in his PPCA home. *Id.* NT 150, Exhibit P-28. His parole supervision will end on September 23, 2021. NT 203, *February 19, 2021*.

20. Mr. Rosado is required to register for life on the Pennsylvania Sex Offender Registry as a Tier Three sex offender. *Id.* NT 198.

Amendment of PPCA Declaration

21. At the 2013 annual meeting of PPCA property owners, residents expressed concern about a Tier Three sex offender living in Lake Naomi. These property owners asked management to investigate means of excluding Mr. Rosado and others like him from PPCA. NT 23-24, *April 8, 2021*.

22. The Board of Directors of PPCA investigated the question and decided to propose an amendment to the covenants of the Association which would prevent Tier Three sex offenders from residing in the community. The Board sent letters, newsletter articles, and correspondence to the property owners explaining its intention to propose such an amendment to prohibit sex offenders from occupying property in LNC and PPCA. The proposal was also discussed at a town meeting and the annual meeting in 2015. *Id.* NT 19-20.

23. The Board proposed to amend the covenants with a written ballot to be signed by property owners. Written ballots were sent to all property owners. *Id.*

24. Covenant 14 was approved by written ballots received from more than two-thirds of the property owners, as required by the by-laws of PPCA. More specifically, 1,783 ballots were mailed and 1,380 owners responded, a seventy-seven (77%) percent response rate. Owners casting 1,279 of the ballots were in favor of adding Covenant 14, which was 71% of the owners. *Id.* NT 18. 94 owners opposed the amendment and 7 owners' votes were disqualified. *Id.*

25. The vote was verified by certified public accountant, Zavada & Associates, by letter dated December 29, 2015. *Id.*, *Exhibit P-29.*

26. Covenant 14 as adopted by the membership prohibited lifetime registered sex offenders from residing within PPCA boundaries:

No person who is registered or required to be registered for life in (a) Pennsylvania's Statewide registry of sexual offenders pursuant to 42 Pa.C.S. §9799.10 et seq., as amended from time to time, or (b) the sex offender registry of any other state or the United States under a corresponding statute (a "Prohibited Person") shall occupy or reside in any Lot, dwelling, or common area within the boundaries of, or under the jurisdiction of the Pocono Pines Community Association (an "Association Property"). No Owner or agent of an owner shall knowingly allow such a Prohibited person to occupy or reside in any such Association Property. Without limiting any other right or remedy available to the Association or Owners in the Association, and notwithstanding anything herein to the contrary, the Association, shall have the right, which it may exercise according to the sole discretion of its Board of Directors, to seek any and all remedies available at law or in equity to it and/or to individual Owners (who shall, if necessary and as requested by the Association, cooperate with, join and/or assist the Association), including without limitation, injunctive relief, for violation of this Provision that is actually known to it.

Plaintiff's Exhibit 2.

27. An amendment to the Declaration of Covenants, Restrictions and Easements of PPCA and the Lake Naomi Club adding Covenant 14 was signed by their officers on March 30, 2016. *Id.* NT 17, Plaintiff's Exhibit 2.

28. Covenant 14 grants discretion to the association's board of directors obtain legal remedies to enforce this provision. *Id.* NT 30, Plaintiff's Exhibit 2.

29. Mr. Rosado received a hand delivered copy of a letter informing him that he was in violation of Covenant 14 and requesting that he vacate his home on November 7, 2018. Mr. Rosado received a letter from Young & Haros, attorneys for LNC and PPCA, on December 14, 2018, again requesting that he vacate his property to comply with the covenant. *Id.* NT 35-36, Plaintiff's Exhibit 18.

30. Mr. Rosado did not comply. *Id.* NT 34-35, Plaintiff's Exhibit 17.

31. Mr. Rosado continues to reside in his property despite Covenant 14. *Id.* NT 37-38.

Expert Testimony

32. Plaintiff called Dr. Richard McCleary as an expert witness. Dr. McCleary is a professor at the University of California, Irvine, who teaches statistics in the Criminology Law and Society Department. He was qualified as an expert in the fields of criminology, statistics, and research design. NT 7-17, *February 19, 2021*.

33. Dr. McCleary testified that the *Prentky* report found the recidivism rate for sex offenders "at 25 years...was over fifty-two percent." *Id.* NT 22. He opined that the rate is much higher in reality. NT 23. Some studies show that the rate of recidivism for sexual offenders is "very, very close to one hundred percent." *Id.* NT 30.

34. He testified further that most sexual victimizations of children occur in the home of the victim or the offender, as opposed to in a public place. *Id.* NT 27.

35. Thomas McKeown was qualified as an expert in the field of real estate valuation and local geography. *Id.* NT 95-96.

36. Mr. McKeown testified that living in "very close proximity" to a sexual offender would likely have a negative effect on property value. *Id.* NT 98.

37. Mr. Clifford Treese was qualified as an expert in the fields of community associations and residential housing. *Id.* NT 44.

38. In 2010, there were 5,018,904 occupied housing units in the Commonwealth of Pennsylvania. Approximately 10.2 percent of these homes were located in "common-interest communities." *Testimony of Clifford Treese*, NT 154,156.

39. There are currently 21,702 sex offenders in Pennsylvania, 6,258 of which are lifetime registrants and 2,906 are Tier III sex offenders. *Exhibit P-26*.

40. Mr. Rosado is the only person Plaintiffs have sued to evict. In one other circumstance, a Tier III sex offender leased a PPCA home. After being contacted by the PPCA, that individual moved out of the community. N.T. April 8, p. 31.

DISCUSSION

Plaintiffs LNC and PPCA filed this action on February 5, 2019, seeking to permanently enjoin Defendant Eric Rosado from residing in his PPCA home after his release from prison. LNC and PPCA contended that as a Tier Three sex offender, Mr. Rosado was barred from living in the community by newly-adopted PPCA Covenant 14.

After several sets of preliminary objections, pleadings were closed on June 2, 2020. A non-jury trial was held over two days, on February 19, 2021 and April 8, 2021.

The PPCA was created before the Uniform Planned Community Act became effective in 1997. Use of the properties within the PPCA was limited by fourteen restrictive covenants in property owners' deeds. These restrictive covenants made no provision for their amendment.

The Uniform Planned Community Act, (UPCA) 68 Pa.C.S.A. §5101 et al., provides that the declaration of a property owners association may be amended. See 69 Pa.C.S.A. §5219(a). The UPCA provides in 68 Pa.C.S.A. §5102(b) as follows:

(b) Retroactivity- ...sections... 5219 (pertaining to amendment of declaration)...to the extent necessary in construing any of those sections apply to all planned communities created in the Commonwealth before the effective date of this subpart; but those sections apply only with respect to events and circumstances occurring after the effective date of this subpart ; but those sections apply only with respect to events and circumstances occurring after the effective date of this subpart and do not invalidate specific provisions contained in existing provisions of the declaration, bylaws, or plats and plans of those planned communities.

68 Pa.C.S.A. §5102(b).

In order to constitute a valid amendment, at least 67% of the unit owners must be in agreement. 68 Pa.C.S.A. §5219(a)(1)(i). The UPCA thus authorized the PPCA to amend its restrictive covenants to add Covenant 14, and there is no allegation that the amendment process was faulty.

Pennsylvania's Uniform Planned Community Act provides that contract principles apply in interpreting and enforcing the covenants of private homeowners associations:

The principles of law and equity, including the law of corporations and unincorporated associations, the law of real property and the law relative

to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this subpart, except to the extent inconsistent with this subpart.

68 Pa.C.S.A. §5108.

Counsel have not cited a Pennsylvania case which addresses the standard of review to be applied in assessing the validity of an association's amendment to its declaration. PPCA argues that the standard of review for an amendment approved by more than two-thirds of an association's members should be that adopted by the Florida Supreme Court in a condominium case:

...when an amendment has been passed by an association's membership it would presume the restriction was valid and uphold it unless it was shown that the restriction was arbitrary, against public policy, or in violation of some fundamental constitutional right.

Woodside Village Condominium Ass'n, Inc. v. Jahren, 806 So.2d 452, 460 (Fla.,2002).

Mr. Rosado argues that the standard of review should be one of reasonableness. He contends that the Association has a fiduciary obligation to its members, and that its power should be exercised in a reasonable fashion and not capriciously or arbitrarily, citing *Cohen v. Hill*, 142 Cal. App. 3d 642 (Cal. Ct. of App. 1983). He argues that the Association's action removing him from his home is unconscionable and should not be enforced. *Metro Club Condominium Association v. 201-59 North Eighth Street Associates, L.P.* 47 A.3d 137, fn.6 (Pa. Super. 2012). The comments following Section 3104 read, in part:

While freedom of contract is a principle of this Act, and variation by agreement is accordingly widely available, freedom of contract does not extend so far as to

permit parties to ... enter into contracts which are unconscionable when viewed as a whole, or which contain unconscionable terms.

68 Pa.C.S. § 3104 (Uniform Law Cmt. 5)).

The first question presented here is whether Covenant 14 violates public policy, because if it does, it fails under either standard of review.

PPCA makes a compelling argument about members' motivation to remove Mr. Rosado from their community. Dr. Richard McCleary testified that "research reveals a recidivism rate for child molesters at over 52 percent at 25 years." *PPCA brief at 11*. He opined that perpetrators do not "age out" of their deviant behavior and that treatment does not prevent recidivism. He stated that 80% of attacks on children occur in a home rather than a public place and that in half of those attacks, the perpetrator and the child reside together. He testified that opportunity is a big factor in choosing the victim, the place and the time. He testified that common sense dictates that "limiting an offender's access to an area reduces the risk of future victimization." NT 29, February 19, 2021. He concluded that "(e)xcluding the offender from the community minimizes the public safety risk to children inside that community." *Id.* NT44.

PPCA also called Thomas McKeown, an expert in real estate valuation, who testified that the presence of a lifetime sex offender would have a negative effect on nearby property values. "I believe that in very close proximity it would have a negative impact on values." *Id.* NT 98.

Wendi Freeman, LNC and PNC Community Manager, testified that the Lake Naomi community contains many children and "is very child centered." The community pool is 1,500 feet from the Rosado property and the tennis court is 500 feet away. *Wendi*

Freeman, NT 48-49, April 8, 2021. When Mr. Rosado did not move after Covenant 14 was adopted, Lake Naomi Club publicized his on-line Megan's Law registration to members of the community, and closed a shuttle bus stop for a children's summer camp near his property, picking up children in that area at their driveways instead. *Id.* NT 43-44, *Plaintiff's Exhibit 20*.

PPCA argues that its amendment was allowed by the UPCA and is a reasonable effort by its members to remove a threat imposed by a Tier Three sex offender. Mr. Rosado counters that the community's action was unconscionable and violated public policy.

Rosado points to a dominant public policy governing the supervision of parolees established by the statutes that govern the residences of Tier Three Sex Offenders, the Pennsylvania Prisons and Parole Code, 61 Pa.C.S. § 101 et seq., ("Parole Code") and the Pennsylvania Sentencing Code, 42 Pa.C.S. § 9701 et seq. ("Sentencing Code"). Rosado was sentenced and paroled under the provisions of the Pennsylvania Sentencing and Parole Codes. The sentencing court and the Pennsylvania Board of Probation and Parole (the "Board") are responsible to implement these two statutes.

The Pennsylvania Supreme Court had occasion to review issues related to the ones presented here in *Fross v. County of Allegheny*, 20 A.3d 1193, 1196-97, (Pa. 2011). There Allegheny County adopted an ordinance which imposed residency restrictions on sex offenders who were required to register under Megan's Law. The ordinance stated:

It shall be unlawful for any Sex Offender to establish a Permanent Residence or Temporary Residence within 2,500 feet of any Child Care Facility, Community

Center, Public Park or Recreational Facility, or School for the duration of his or her registration under the terms of Megan's Law, 42 P[a.C.]S. § 9791 et seq.

Id. at 1197.

The practical effect of the Allegheny County ordinance was to limit the area where sex offenders could live to outlying suburban areas because the "vast majority" of Allegheny County was off limits. *Id.* at 1198. The Supreme Court held that the ordinance was preempted by the Pennsylvania Prisons and Parole Code, 61 Pa.C.S. § 101 et seq., ("Parole Code") and/or by the Pennsylvania Sentencing Code, 42 Pa.C.S. § 9701 et seq. ("Sentencing Code"):

the County's Ordinance interferes with the goal of Megan's Law to reduce recidivism among sex offenders and improve public safety. Isolating all sex offenders from their communities, support systems, employment, and treatment is an approach contrary to that of the General Assembly, which requires individually tailored assessments and assistance with rehabilitation and reintegration for appropriate offenders. The Ordinance chooses the importance of residency over all other considerations expressly incorporated into the probation and parole scheme by the General Assembly. And, finally, it is not hard to imagine the effect on the statewide legislative scheme if all counties were to adopt similar residency restrictions. The statewide scheme would be eviscerated.

The County's legislative effort in this instance undermines the General Assembly's policies of rehabilitation, reintegration, and diversion from prison of appropriate offenders, and significantly interferes with the operation of the Sentencing and Parole Codes. For these reasons, we agree with the federal district court that the County's Ordinance stands as an obstacle to accomplishing the full purposes objectives of the General Assembly and is, therefore, preempted.

Fross v. County of Allegheny, 20 A.3d 1193, 1207, (Pa. 2011).

The *Fross* ruling was limited to municipal ordinances and was based upon preemption by state statutes. The action taken here was by a private actor, PPCA. However, our Supreme Court in *Fross* identified the public policy of the Commonwealth in reintegrating sex offenders to society.

It is well settled that contracts may be declared unenforceable "as a violation of public policy." *Pittsburgh Logistics Systems, Inc. v. Beemac Trucking, LLC*, 249 A.3d 918 (Pa. 2021). The Court clarified,

that public policy is more than a vague goal which may be used to circumvent the meaning of the contract.

...

It is only when a given policy is so obviously for or against the public health, safety, morals or welfare that there is a virtual unanimity of opinion in regard to it, that a court may constitute itself the voice of the community in so declaring [that the contract is against public policy].

Id. at 930, citing *Eichelman v. Nationwide Ins. Co.*, 711 A.2d 1006, 1008 (Pa.1998).

"[P]ublic policy is to be ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interest." *Vinson v. Fitness & Sports Clubs, LLC*, 187 A.3d 253, 257 (Pa.Super. 2018).

Turning to PPCA's action, the question of whether a Pennsylvania planned community has the authority to banish a sex offender is one of first impression before Pennsylvania's appellate courts.

The New Jersey Superior Court, Appellate Division examined a case involving similar circumstances in *Mulligan v. Panther Valley Property Owners Ass'n*, 766 A.2d 1186 (N.J. App. 2001). There, the court considered an amendment to the Panther Valley Property Owner's Association which prohibited Tier III sex offenders from residing in the community. Mulligan, who was a resident of Panther Valley, but not a registered sex offender, argued that the provision was against public policy. The trial court disagreed and upheld the covenant banishing sex offenders.

The New Jersey appellate court reversed, deciding that the Association had not developed a record sufficient to allow it to make a decision on a question having such a broad social and legal impact. *Mulligan* at 1193. The court expressed concern that:

the result of such provisions is to make a large segment of the housing market unavailable to one category of individual and indeed perhaps to approach "the ogre of vigilantism and harassment," the potential dangers of which the Supreme Court recognized even while upholding the Constitutionality of Megan's Law.

Mulligan, 766 A.2d at 1192-93, citing *Doe v. Portiz*, 662 A.2d 367 (N.J. 1995).

The *Mulligan* court further questioned whether:

large segments of the State could entirely close their doors to such individuals, confining them to a narrow corridor and thus perhaps exposing those within that remaining corridor to a greater risk of harm than they might otherwise have had to confront.

Mulligan, 766 A.2d at 1193.

PPCA cites Clifford Treese's testimony that only 10% of Pennsylvania homes are in planned communities, and argues that if the covenant is upheld and all planned communities then banish sex offenders, the sex offenders would still have a wide range of options for housing. However, that is only true because of the Pennsylvania Supreme Court's holding in *Fross*. Residents surrounding the Lake Naomi community, living in Tobyhanna Township or elsewhere in municipalities outside of planned communities are unable to remove Tier Three sex offenders as PPCA seeks to do here. They must abide by the Supreme Court's decision that the residences of sex offenders are regulated by Pennsylvania statutes governing sentencing, probation and parole. Lake Naomi's solution to its problem of a resident sex offender is to force him to move elsewhere. All of the dangers complained of by the Lake Naomi residents will then be thrust upon other

residents of our society, perhaps just down the road from them, who don't live in a private community. Additionally, parole officers would not be able to approve Mr. Rosado's residence in a home he has owned for many years that is compliant with Megan's Law.

The *Mulligan* court recognized these problems in its decision:

Common interest communities fill a particular need in the housing market but they also pose unique problems for those who remain outside their gates, whether voluntarily or by economic necessity. The understandable desire of individuals to protect themselves and their families from some of the ravages of modern society and thus reside within such communities should not become a vehicle to ensure that those problems remain the burden of those least able to afford a viable solution.

Mulligan at 1193.

Based upon the public policy rationale of *Fross*, PPCA's Covenant 14 will be declared void as against public policy.

PPCA finally argues that Rosado has waived his challenge to Covenant 14 because he did not raise a challenge to the amendment within one year, citing 68 P.C.S. §5219(b), which provides that "(N)o action to challenge the validity of an amendment... may be brought more than one year after the amendment is recorded." *Id.* The Covenant 14 amendment was recorded in the Office for the Recording of Deeds in and for Monroe County, Pennsylvania on May 11, 2016. *Plaintiff's Exhibit 2*. Mr. Rosado did not bring an action to challenge the amendment within one year of its recording. However, it is axiomatic that a court may refuse to enforce a contract that violates public policy. *W.R. Grace & Co. v. Local 759*, 461 U.S. 757, 766, 103 S.Ct. 2177, 76 L.Ed.2d 298 (1983). The covenant will not be enforced.

against public policy as recognized by the Pennsylvania Supreme Court in *Commonwealth v. Fross*, 20 A.3d 1193 (Pa. 2011) and denied PPCA's requested relief.

PPCA filed a post-sentence motion on July 22, 2021, raising three issues. They are:

1. Whether the court erred in determining that public policy prevented the enforcement of Covenant 14 because the *Fross* decision should not control the outcome of this case.

2. Whether the court erred in determining that the statute of limitations bars Rosado's public policy defense.

3. In the alternative, whether PPCA should be granted a new trial because the decision was "contrary to the evidence submitted at trial."

The parties filed briefs and argued their positions on August 27, 2021.

DISCUSSION

Upon appeal of a non-jury trial verdict, the court considers the evidence in a light most favorable to the verdict winner and will grant the motion only if its findings of fact lack the support of competent evidence or its findings are premised on an error of law.

Phelps v. Caperoon, 190 A.3d 1230, 1243 (Pa. Super. 2018). The purpose of Rule 227.1 is to allow the trial court the opportunity to examine its ruling and correct any errors in the first instance, as well as to frame the issues should appellate review be necessary.

Chalkey v. Roush, 805 A.2d 491, 494 n. 9 (Pa. 2002).

I. The Motion to Change the Decision

PPCA does not challenge the findings of fact in the court's decision. Rather it contends that the court erred in finding that PPCA's ban of Tier III sex offenders from the community violated public policy as identified in *Fross v. County of Allegheny*, 20 A.3d 1193 (Pa. 2011). This is a question of law. As discussed in the decision, the *Fross* court held that Allegheny County was precluded by the preemption doctrine from adopting an ordinance that broadly excluded sex offenders from county population centers:

(W)e are persuaded by the appellees' arguments that the County's Ordinance interferes with the goal of Megan's Law to reduce recidivism among sex offenders and improve public safety. Isolating all sex offenders from their communities, support systems, employment, and treatment is an approach contrary to that of the General Assembly, which requires individually tailored assessments and assistance with rehabilitation and reintegration for appropriate offenders. The Ordinance chooses the importance of residency over all other considerations expressly incorporated into the probation and parole scheme by the General Assembly. And, finally, it is not hard to imagine the effect on the statewide legislative scheme if all counties were to adopt similar residency restrictions. The statewide scheme would be eviscerated.

Fross v. County of Allegheny, 20 A.3d 1193, 1206–07 (Pa. 2011).

PPCA first attempts to distinguish *Fross* because that case dealt with a county ordinance and the preemption doctrine. It is true that the preemption doctrine does not apply here. This case does not involve a municipal government; PPCA is a homeowners association governed by the Uniform Planned Community Act, 68 Pa.C.S. Section 5101 et. seq. However, the *Fross* decision recognized Pennsylvania's public policy to reduce recidivism among sex offenders and to improve public safety through the parole scheme established by the General Assembly. The *Fross* decision found that:

The County's legislative effort in this instance undermines the General Assembly's policies of rehabilitation, reintegration, and diversion from prison of appropriate

offenders, and significantly interferes with the operation of the Sentencing and Parole Codes. For these reasons, we agree with the federal district court that the County's Ordinance stands as an obstacle to accomplishing the full purposes objectives of the General Assembly and is, therefore, preempted.

Id. at 1207.

The PPCA restrictive covenant is a contract that has been imposed by the association on all PPCA lot owners. PPCA does not contest that the court may refuse to enforce a contract that interferes with public policy; our Supreme Court recently did so in *Degliomini v. ESM Productions, Inc.*, 253 A.3d 226, 238 (Pa. 2021) (enforcement of an exculpatory contract for a City of Philadelphia recreational event would jeopardize the health, safety and welfare of the public at large). The *Degliomini* court found that an exculpatory contract would withstand a challenge based on public policy if "it does not contravene any policy of the law, that is, if it is not a matter of interest to the public or State." *Id.* at 238. The *Fross* court found that attempts to banish sex offenders from large areas of Allegheny County did contravene a policy of the law, the Sentencing and Parole Codes. The Commonwealth Court came to the same conclusion in *TWL Realty, LLC v. West Hanover Tp. Zoning Hearing Bd.*, 132 A.3d 533, 540 (Pa.CmwltH.2016) involving a municipal ban of violent offenders from a private work-release center:

Taken together, the Sentencing and Parole Codes demonstrate that when the Commonwealth places an offender in a particular work-release program, the Commonwealth has determined that the offender's placement is consistent with both the public's safety and the needs of the offender to reintegrate into society. The Ordinance's ban upon the housing of offenders with violent criminal histories is in conflict with the Commonwealth's determination that an offender is suitable for placement in the work-release facility; a determination that includes a conclusion that public safety would not be jeopardized by the offender. If the Ordinance is allowed to stand, other municipalities will be able to enact similar ordinances that contain more restrictive standards than the Sentencing and

Parole Codes, thus jeopardizing the Commonwealth's parole scheme as embodied by the Sentencing and Parole Codes.

TWL Realty, LLC v. West Hanover Tp. Zoning Hearing Bd., 132 A.3d 533, 540 (Pa.Cmwth.2016).

PPCA next attempts to distinguish the *Fross* decision by arguing that its covenant supports the predominate public policy- the protection of children, citing a passage from *Pennsylvania State System of Higher Education, Lock Haven University v. Association of Pennsylvania State College and University Faculties*, 193 A.3d 486, 499 (Pa.Cmwth.2018)(" We agree with PASSHE that a well-defined and dominant public policy exists in Pennsylvania in favor of protecting children from child abuse, including abuse of a sexual nature.") However, the *Fross* decision did support that dominant public policy. The Supreme Court found that the best way to protect children and society was to allow the safeguards built into Megan's Law to be employed.

What PPCA attempts to do is to protect the children in their community; but a banishment from Lake Naomi merely moves the offender somewhere else, perhaps closer to some other Pennsylvania family with children, despite the attempts of the parole board to comply with the goals of Megan's Law, now SORNA II, for the protection of all Pennsylvania residents. Most Pennsylvania communities are "child-centered;" Lake Naomi is not unique in that regard. PPCA's expert testified that ten percent of Pennsylvania housing is in community associations. Finding that these associations are free to remove sex offenders would have a similar deleterious effect on the statewide approach to sex offenders that concerned the *Fross* court.

PPCA also argues that if community associations are not permitted to exclude sex offenders, then private landlords will not be able to do so. The *Fross* holding applies to all Pennsylvania municipalities; the determination here addresses a restrictive covenant that binds an entire community association, not the renting decisions of a landlord. The landlord's decision to rent or not to rent is made before a contract is signed. A Pennsylvania landlord is prohibited by the Pennsylvania Human Relations Act, 43 P.S. §951 et. seq. from discriminating against individuals for a number of reasons such as race, sex, religion, age and national origin, but conviction of a sex offense is not one of them.¹

PPCA also points out that a federal statute directs public housing facilities not to allow sex offenders to reside there. The decision in this case concerns a ruling by the Pennsylvania Supreme Court which considered Pennsylvania statutes, not federal law. The application of federal law is not controlling in this case.

The motion to change the decision will be denied.

¹ It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or in the case of a fraternal corporation or association, unless based upon membership in such association or corporation, or except where based upon applicable security regulations established by the United States or the Commonwealth of Pennsylvania:

... (h) For any person to:

(1) Refuse to sell, lease, finance or otherwise to deny or withhold any housing accommodation or commercial property from any person because of the race, color, familial status, age, religious creed, ancestry, sex, national origin or handicap or disability of any person, prospective owner, occupant or user of such housing accommodation or commercial property, or to refuse to lease any housing accommodation or commercial property to any person due to use of a guide animal because of the blindness or deafness of the user, use of a support animal because of a physical handicap of the user or because the user is a handler or trainer of support or guide animals or because of the handicap or disability of an individual with whom the person is known to have a relationship or association.

43 P.S. § 955.

II. The Statute of Limitations

PPCA next argues that the court erred in failing to find that the statute of limitations prevents Rosado from contesting the validity of Covenant 14. The Uniform Planned Community Act provides in 68 Pa.C.S. §5219(b) that:

(b) Limitation of action to challenge amendment.--No action to challenge the validity of an amendment adopted by the association under this section may be brought more than one year after the amendment is recorded.

68 Pa.C.S. § 5219.

This sub-section appears in Section 5219 which is titled "Amendment to the Declaration" and it only applies to amendments to the declaration; it is not a limitation on a challenge to the validity of the original declaration.

Rosado responds that the purpose of this section is to limit the time for filing a challenge to the validity of the amendment process, which he has not done. He has also not filed a suit which is time-barred. He contends that he is not prevented by this sub-section from interposing a defense to PPCA's suit that the covenant violates public policy as identified by *Fross*. The Commonwealth Court considered the effect of Section 5219(b) in *Belleville v. David Cutler Group*, 118 A.3d 1184, 1194 (Pa.Cmwlt.2015). There a community association board of directors had adopted a "technical amendment" to the declaration, raising dues assessments which were not advertised or voted on by the membership. The Commonwealth Court ruled that the statute of limitations in Section 5219(b) did not apply because no notice had been given of the amendment. It found that the purpose of Section 5219(a), was to ensure that "a majority of association members are aware of and agree to material changes in the documents which govern the rights,

responsibilities, obligations, and powers of the association, its members, and its board.” *Belleville v. David Cutler Group*, 118 A.3d 1184, 1194 (Pa.Cmwlth.2015). If the amendment did not violate public policy, Section 5219(b) would be dispositive here.

However, a court may not enforce a contract that is contrary to public policy:

As with any contract, however, a court may not enforce a collective bargaining agreement that is contrary to public policy. See *Hurd v. Hodge*, 334 U.S. 24, 34–35, 68 S.Ct. 847, 852–53, 92 L.Ed. 1187 (1948)... If the contract as interpreted by Barrett violates some explicit public policy, we are obliged to refrain from enforcing it. *Hurd v. Hodge*, 334 U.S., at 35, 68 S.Ct., at 853. Such a public policy, however, must be well defined and dominant, and is to be ascertained “by reference to the laws and legal precedents and not from general considerations of supposed public interests.” *Muschany v. United States*, 324 U.S. 49, 66, 65 S.Ct. 442, 451, 89 L.Ed. 744 (1945). *W.R. Grace and Co. v. Local Union 759, Intern. Union of United Rubber, Cork, Linoleum and Plastic Workers of America*, 103 S.Ct. 2177, 2183, 461 U.S. 757, 766 (U.S. 1983).

Justice Wecht recently reviewed the law in this area in his concurring opinion in *Safe Auto Insurance Company v. Oriental-Guillermo*, 214 A.3d 1257, 1269–70 (Pa. 2019):

[T]he rule that courts should not enforce contracts that are against “public policy” is, of course, a well-established common law principle. 5 Williston on Contracts § 12:1 (4th ed. 1993) (“Bargains that comply with formal contractual requirements may nevertheless be unenforceable either by operation of express statutory prohibition or by operation of common law as being opposed to public policy.”); see Restatement (Second) of Contracts § 178 (1981). Yet, this doctrine is exceptionally narrow; it applies only when a contract conflicts with a statutory enactment, a long-established governmental practice, or obvious ethical or moral standards. *Eichelman v. Nationwide Ins. Co.*, 551 Pa. 558, 711 A.2d 1006, 1008 (1998); *Hall v. Amica Mut. Ins. Co.*, 538 Pa. 337, 648 A.2d 755, 760 (1994) (“Public policy is to be ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interest.”). Courts have, for example, declined to enforce an agreement to appoint others to a political office, an agreement to illegally influence legislation, and an agreement that required the defendant to warn the plaintiff of any police investigations into the latter’s activities. We have stressed that, in the absence of a conflict with an identifiable, well-defined, and dominant expression of public policy, courts should decline to

displace written agreements on the basis of generalized public policy concerns. *Hall*, 648 A.2d at 760.

Safe Auto Insurance Company v. Oriental-Guillermo, 214 A.3d 1257, 1269–70 (Pa. 2019)(Justice Wecht concurring).

The Superior Court recently considered an action to enforce repayment of a loan made to pay a gambling debt. The court stated:

the issue of the legality of a contract can never be waived based upon the principle that the courts of this Commonwealth will not be used to enforce contracts that are illegal pursuant to a statute or that violate public policy. See *Am. Ass'n. of Meat Processors v. Cas. Reciprocal Exch.*, 527 Pa. 59, 588 A.2d 491, 495-496 (1991) (holding that claim of illegal contract, clearly raised for the first time in post-trial motion, was not be waived for failure to raise pre-trial or during trial).

Rounick v. Neducsin, 231 A.3d 994, 1000 fn.6 (Pa.Super. 2020).

The Sentencing Code and the Parole Code have established public policy regarding the public's safety and the needs of the offender to reintegrate into society. *Fross* determined that these policies of the General Assembly cannot be modified by Pennsylvania municipalities. The PPCA covenant conflicts with statutory enactments and a determination by our highest court that these enactments establish public policy. The covenant will therefore not be enforced.

III. Motion for New Trial

Finally, PPCA seeks a new trial because the court's decision was against the weight of the evidence. The general rule for a grant of a new trial on the basis that it is against the weight of the evidence allows the granting of a new trial only when the verdict is so contrary to the evidence as to shock one's sense of justice and a new trial is necessary to rectify the situation. *Ditz v. Marshall*, 393 A.2d 701, 703, 259 Pa.Super. 31, 35 (Pa. Super. 1978). In this case, PPCA does not take issue with any particular finding

of fact in the court's decision; rather it contends that it proved good reason to banish Tier III sex offenders to protect the children in the Lake Naomi community. Mr. Rosado can establish a residence somewhere else where he can get counseling and comply with the requirements of the State Parole Board.

A new trial is not necessary here. PPCA does not claim that it did not receive a fair trial; it objects to the court's conclusion of law. The court has ruled that the Pennsylvania Sentencing Code, the Parole Code and the *Fross* decision have identified Pennsylvania's public policy on the reintegration of sex offenders in Pennsylvania. Covenant 14 is a contract between PPCA and its members that runs afoul of that policy. The motion for new trial will be denied.

**COURT OF COMMON PLEAS OF MONROE COUNTY
FORTY-THIRD JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA**

LAKE NAOMI CLUB, INC. and POCONO PINES COMMUNITY ASSOCIATION, INC.,	:	No. 962 CV 2019
	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
ERIC ROSADO and ALICE QUINONES,	:	
	:	
Defendants.	:	

STATEMENT PURSUANT TO P.R.A.P. 1925(a)

Eric Rosado resides in a home in the Lake Naomi Development that he and Alice Quinones purchased in 1998. Mr. Rosado was convicted in 2015 and 2016 of sex offenses in Pennsylvania and New York which made him a Tier Three sex offender in Pennsylvania subject to lifetime registration under the Sexual Offender Registration and Notification Act, (SORNA) Act of December 20, 2011, P.L. 446, No. 111, §12 as amended. 42 Pa.C.S. §§ 9799.10-9799.75, as amended by the Act of June 12, 2018, P.L. 140 (Act 29) (collectively, Act 10).

The Pocono Pines Community Association (PPCA) is the Lake Naomi planned community where Mr. Rosado resides. Lake Naomi Club, Inc. is the organization that enforces PPCA covenants. The membership of PPCA voted in 2015 to amend the community's restrictive covenants to banish Tier III sex offenders from the community.

Lake Naomi Club, Inc. commenced this litigation when Mr. Rosado refused to leave his residence.

Allegheny County adopted an ordinance in 2008 which imposed residency restrictions on sex offenders who were required to register under Megan's Law. The ordinance stated:

It shall be unlawful for any Sex Offender to establish a Permanent Residence or Temporary Residence within 2,500 feet of any Child Care Facility, Community Center, Public Park or Recreational Facility, or School for the duration of his or her registration under the terms of Megan's Law, 42 P[a.C.]S. § 9791 et seq.

Fross v. County of Allegheny, 20 A.3d 1193, 1197 (Pa. 2011).

The purpose of the Allegheny County ordinance was "to augment the provisions of Pennsylvania's Megan's Law and [to] better provide for safety of the County's residents." *Id.* at 1198.

The ordinance was challenged and the case was eventually addressed by the Pennsylvania Supreme Court. The Supreme Court found that the ordinance prevented sex offenders from living in the "vast majority" of Allegheny County. *Id.* at 1198. The Supreme Court held that the ordinance was preempted by the Pennsylvania Prisons and Parole Code, 61 Pa.C.S. § 101 et seq., ("Parole Code") and/or by the Pennsylvania Sentencing Code, 42 Pa.C.S. § 9701 et seq. ("Sentencing Code"):

[T]he County's Ordinance interferes with the goal of Megan's Law to reduce recidivism among sex offenders and improve public safety. Isolating all sex offenders from their communities, support systems, employment, and treatment is an approach contrary to that of the General Assembly, which requires individually tailored assessments and assistance with rehabilitation and reintegration for appropriate offenders. The Ordinance chooses the importance of

residency over all other considerations expressly incorporated into the probation and parole scheme by the General Assembly. And, finally, it is not hard to imagine the effect on the statewide legislative scheme if all counties were to adopt similar residency restrictions. The statewide scheme would be eviscerated.

Fross, 20 A.3d at 1207.

The *Fross* decision was based upon the preemption doctrine and did not address a restrictive covenant adopted by a community association. However, the Supreme Court's ruling established a public policy that municipalities could not banish sex offenders because of the state-wide legislative scheme to address sex offenders found in Megan's Law and now SORNA.

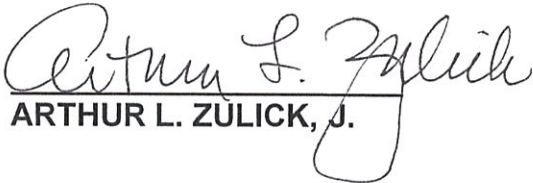
Lake Naomi's expert testified in this case that ten percent of Pennsylvania residents reside in a planned community. The question here is whether they are permitted to do by contract what no municipality may do under *Fross*. My ruling is that *Fross* and SORNA established a public policy that regulation of sex offenders, including their residences, is controlled by state statute, not by ordinances and not by restrictive covenants.

Lake Naomi argues that it should receive special consideration because it is uniquely based on children and family-oriented programs. Almost every community in our Commonwealth is protective of its families and children. If Lake Naomi is permitted to expel Mr. Rosado, he will have to relocate. Lake Naomi will have excluded a known sex offender whose residence was approved by the State Parole Board in accordance

with SORNA, and another community will then be required to accommodate their former resident.

After review of the issues raised by Lake Naomi Club on appeal, I rely upon the decision I issued on July 19, 2021 following non-jury trial and the opinion I wrote following Lake Naomi Club's post-trial motion. Copies of these opinions are attached.

BY THE COURT:


ARTHUR L. ZULICK, J.

DATED: November 18, 2021

cc: Peter J. Adonizio, Jr., Esquire
Thomas I. Vanaskie, Esquire
Nicholas Charles Haros, Esquire ✓
Steven E. Krawitz, Esquire

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As of: May 30, 2023 8:35 PM Z

[Lake Naomi Club, Inc. v. Rosado](#)

Commonwealth Court of Pennsylvania

September 14, 2022, Argued; October 28, 2022, Decided; October 28, 2022, Filed

No. 1164 C.D. 2021

Reporter

285 A.3d 1 *; 2022 Pa. Commw. LEXIS 143 **; 2022 WL 15525622

Lake Naomi Club, Inc. and Pocono Pines Community Association, Inc., Appellants v. Eric Rosado and Alice Quinones

Judgment affirmed.

LexisNexis® Headnotes

Core Terms

Parole, sex offender, offender, Associations, residency, public policy, trial court, Covenant, Sentencing, ordinance, municipalities, statewide, statute of limitations, planned community, public safety, registered sex offender, restrictive covenant, rehabilitation, sexual, reintegration, restrictions, supervision, prison, child-centered, regulation, offenses, recorded, township, invalid, zoning

Case Summary

Overview

HOLDINGS: [1]-The trial court properly denied the homeowners' associations' request for injunctive relief because, based on the Pennsylvania Supreme Court's decision in *Fross*, a private, planned community, pursuant to [68 Pa. C.S. § 5108](#), could not adopt a restrictive covenant that conflicted with state statutes governing where a released sex offender could live. The homeowner had owned his home for 24 years and the Parole Board approved his release to that home and, since he returned, the owner had complied with the Sexual Offender Registration and Notification Act's registration, supervision, and counseling requirements, he complied with the Parole Board's conditions, and he committed no further sex offenses; [2]-Because the Associations initiated the enforcement action against the homeowner, the one-year statute of limitations was inapplicable.

Outcome

Civil Procedure > Appeals > Standards of Review > De Novo Review

Civil Procedure > Appeals > Standards of Review > Questions of Fact & Law

[HN1](#) [↓] **Standards of Review, De Novo Review**

Generally, an appellate court's review of a court of common pleas sitting in equity is severely restricted. The appellate court will not reverse if apparently reasonable grounds exist for the relief ordered and no erroneous or inapplicable rules of law were relied on. However, where the issue on appeal is purely a question of law, even in an appeal from a trial court sitting in equity, the standard of review is de novo and the scope of review is plenary.

Contracts Law > Defenses > Public Policy Violations

[HN2](#) [↓] **Defenses, Public Policy Violations**

A contract can be voided on public policy grounds only if it violates a dominant public policy established by statute or other legal precedent. The Pennsylvania Supreme Court has explained that, when considering whether a contract violates public policy, public policy is more than a vague goal which may be used to circumvent the plain meaning of the contract. Rather, public policy is to be ascertained by reference to the

laws and legal precedents and not from general considerations of supposed public interest. As the term "public policy" is vague, there must be found definite indications in the law of the sovereignty to justify the invalidation of a contract as contrary to that policy. Only dominant public policy would justify such action. In the absence of a plain indication of that policy through long governmental practice or statutory enactments, or of violations of obvious ethical or moral standards, the Court should not assume to declare contracts contrary to public policy.

Criminal Law &
Procedure > Sentencing > Imposition of
Sentence > Factors

Governments > Local
Governments > Administrative Boards

Criminal Law & Procedure > Postconviction
Proceedings > Parole

[HN3](#) **Imposition of Sentence, Factors**

The Sentencing Code, [42 Pa.C.S. § 9721\(b\)](#), charges the sentencing court with balancing the protection of the public with the rehabilitative needs of the offender. The Parole Code, [61 Pa.C.S. § 6137\(a\)\(1\)](#), requires the Parole Board, when determining whether to parole an offender, to balance the best interests of the inmate with the need to avoid injury to the Commonwealth's interests, should the offender be paroled. [61 Pa.C.S. § 6137\(g\)\(4\)\(iv\)](#), specifically provides that the Parole Board may parole an offender only when there is no reasonable indication that the inmate poses a risk to public safety. Additionally, [61 Pa.C.S. § 6102\(1\)](#), states that the Parole Code provides several benefits to society including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison. Taken together, the Sentencing and Parole Codes demonstrate that when the Commonwealth places an offender in a particular work-release program, the Commonwealth has determined that the offender's placement is consistent with both the public's safety and the needs of the offender to reintegrate into society.

Criminal Law & Procedure > Postconviction
Proceedings > Sex Offenders > Residency

Restrictions

Governments > Local Governments > Ordinances &
Regulations

[HN4](#) **Sex Offenders, Residency Restrictions**

Sexual Offender Registration and Notification Act (SORNA I) and the Pennsylvania Sentencing and Parole Codes establish a public policy that the regulation of released sex offenders is controlled by state law and may not be controlled by local ordinances or restrictive covenants. The Parole Board is charged with balancing public safety with the rehabilitation and reintegration of released sex offenders.

Business & Corporate Compliance > ... > Contracts
Law > Types of Contracts > Covenants

Criminal Law & Procedure > Postconviction
Proceedings > Sex Offenders > Residency
Restrictions

[HN5](#) **Types of Contracts, Covenants**

A private community restriction that effectively restricts the Parole Board's ability to release a sex offender to his own residence interferes with the statewide statutory schemes that have been created to achieve a balance between public safety and rehabilitation. [42 Pa.C.S. § 9721\(b\)](#). Consequently, once a sentencing court or the Parole Board has determined that a home is an appropriate residence for a released sex offender, a private community may not disregard that determination by enforcing its own restrictive covenant.

Criminal Law & Procedure > Postconviction
Proceedings > Sex Offenders > Residency
Restrictions

Governments > Courts > Judicial Precedent

[HN6](#) **Sex Offenders, Residency Restrictions**

The Pennsylvania Supreme Court's decision in *Fross*—which is binding—plainly holds that county and municipal governments in Pennsylvania may not impose sex offender residency restrictions that conflict with those established by state statutes. That holding applies equally to privately governed communities, because they are no less bound by public policy than county and

municipal governments.

Criminal Law & Procedure > Postconviction Proceedings > Sex Offenders > Residency Restrictions

Real Property Law > Encumbrances > Restrictive Covenants > Creation of Restrictive Covenants

[HN7](#) **Sex Offenders, Residency Restrictions**

[68 Pa. C.S. § 5108](#) indicates that planned communities governed by the Uniform Planned Community Act are required to comply with other applicable laws and legal precedent. Thus, pursuant to the Pennsylvania Supreme Court's decision in *Fross*, a private, planned community may not adopt a restrictive covenant that conflicts with state statutes governing where a released sex offender may live.

Civil Procedure > Preliminary Considerations > Equity > Relief

[HN8](#) **Equity, Relief**

A trial court sitting in equity must balance the parties' competing rights and interests to achieve a fair and just result.

Criminal Law & Procedure > Postconviction Proceedings > Sex Offenders > Residency Restrictions

Governments > State & Territorial Governments > Legislatures

[HN9](#) **Sex Offenders, Residency Restrictions**

While a private community has a legitimate interest in providing a safe living environment for its residents, the Commonwealth's legislative measures governing the release of convicted sex offenders were specifically designed for the protection of the public.

Criminal Law & Procedure > Postconviction Proceedings > Sex Offenders > Residency Restrictions

Governments > State & Territorial Governments > Legislatures

[HN10](#) **Sex Offenders, Residency Restrictions**

The Pennsylvania General Assembly has made a determination that sex offenders, as a class, are eligible for parole and the best way to offer parole is to provide released offenders with familiar and stable environments that promote family and community ties and provide access to employment, counseling, and supervision. For this reason, although acknowledging the high risk of recidivism among sex offenders, the General Assembly has generally rejected the option of simply excluding released offenders from entire communities as the primary or even preferable means of protecting the public. [42 Pa.C.S. § 9791\(a\)\(2\)](#) and [\(b\)](#).

Criminal Law & Procedure > Postconviction Proceedings > Sex Offenders > Residency Restrictions

[HN11](#) **Sex Offenders, Residency Restrictions**

Sexual Offender Registration and Notification Act and the Sentencing and Parole Codes establish a statewide public policy that the regulation of released sex offenders, including where they may live, is controlled by state law.

Governments > Legislation > Statute of Limitations > Time Limitations

Real Property Law > Common Interest Communities > Homeowners Associations

[HN12](#) **Statute of Limitations, Time Limitations**

Section 5219(b) of the Uniform Planned Community Act provides that no action to challenge the validity of an amendment adopted by the association may be brought more than one year after the amendment is recorded. [68 Pa.C.S. § 5219\(b\)](#).

Governments > Legislation > Statute of Limitations > Time Limitations

Real Property Law > Common Interest Communities > Homeowners Associations

[HN13](#) Statute of Limitations, Time Limitations

The Uniform Planned Community Act's statute of limitations does not preclude a party from defending against an action brought by the plaintiff beyond the one-year limitations period, because the plain language of 68 Pa.C.S. § 5219(b) applies only to the filing of an action. The Pennsylvania Supreme Court has recognized that a statute of limitations must be strictly construed against a petitioner seeking to pursue a stale claim against a respondent, not against a respondent raising defenses to the petitioner's claim.

Criminal Law & Procedure > Postconviction Proceedings > Sex Offenders > Residency Restrictions

Governments > Local Governments > Ordinances & Regulations

Real Property Law > Encumbrances > Restrictive Covenants

[HN14](#) Sex Offenders, Residency Restrictions

The Supreme Court's ruling in Fross established a dominant public policy that local counties and municipalities cannot impose sex offender residency restrictions due to Pennsylvania's statewide legislative scheme governing the release of convicted sex offenders.

Judges: **[**1]** BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge, HONORABLE PATRICIA A. McCULLOUGH, Judge, HONORABLE ANNE E. COVEY, Judge, HONORABLE MICHAEL H. WOJCIK, Judge, HONORABLE CHRISTINE FIZZANO CANNON, Judge, HONORABLE ELLEN CEISLER, Judge, HONORABLE LORI A. DUMAS, Judge. Judge Wallace did not participate in the decision of this case.

Opinion by: ELLEN CEISLER

Opinion

[*2] OPINION BY JUDGE CEISLER

Lake Naomi Club, Inc. and Pocono Pines Community

Association, Inc. (together, Associations)¹ appeal from the September 14, 2021 Order of the Court of Common Pleas of Monroe County (Trial Court) denying their Post-Trial Motion. Following a non-jury trial, the Trial Court entered judgment in favor of Eric Rosado **[*3]** and Alice Quinones² and denied the Associations' request for injunctive relief.

This appeal involves an issue of first impression in Pennsylvania: Can a private, planned community adopt a restrictive covenant that prohibits lifetime registered sex offenders from residing within that community? To date, no Pennsylvania appellate court has considered this issue. For the reasons that follow, we conclude that a private community may not adopt such a covenant, and, therefore, we affirm the Trial Court's Order.

Background **[2]******1. Covenant 14**

Lake Naomi is a private, planned community in Tobyhanna Township, Monroe County, that is governed by the Uniform Planned Community Act (UPCA), [68 Pa. C.S. §§ 5101-5414](#). Pocono Pines Community Association (Pocono Pines) is a nonprofit corporation that serves as the homeowners' association for all deeded property owners in the Lake Naomi community, and all deeded owners of property in Lake Naomi are Pocono Pines members. Lake Naomi Club, Inc. (LNC) is a nonprofit corporation and the deeded owner of all common areas and amenities within the community. By operation of a July 11, 1988 deed from Pocono Pines to LNC, LNC has the right to enforce Pocono Pines' Declaration and Covenants and to control the common areas and amenities within Lake Naomi.

At Pocono Pines' 2013 annual meeting, some residents

¹Although Lake Naomi Club, Inc. and Pocono Pines Community Association, Inc. are distinct entities, as discussed in the Background section of this Opinion, we refer to Appellants together as "Associations," unless we are discussing an action by only one entity.

²Mr. Rosado and Ms. Quinones were married when they purchased a home in the Lake Naomi community in 1998 but have since divorced. Ms. Quinones no longer resides at the Lake Naomi property and has not actively participated in this case. On July 11, 2022, this Court entered an Order precluding Ms. Quinones from filing a brief and participating in oral argument.

Lake Naomi Club, Inc. v. Rosado

raised concerns about a sex offender who was living in Lake Naomi. As a result of these concerns, on March 30, 2016, Pocono Pines adopted a restrictive covenant (Covenant 14) amending its Declaration. Covenant 14 provides that no registered Tier III sex offender "shall occupy or reside in any [l]ot, dwelling, or common area within the boundaries of" the Lake Naomi community and "[n]o [unit o]wner or agent of an owner shall knowingly allow [redacted] such a [p]rohibited person to occupy or reside in" the community. Reproduced Record (R.R.) at 955a. The amendment was recorded on May 11, 2016.

Prior to adopting the amendment, Pocono Pines sent written ballots regarding the amendment to all members, including Mr. Rosado, and more than two-thirds of the members approved the amendment. The evidence at trial showed that 94% of those who returned ballots, comprising 71% of all unit owners, approved Covenant 14.³

2. Underlying Criminal Proceedings

On June 9, 2015, a jury convicted Mr. Rosado of indecent assault, endangering the welfare of a child, corruption of minors, and unlawful contact with a minor. The convictions stemmed from offenses he committed against his then-seven-year-old [redacted] [redacted] step-granddaughter in his Lake Naomi home. The Trial Court sentenced Mr. Rosado to 30 to 72 months' incarceration.

On February 10, 2016, Mr. Rosado was convicted in the State of New York of sexual conduct against a child in the second degree. The New York conviction stemmed from offenses he committed against the same step-granddaughter at his apartment in New York City during

the preceding two years.

At the time of his convictions, Mr. Rosado was required to register as a Tier III sex offender for life in Pennsylvania under the Sexual Offender Registration and Notification Act (SORNA I), which took effect on December 20, 2012. See former [42 Pa. C.S. §§ 9799.10-9799.41](#).⁴ Mr. Rosado was also required to register as a Tier I sex offender in New York.

On August 23, 2018, Mr. Rosado was released on parole and moved back into his Lake Naomi home, subject to supervision by the Pennsylvania Parole Board (Parole Board). Mr. Rosado's supervision ended on September 23, 2021, during the pendency of this action.

3. Trial Court Proceedings

On November 7, 2018, the Associations hand-delivered a letter to Mr. Rosado informing him that, as a registered Tier III sex offender, he was in violation of Covenant 14 and requesting that he vacate his Lake Naomi property. On December 14, [redacted] 2018, the Associations sent Mr. Rosado a second letter requesting that he vacate his property. Mr. Rosado refused to do so.⁵

On February 5, 2019, the Associations filed in the Trial Court a Complaint in Equity, seeking to permanently enjoin Mr. Rosado from residing at his Lake Naomi property due to his status as Tier III sex offender. After several rounds of preliminary objections, the pleadings were closed on June 2, 2020. The Trial Court held a non-jury trial on February 19, 2021, and April 8, 2021.

At trial, the Associations presented the testimony of several expert witnesses, who testified regarding the

³ **Section 5219(a)(1) of the UPCA** provides:

(a) Number of votes required.--

(1) The declaration, including the plats and plans, may be amended only by vote or agreement of unit owners of units to which at least:

- (i) 67% of votes in the association are allocated; or
- (ii) a larger percentage of the votes in the association as specified in the declaration; or
- (iii) a smaller percentage of the votes in the association as specified in the declaration if all units are restricted exclusively to nonresidential use.

68 Pa. C.S. § 5219(a)(1).

⁴ In 2018, the General Assembly enacted SORNA II, Act of February 21, 2018, P.L. 27, as amended by the Act of June 12, 2018, P.L. 140, [42 Pa. C.S. §§ 9799.10-9799.75](#), which amended SORNA I and added new provisions that became effective immediately. We refer to SORNA I and SORNA II together as "SORNA" throughout the remainder of this Opinion.

⁵ Mr. Rosado, who is now 73 years old, continues to reside in his Lake Naomi home. The Trial Court found that "Mr. Rosado is the only person [the Associations] have sued to evict. In one other circumstance, a Tier III sex offender leased a [Lake Naomi] home. After being contacted by the [Associations], that individual moved out of the community." Trial Ct. Op., 7/19/21, Finding of Fact (F.F.) No. 40.

Lake Naomi Club, Inc. v. Rosado

recidivism rates of sex offenders and the negative impact on property values of a known sex offender living within a community. Trial Ct. Op., 7/19/21, F.F. Nos. 32-39. The Pocono Pines community manager also testified regarding the child-centered nature of the Lake Naomi community. Trial Ct. Op., 7/19/21, at 10-11.⁶

Mr. Rosado defended against the Associations' action by asserting that Covenant [*5] 14 is unconscionable and against public policy. He also presented evidence that he has fully complied with the requirements of SORNA and his parole and has committed no offenses since his release from prison in 2018.

On July 19, 2021, the Trial Court issued its decision, declaring Covenant 14 void as against public policy and denying the Associations' request for injunctive relief. The Associations timely filed a Post-Trial Motion, seeking a new trial on the ground that the Trial Court's decision was contrary to law and against the weight of the evidence.

On September 14, 2021, the Trial Court denied the Post-Trial Motion. In its Opinion, the Trial Court relied extensively on the Pennsylvania Supreme Court's decision in *Fross v. County of Allegheny*, 610 Pa. 421, 20 A.3d 1193 (Pa. 2011), which held that an Allegheny County ordinance that broadly excluded sex offenders from residing in county population centers was preempted by the Sentencing Code, 42 Pa. C.S. §§ 9701-81, and the Prisons and Parole Code (Parole Code), 61 Pa. C.S. §§ 101-7301. While recognizing that the present case does not involve a municipal ordinance or the conflict preemption doctrine, the Trial Court nonetheless reasoned that [**7] "the *Fross* decision recognized Pennsylvania's public policy to reduce recidivism among sex offenders and to improve public safety through the parole scheme established by the General Assembly." Trial Ct. Op., 9/14/21, at 3 (emphasis added).

⁶ The community manager testified that "[t]he community pool is 1,500 feet from [Mr.] Rosado[s] property and the tennis court is 500 feet away." Trial Ct. Op., 7/19/21, at 10-11. She also testified:

When Mr. Rosado did not move after Covenant 14 was adopted, Lake Naomi . . . publicized his on[]line Megan's Law registration to members of the community, and closed a shuttle bus stop for a children's summer camp near his property, picking up children in that area at their [**6] driveways instead.

Id. at 11.

The Trial Court also found that Covenant 14, which amended Pocono Pines' Declaration, "is a contract that has been imposed by [Pocono Pines] on all . . . lot owners" and that "the court may refuse to enforce a contract that interferes with public policy." *Id.* at 4. The Trial Court explained:

[The Associations] . . . attempt[] to distinguish the *Fross* decision by arguing that [Covenant 14] supports the predominate public policy [of] the protection of children, citing a passage from *Pa. State Sys. of Higher Educ. [PASSHE], Lock Haven University v. Ass'n of Pa. State College & Univ. Faculties*, 193 A.3d 486, 499 (Pa.[]Cmwltth.[]2018) ("We agree with PASSHE that a well-defined and dominant public policy exists in Pennsylvania in favor of protecting children from child abuse, including abuse of a sexual nature.").[.] However, *the Fross decision did support that dominant public policy. The Supreme Court found that the best way to protect children and society was to allow the safeguards built into Megan's Law [now SORNA] to be employed.*

What [the Associations] [**8] attempt[] to do is to protect the children in their community; but a banishment from Lake Naomi merely moves the offender somewhere else, perhaps closer to some other Pennsylvania family with children, despite the attempts of the [P]arole [B]oard to comply with the goals of Megan's Law, now SORNA . . . , for the protection of all Pennsylvania residents. Most Pennsylvania communities are "child-centered[]"[:.] Lake Naomi is not unique in that regard. [The Associations'] expert testified that ten percent of Pennsylvania housing is in community associations. *Finding that these associations are free to remove sex offenders would have a similar deleterious effect on the statewide approach to sex offenders that concerned the Fross [C]ourt.*

Id. at 5-6 (emphasis added).

The Trial Court also rejected the Associations' assertion that Mr. Rosado's challenge to Covenant 14 was barred by the one-year statute of limitations in *Section 5219(b) of the UPCA*, 68 Pa. C.S. § 5219(b).⁷ [*6] The Trial Court observed that "[i]f [Covenant 14] did not violate

⁷ *Section 5219(b) of the UPCA* provides: "No action to challenge the validity of an amendment adopted by the association under this section may be brought more than one year after the amendment is recorded." 68 Pa. C.S. § 5219(b).

public policy, *Section 5219(b)* [of the UPCA] would be dispositive here." *Id.* at 8. However, the Trial Court concluded that, regardless of the statute of limitations, "a court may not enforce a contract that is contrary to **[**9]** public policy[.]" *Id.* (citing [Rounick v. Neducsin, 2020 PA Super 101, 231 A.3d 994, 1000 n.6 \(Pa. Super. 2020\)](#) ("*[T]he issue of the legality of a contract can never be waived based upon the principle that the courts of this Commonwealth will not be used to enforce contracts that are illegal pursuant to a statute or that violate public policy.*") (emphasis added)).

Ultimately, the Trial Court held that the "Sentencing Code, the Parole Code[,] and the [Fross](#) decision have identified Pennsylvania's public policy on the reintegration of sex offenders in Pennsylvania. Covenant 14 is a contract between [Pocono Pines] and its members that runs afoul of that policy." *Id.* at 10. Therefore, the Trial Court concluded that the Associations were not entitled to a new trial and denied the Post-Trial Motion.

The Associations timely appealed to this Court. In its [Pa.R.A.P. 1925\(a\)](#) Statement, the Trial Court adopted the reasoning of its prior decisions and reiterated its holding as follows:

The [Fross](#) decision was based upon the preemption doctrine and did not address a restrictive covenant adopted by a community association. However, *the Supreme Court's ruling established a public policy that municipalities could not banish sex offenders because of the state[w]ide legislative scheme to address sex offenders **[**10]** found in Megan's Law and now SORNA.*

Lake Naomi's expert testified in this case that ten percent of Pennsylvania residents reside in a planned community. The question here is whether the[Associations] are permitted to do by contract what no municipality may do under *Fross*. *My ruling is that Fross and SORNA established a public policy that regulation of sex offenders, including their residences, is controlled by state statute, not by ordinances and not by restrictive covenants.*

Lake Naomi argues that it should receive special consideration because it is uniquely based on children[-] and family-oriented programs. Almost every community in our Commonwealth is protective of its families and children. If Lake Naomi is permitted to expel Mr. Rosado, he will have to relocate. *Lake Naomi will have excluded a known sex offender whose residence was approved by the*

. . . Parole Board in accordance with SORNA, and another community will then be required to accommodate [Mr. Rosado].

Trial Ct. 1925(a) Stmt., 11/18/21, at 3-4 (emphasis added).⁸

[*7] Analysis

On appeal, the Associations assert that the Trial Court erred in invalidating Covenant 14 on public policy grounds because neither [Fross](#) nor any **[**11]** other precedent establishes a statewide public policy that prohibits a private, planned community from imposing a residency restriction on lifetime registered sex offenders. The Associations also assert that Mr. Rosado's claim is barred by the statute of limitations in *Section 5219(b) of the UPCA* because he raised it more than one year after Covenant 14 was recorded.

1. The Fross Decision

We begin our analysis with a review of the Supreme Court's decision in [Fross](#), which was germane to the Trial Court's ruling and is the primary focus of the parties' arguments on appeal.

In [Fross](#), a group of registered sex offenders challenged the legality of an Allegheny County ordinance that prohibited registered sex offenders from living within 2,500 feet of a child care facility, community center, public park, recreational facility, or school. [20 A.3d at 1197-98](#). The ordinance, in effect, prohibited sex offenders from living in most of the habitable and developed areas of Allegheny County. The sex offenders argued that the ordinance was preempted by

⁸ [HN1](#) [↑] Generally, this Court's review "of a court of common pleas sitting in equity is severely restricted. . . . We will not reverse if apparently reasonable grounds exist for the relief ordered and no erroneous or inapplicable rules of law were relied on." [Eagleview Corp. Ctr. Ass'n v. Citadel Fed. Credit Union, 150 A.3d 1024, 1028 n.2 \(Pa. Cmwlth. 2016\)](#) (citation omitted). However, where the issue on appeal is purely a question of law, even in an appeal from a trial court sitting in equity, our standard of review is *de novo* and our scope of review is plenary. See [Hess v. Gebhard & Co., 570 Pa. 148, 808 A.2d 912, 920 \(Pa. 2002\)](#) (applying plenary review to a question of law in an equity action); [Com. v. Kelley, 569 Pa. 179, 801 A.2d 551, 554 \(Pa. 2002\)](#) (stating that where an "appeal raises a question of law, our scope of review is plenary").

the Sentencing and Parole Codes. *Id. at 1198*. In response, the County argued that the Parole Code and its accompanying regulations did not trump the well-established right of counties and municipalities to adopt local **[**12]** laws to protect the health, safety, and welfare of their residents. *Id. at 1200*. Thus, the County argued that the ordinance was a mere supplement to existing statutes and a valid exercise of the County's legislative power. *Id.*⁹

The Supreme Court disagreed with the County, concluding that the ordinance interfered with the intent of the General Assembly in adopting Megan's Law and the Sentencing and Parole Codes and was, therefore, invalid under the conflict preemption doctrine. *Id. at 1195*. The Supreme Court first recognized that the General Assembly expressly listed among its purposes for adopting the Sentencing and Parole Codes the rehabilitation, reintegration, and diversion from prison of appropriate offenders. *Id. at 1203*. The General Assembly also determined that registered sex offenders, as a class, are eligible for parole and may benefit from those Commonwealth policies. *Id. at 1204*. The *Fross* Court observed that the primary means of implementing those policies is to offer familiar and stable environments to released sex offenders, like other convicted offenders, by promoting family and community ties and providing access to employment, counseling, and supervision. *Id.* The Supreme Court determined that the Allegheny County **[**13]** ordinance "effectively subvert[ed]" these goals. *Id.*

The Supreme Court also concluded that the ordinance failed to consider the General Assembly's policy determination to facilitate the diversion of offenders from prison and the Commonwealth's interest in the timely and effective administration of probation and parole as expressed in the Sentencing and Parole Codes. *Id. at 1205*. The County's residency restriction limited the **[*8]** options available to sentencing courts and the Parole Board in designing adequate reintegration plans for sex offenders who are released from prison. *Id.* The Supreme Court explained:

[W]e are persuaded by the [sex offenders']

⁹ *Fross* originated in federal district court, which held that the Allegheny County ordinance at issue was preempted by state law and entered summary judgment in favor of the sex offenders who challenged the ordinance. Allegheny County appealed, and the Third Circuit certified the case for appellate review by the Pennsylvania Supreme Court. See *Fross, 20 A.3d at 1194-95*.

arguments that [Allegheny] County's [o]rdinance interferes with the goal of Megan's Law to reduce recidivism among sex offenders and improve public safety. Isolating all sex offenders from their communities, support systems, employment, and treatment is an approach contrary to that of the General Assembly, which requires individually tailored assessments and assistance with rehabilitation and reintegration for appropriate offenders. The [o]rdinance chooses the importance of residency over all other considerations expressly incorporated into the probation **[**14]** and parole scheme by the General Assembly. And, finally, it is not hard to imagine the effect on the statewide legislative scheme if all counties were to adopt similar residency restrictions. The statewide scheme would be eviscerated.

Id. at 1207. Therefore, the Supreme Court held that the Allegheny County "[o]rdinance *impede[d] the accomplishment of the full objectives of the General Assembly, as expressed in the Sentencing and Parole Codes, and [was], therefore, invalid pursuant to [the] conflict preemption doctrine.*" *Id. at 1195* (emphasis added).

With these principles in mind, we now turn to the parties' public policy arguments relating to Covenant 14.

2. Public Policy

HN2^(↑) A contract can be voided on public policy grounds only if it violates a dominant public policy established by statute or other legal precedent. *Williams v. GEICO Gov't Emps. Ins. Co.*, 613 Pa. 113, 32 A.3d 1195, 1200 (Pa. 2011). Our Supreme Court has explained:

When considering whether a contract violates public policy, we are mindful that public policy is more than a vague goal which may be used to circumvent the plain meaning of the contract. Rather,

*[p]ublic policy is to be ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interest. As the term "public policy" **[**15]** is vague, there must be found definite indications in the law of the sovereignty to justify the invalidation of a contract as contrary to that policy[.] . . . Only dominant public policy would justify such action. In the absence of a plain indication of that policy through long*

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governmental practice or statutory enactments, or of violations of obvious ethical or moral standards, the Court should not assume to declare contracts . . . contrary to public policy. . .

Safe Auto Ins. Co. v. Oriental-Guillermo, 654 Pa. 293, 214 A.3d 1257, 1262 (Pa. 2019) (citation omitted) (emphasis added); see also *Pittsburgh Logistics Sys., Inc. v. Beemac Trucking, LLC*, 249 A.3d 918, 932 (Pa. 2021) ("[A]voidance of contract terms on public policy grounds requires a showing of *overriding public policy from legal precedents, governmental practice, or obvious ethical or moral standards.*") (citation omitted) (emphasis added).

First, the Associations assert that the Trial Court erred in relying on *Fross* to invalidate Covenant 14. The Associations point out that *Fross* involved an action by a county government, not a private community such as Lake Naomi. According to the Associations, *Fross* did not establish a statewide public policy prohibiting a private, planned community from imposing a **[*9]** residency restriction on lifetime registered sex offenders. The Associations also contend that neither **[**16]** the General Assembly nor Pennsylvania courts have established a public policy that prohibits a private, planned community from imposing a residency restriction on lifetime registered sex offenders. We disagree.

We conclude that the Trial Court correctly applied the Supreme Court's reasoning in *Fross*. Although *Fross* involved a county ordinance and not a restrictive covenant by a private community, the Supreme Court's ruling clearly established a public policy that local counties and municipalities cannot impose sex offender residency restrictions due to Pennsylvania's statewide legislative scheme governing the release of sex offenders, manifested in SORNA and the Sentencing and Parole Codes. If local counties and municipalities must adhere to these statewide mandates, so must private residential communities. A private community may not impose more restrictive standards on where released sex offenders may live than county and municipal governments.

More recently, in *TWL Realty, LLC v. West Hanover Township Zoning Hearing Board*, 132 A.3d 533 (Pa. Cmwlth. 2016), this Court applied *Fross* to a case involving a township zoning ordinance that permitted only "nonviolent criminals" and "nonviolent crime detainees" to reside at privately owned community work release facilities. The township zoning officer **[**17]**

issued a violation notice to a private work release facility where two registered sex offenders resided. *Id. at 534-35*. The notice stated that because the offenders had committed Tier III sex offenses, the township considered them to be "violent" offenders, so they were precluded from living at the facility under the ordinance. *Id. at 535*. The facility appealed to the zoning hearing board, which upheld the ordinance. *Id.* The trial court reversed the zoning hearing board's decision, concluding that the ordinance was preempted by the Sentencing and Parole Codes pursuant to *Fross. Id.*

The zoning hearing board appealed to this Court, arguing that the ordinance is not preempted by state law because, unlike *Fross*, there was no evidence demonstrating that the full purposes and objectives of the Sentencing and Parole Codes were obstructed by the ordinance. *Id. at 537*. The zoning hearing board also argued that the ordinance supported the Parole Board's goals and the township's legitimate concerns for the health, safety, morals, and general welfare of its residents. *Id.*

Relying extensively on *Fross*, this Court agreed with the trial court that the ordinance restricting which offenders may be housed in a private work release facility was **[**18]** preempted by the Sentencing and Parole Codes. *Id. at 537-40*. We concluded as follows:

*It is the purview of the sentencing courts and the Parole Board to determine which offenders are appropriate for community work-release programs. The Pennsylvania Commission on Sentencing was charged with adopting guidelines that the Parole Board must consider when paroling an offender. *HN3* Section 9721(b) of the Sentencing Code[, 42 Pa. C.S. § 9721(b),] charges the sentencing court with balancing the protection of the public with the rehabilitative needs of the offender. Section 6137(a)(1) of the Parole Code[, 61 Pa. C.S. § 6137(a)(1),] requires the Parole Board, when determining whether to parole an offender, to balance the best interests of the inmate with the need to avoid injury to the Commonwealth's interests, should the offender be paroled. Section 6137(g)(4)(iv) of the Parole Code[, 61 Pa. C.S. § 6137(g)(4)(iv),] specifically provides **[*10]** that the Parole Board may parole an offender only when "[t]here is no reasonable indication that the inmate poses a risk to public safety." Additionally, Section 6102(1) of the Parole Code[, 61 Pa. C.S. § 6102(1),] states that the Parole Code provides several benefits to society including the provision of*

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adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society **[**19]** and the diversion of appropriate offenders from prison.

Taken together, the Sentencing and Parole Codes demonstrate that when the Commonwealth places an offender in a particular work-release program, the Commonwealth has determined that the offender's placement is consistent with both the public's safety and the needs of the offender to reintegrate into society. *The [o]rdinance's ban upon the housing of offenders with violent criminal histories is in conflict with the Commonwealth's determination that an offender is suitable for placement in the work-release facility; a determination that includes a conclusion that public safety would not be jeopardized by the offender. If the [o]rdinance is allowed to stand, other municipalities will be able to enact similar ordinances that contain more restrictive standards than the Sentencing and Parole Codes, thus jeopardizing the Commonwealth's parole scheme as embodied by the Sentencing and Parole Codes.*

[Id. at 539-40](#) (internal citations and footnote omitted) (emphasis added).

[HN4](#) Applying the reasoning of [Fross](#) and [TWL](#) to the facts of this case, we conclude that SORNA and the Sentencing and Parole Codes establish a public policy that the regulation of released sex offenders **[**20]** is controlled by state law and may not be controlled by local ordinances or restrictive covenants. As this Court recognized in [TWL](#), the Parole Board is charged with balancing public safety with the rehabilitation and reintegration of released sex offenders. Covenant 14 effectively restricts the Parole Board's ability to release a sex offender to his own residence, even after the Parole Board has determined that the offender's reentry plan is adequate and there is no reasonable indication that he poses a risk to public safety. [HN5](#) Such a restriction interferes with the statewide statutory schemes that have been created to achieve a balance between public safety and rehabilitation. See, e.g., [42 Pa. C.S. § 9721\(b\)](#) (the trial court must consider the rehabilitative needs of the defendant in determining a sentence); [id. § 9754\(c\)](#) (the trial court must impose conditions of probation that assist the defendant in leading a law-abiding life); [61 Pa. C.S. § 6131\(a\)\(14\)](#) (the Parole Board has a duty "[t]o coordinate the reentry of offenders into the community using evidence-based

practices that are effective in reducing recidivism"); [id. § 6102\(2\)](#) ("[T]he [Parole B]oard and any other paroling entity shall first and foremost seek to protect the safety of the public."). **[**21]** Consequently, once a sentencing court or the Parole Board has determined that a home is an appropriate residence for a released sex offender, a private community may not disregard that determination by enforcing its own restrictive covenant.

We also reject the Associations' reliance on cases from other jurisdictions that have upheld sex offender residency restrictions, as we are neither bound by nor persuaded by those cases. See Ass'ns' Br. at 35-37 (collecting cases from other states). The cited cases involved sex offender residency restrictions imposed by public governments, not by private residential communities. [HN6](#) In any event, as discussed above, the Supreme Court's decision in [Fross](#) — which is binding on this Court — plainly holds **[*11]** that county and municipal governments in Pennsylvania may not impose sex offender residency restrictions that conflict with those established by state statutes.

We conclude that the [Fross](#) holding applies equally to privately governed communities, because they are no less bound by public policy than county and municipal governments. Indeed, [Section 5108 of the UPCA](#) states:




*The principles of law and equity, including the law of corporations and unincorporated associations, the law of real **[**22]** property and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this subpart, except to the extent inconsistent with this subpart.*

[68 Pa. C.S. § 5108](#) (emphasis added). [HN7](#) This provision indicates that planned communities governed by the UPCA, such as Pocono Pines, are required to comply with other applicable laws and legal precedent. Thus, pursuant to our Supreme Court's decision in [Fross](#), we conclude that a private, planned community may not adopt a restrictive covenant that conflicts with state statutes governing where a released sex offender may live. In other words, Covenant 14, like the [Fross](#) ordinance, "stands as an obstacle to accomplishing the full purposes [and] objectives of the General Assembly" and is, therefore, against public policy. [Fross, 20 A.3d at 1207.](#)

Next, the Associations assert that the Trial Court failed to properly balance their interest in protecting their


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community from sexual predators against a convicted sex offender's interest in residing in Lake Naomi. The Associations argue that Lake Naomi is a child-centered **[**23]** community, and they have a responsibility to provide a safe and secure environment for their residents. The Associations also argue that Covenant 14 is consistent with the legislative finding, articulated in SORNA, that protecting the public from sexual predators is a "paramount" interest. See [42 Pa. C.S. § 9799.11\(a\)\(4\)](#) ("Sexual offenders pose a high risk of committing additional sexual offenses and *protection of the public from this type of offender is a paramount governmental interest.*") (emphasis added). Thus, the Associations contend that their need to protect the safety and welfare of their residents outweighs Mr. Rosado's interest in living in his Lake Naomi home.

[HN8](#)  A trial court sitting in equity must balance the parties' competing rights and interests to achieve a fair and just result. See [E. Hempfield Twp. v. Brubaker, 828 A.2d 1184, 1188 \(Pa. Cmwlth. 2003\)](#) (recognizing that "a court of equity enjoys broad discretion in fashioning remedies which balance the interests of affected parties"). That is precisely what the Trial Court did in this case. [HN9](#)  While a private community has a legitimate interest in providing a safe living environment for its residents, the Commonwealth's legislative measures governing the release of convicted sex offenders were specifically designed for **[**24]** the protection of the public. See, e.g., [42 Pa. C.S. § 9799.51\(b\)\(1\)](#) (in enacting SORNA, it was the General Assembly's intent to "[p]rotect the safety and general welfare of the people of this Commonwealth by providing for registration, community notification and access to information regarding sexually violent predators and offenders *who are about to be released from custody and will live in or near their neighborhood[s]*") (emphasis added); [id.](#) § 9799.51(a)(1) ("If the public is provided adequate notice and information about sexually violent predators and offenders . . . , *the community can develop constructive plans to prepare itself for the release of **[*12]** sexually violent predators and offenders,*" including "meet[ing] with law enforcement to prepare and obtain information about the rights and responsibilities of the community and to provide education and counseling to their children") (emphasis added); [61 Pa. C.S. § 6102\(1\)](#) (recognizing that the parole system provides "adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society[,] and the diversion of appropriate offenders from prison"). As the [Fross](#) Court noted, in enacting these measures, [HN10](#)  the General

Assembly made a determination **[**25]** that sex offenders, as a class, are eligible for parole and the best way to offer parole is to provide released offenders with familiar and stable environments that promote family and community ties and provide access to employment, counseling, and supervision. [Fross, 20 A.3d at 1204](#). For this reason, "although acknowledging the high risk of recidivism among sex offenders, *the General Assembly has generally rejected the option of simply excluding released offenders from entire communities as the primary or even preferable means of protecting the public.*" [Id. at 1205](#) (citing [42 Pa. C.S. § 9791\(a\)\(2\)](#) and [\(b\)](#)) (emphasis added).

The Associations further argue that, unlike the ordinance in [Fross](#), Covenant 14 does not limit Mr. Rosado's access to family, employment, counseling, public transportation, or support services conducive to his rehabilitation, because he can simply move to another community that does not have a sex offender residency restriction. According to the Associations, the evidence shows that Mr. Rosado has other housing opportunities in the Pocono Mountain area, as well as in Florida and New York where he also owns homes. However, the fact that Mr. Rosado owns other homes or can choose to live in another neighborhood is irrelevant. Mr. **[**26]** Rosado has owned his Lake Naomi home for 24 years, and the Parole Board approved his release to that home in 2018. Since he returned to Lake Naomi, Mr. Rosado has complied with SORNA's registration, supervision, and counseling requirements, has complied with the Parole Board's conditions, and has committed no further sex offenses. By attempting to use Covenant 14 to banish Mr. Rosado from his lawfully owned home, the Associations are depriving him of his fundamental right to possess and protect his property. See [Pa. Const. art. I, § 1](#) ("All men are born equally free and independent, and have certain *inherent and indefeasible rights*, among which are those of enjoying and defending life and liberty, of *acquiring, possessing and protecting property* and reputation, and of pursuing their own happiness.") (emphasis added). The Associations have not demonstrated that Covenant 14 makes the Lake Naomi community any safer than the General Assembly's extensive legislative enactments regulating the rehabilitation and reintegration of sex offenders.

[HN11](#)  We conclude that [Fross](#), SORNA, and the Sentencing and Parole Codes establish a statewide public policy that the regulation of released sex offenders, including where they may **[**27]** live, is controlled by state law. Covenant 14 violates that public policy by unlawfully precluding a registered Tier III sex

offender from living in his own Parole Board-approved home. Accordingly, we conclude that the Trial Court properly declared Covenant 14 void as against public policy.

3. Statute of Limitations

Finally, the Associations assert that the Trial Court erred in permitting Mr. Rosado to raise an untimely challenge to the validity of Covenant 14. [HN12](#)^[↑] *Section 5219(b) of the UPCA* provides that "[n]o action to challenge the validity of an **[*13]** amendment adopted by the association . . . may be brought more than one year after the amendment is recorded." 68 Pa. C.S. § 5219(b) (emphasis added). Here, Covenant 14 was recorded in 2016, and Mr. Rosado did not assert his claim that Covenant 14 violates public policy until 2019. The Associations point out that before Pocono Pines' adoption of the amendment in 2016, notice was sent to all unit owners, including Mr. Rosado, in accordance with *Section 5219(a) of the UPCA*, and 71% of unit owners voted in favor of Covenant 14. The Associations further assert that Mr. Rosado admitted that he was aware of Pocono Pines' consideration of the sex offender residency restriction as early as 2014. See R.R. at 687a-88a. Consequently, **[**28]** they contend that Mr. Rosado should have asserted a timely challenge to Covenant 14 within one year after its recording (i.e., by May 11, 2017), as required by *Section 5219(b) of the UPCA*.¹⁰ We disagree.

[HN13](#)^[↑] We conclude that the UPCA's statute of limitations does not preclude Mr. Rosado from defending against an action brought by the Associations beyond the one-year limitations period, because the plain language of *Section 5219(b)* applies only to the *filing of an action*. See 68 Pa. C.S. § 5219(b) ("*No action to challenge the validity of an amendment . . . may be brought more than one year after the amendment is recorded.*") (emphasis added). Our Supreme Court has recognized that a statute of limitations must be strictly construed against a petitioner seeking to pursue a stale claim against a respondent, not against a respondent raising defenses to the petitioner's claim. See [Morrison Informatics, Inc. v. Members First Fed. Credit Union](#), 635 Pa. 636, 139 A.3d 1241, 1248 n.7 (Pa. 2016) ("[T]his Court has treated statutes of limitations as warranting strict construction, given that their purpose is

to prevent stale claims which might prejudice the defense."); [Gustine Uniontown Assocs., Ltd. v. Anthony Crane Rental, Inc.](#), 577 Pa. 14, 842 A.2d 334, 346 (Pa. 2004) ("The purpose of . . . limitation periods is 'to expedite litigation and thus discourage delay and the presentation of stale claims which may greatly prejudice the defense of such claims.' In light of the **[**29]** important purpose served by limitations periods, this Court has held that statutes of limitation are to be *strictly construed.*") (internal citation omitted) (emphasis added).¹¹ Because the Associations initiated this enforcement action against Mr. Rosado, we conclude that the one-year statute of limitations is inapplicable here.

Conclusion

[HN14](#)^[↑] We hold that the Supreme Court's ruling in [Fross](#) established a dominant public policy that local counties and municipalities cannot impose sex offender residency restrictions due to Pennsylvania's statewide legislative scheme governing the release of convicted sex offenders. We further hold that this public policy necessarily extends to private residential communities such as Lake Naomi.

[*14] The Associations contend that they should be allowed to banish Tier III sex offenders because of the child-centered nature of the Lake Naomi community. However, as the Trial Court pointed out, most residential communities in Pennsylvania are child-centered or are near child-centered areas such as schools, churches, and community parks. As the Trial Court cogently observed:

Residents surrounding the Lake Naomi community, living in Tobyhanna Township or elsewhere in municipalities **[**30]** outside of planned communities[,] are unable to remove Tier [III] sex offenders as [the Associations] seek[] to do here.

¹¹ In support of their statute of limitations claim, the Associations rely on two appellate decisions from other jurisdictions: [Bilanko v. Barclay Court Owners Association](#), 185 Wn.2d 443, 375 P.3d 591 (Wash. 2016), and [Stadnicky v. Southpark Terrace Homeowners Association, Inc.](#), 939 P.2d 403 (Alaska 1997). Aside from the fact that this Court is not bound by case law from other jurisdictions, those cases are factually distinguishable. [Bilanko](#) did not involve a homeowner's defense to an enforcement action brought by an association, and [Stadnicky](#) did not involve the application of a statutory limitations period.

¹⁰ Mr. Rosado was apparently incarcerated when Covenant 14 was adopted in 2016, since he was convicted in Pennsylvania in 2015 and was not released on parole until 2018.

They must abide by the Supreme Court's decision [in [Fross](#)] that the residences of sex offenders are regulated by Pennsylvania statutes governing sentencing, probation[,] and parole. Lake Naomi's solution to its problem of a resident sex offender is to force him to move elsewhere. All of the dangers complained of by the Lake Naomi residents will then be thrust upon other residents of our society, perhaps just down the road from them, who don't live in a private community. Additionally, parole officers would not be able to approve Mr. Rosado's residence in a home he has owned for many years that is compliant with [SORNA].

Trial Ct. Op., 7/19/21, at 14-15.

While the residents of Lake Naomi want to preclude convicted sex offenders from living in their community, we cannot allow the Associations to enforce a residency restriction that, in practice, contravenes the goals and purposes of SORNA and the Sentencing and Parole Codes. As the Trial Court noted, the Supreme Court in [Fross](#) "found that the best way to protect children and society was to allow the safeguards built into [SORNA] [**31] to be employed." Trial Ct. Op., 9/14/21, at 5; see also [TWL, 132 A.3d at 540](#) (recognizing that the Parole Board's determination that a facility is suitable for a released offender "includes a conclusion that public safety would not be jeopardized by the offender"). Because the Supreme Court has determined that those safeguards are sufficient to protect the residents of the Lake Naomi community and the public at large, we affirm the Trial Court's Order.

ELLEN CEISLER, Judge

Judge Wallace did not participate in the decision of this case.

ORDER

AND NOW, this 28th day of October, 2022, the September 14, 2021 Order of the Court of Common Pleas of Monroe County is hereby AFFIRMED.

ELLEN CEISLER, Judge