

**IN THE COURT OF COMMON PLEAS OF LEBANON COUNTY
PENNSYLVANIA**

LEBANON SOLAR I, LLC,) Civil Division
)
Appellant,) No. 2022-00553
)
v.) **ANSWER IN OPPOSITION TO**
) **MOTION TO QUASH**
)
NORTH ANNVILLE TOWNSHIP)
BOARD OF SUPERVISORS,) Filed on behalf of Appellant,
) Lebanon Solar I, LLC
)
Appellee.) Counsel of Record for this Party:
)
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LEBANON SOLAR I, LLC,)	Civil Division
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Appellant,)	No.
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NORTH ANNVILLE TOWNSHIP)	
BOARD OF SUPERVISORS,)	
)	
Appellee.)	
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LEBANON, PA
2022 OCT 11 P 2:27

**ANSWER IN OPPOSITION
TO MOTION TO QUASH APPEAL**

AND NOW, comes Lebanon Solar I, LLC (“Lebanon Solar”), by and through its counsel, Babst, Calland, Clements & Zomnir, P.C., and files this Answer in Opposition to the Motion to Quash filed by the North Annville Township Board of Supervisors (“Township”). Lebanon Solar’s Brief in Opposition to Motion to Quash, filed concurrently to this Answer, is incorporated herein.

ANSWER

To the extent that Lebanon County Local Rule 52-208.3(a)(D) requires an answer to a rule to show cause to contain specific denials of any factual averments contained in the Motion, Lebanon Solar hereby responds as follows:

1. The statement contained in Paragraph 1 of the Motion is a legal conclusion for which no response is required, to the extent that any response is required, the statement contained in Paragraph 1 is denied.

2-4. The statements contained in Paragraphs 2 through 4 of the Motion are legal conclusions for which no response is required, to the extent that any response is required, the statements contained in Paragraphs 2 through 4 are denied as stated.

5. The statement contained in Paragraph 5 of the Motion is admitted in part and denied in part. It is admitted that Lebanon Solar filed its initial Notice of Land Use Appeal on May 5, 2022, and that the Township signed the decision on May 12, 2022. It is denied that service was completed on May 12, 2022. Although the Township emailed the decision on May 12, 2022, 53 P.S. § 10908(10) requires personal or mail service. Upon information and belief, mail service was not completed until after May 12, 2022.

6. The statement contained in Paragraph 6 of the Motion is admitted.

7. The statement contained in Paragraph 7 of the Motion is a legal conclusion for which no response is required, but to the extent any response is required is denied.

8. The statement contained in Paragraph 8 is a legal conclusion for which no response is required. To the extent any response is required, it is admitted that the Amended Notice of Appeal was filed thirty-five days after receipt of the written

Findings of Fact and Conclusions of Law of the Township, it is denied that the same was untimely filed.

9. The statement contained in Paragraph 9 is a legal conclusion for which no response is required but to the extent any response is required is denied.

Furthermore, it should be noted that the Motion to Quash lacks sufficient factual averments without which the court should not consider the motion in the first instance, let alone proceed with a rule to show cause. *See* Pa. R.C.P. 208.2(a)(3); *Pinsler v. Pinsler*, No. 983 MDA 2017, 2018 WL 2212974 (May 15, 2018) (finding that this Court should not have proceeded with a Rule to Show Cause on a motion to quash filed absent any factual averments).

WHEREFORE, Lebanon Solar I, LLC respectfully requests that this Honorable Court deny the Motion to Quash for the reasons set forth above and as more thoroughly described in the Brief in Opposition to Motion to Quash attached hereto.

Date: October 11, 2022

Respectfully submitted,

BABST, CALLAND, CLEMENTS & ZOMNIR, P.C.

By: 

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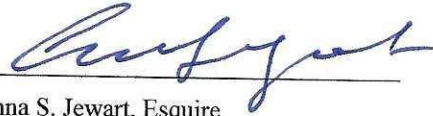
Attorneys for Appellant,

Lebanon Solar I, LLC

ATTORNEY VERIFICATION

I, Anna S. Jewart, Esquire, attorney for Appellant Lebanon Solar I, LLC., hereby verify that I am authorized to execute this Verification on its behalf, and that the averments of fact contained in the foregoing *Answer in Opposition to Motion to Quash* are true and correct to the best of my knowledge, information and belief, as that knowledge and information has been related or made available to me by Lebanon Solar I, LLC., whose verification cannot be obtained within the time allowed for filing this pleading. This Verification is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: October 11, 2022



Anna S. Jewart, Esquire

*Counsel for Appellant
Lebanon Solar I,*

LLC..

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by:

Signature: _____



Name: Anna S. Jewart, Esquire

Attorney No. (if applicable): Pa. I.D. 80149

CERTIFICATE OF SERVICE

I, Anna S. Jewart, do hereby certify that a true and correct copy of the foregoing Amended Notice of Land Use Appeal was served in the following manner this 11th Day of October, 2022, upon the following:

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BABST, CALLAND, CLEMENTS AND
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By: 

Anna S. Jewart, Esquire