

IN THE
COMMONWEALTH COURT OF PENNSYLVANIA

Consolidated Docket Numbers
189 CD 2024, 191 CD 2024, 255 CD 2024

LEBANON SOLAR I, LLC
Designated Appellant
vs.

NORTH ANNVILLE TOWNSHIP BOARD OF SUPERVISORS,
GRADY SUMMERS
Designated Appellees

BRIEF OF DESIGNATED APPELLEE NORTH ANNVILLE
TOWNSHIP BOARD OF SUPERVISORS

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II. QUESTIONS PRESENTED

REPLY TO BRIEF OF APPELLANT

A. Did North Annville Township waive its challenge to denial of the Motion to Quash by the lower court?

(Suggested Answer: No)

III. SUMMARY OF ARGUMENT

North Annville Township properly appealed the trial court's denial of the motion to quash appeal of Lebanon Solar. The trial court incorporated its prior order into the order appealed by North Annville Township and, thus, the appeal was properly filed.

IV. ARGUMENT

REPLY TO BRIEF OF APPELLANT

A. North Annville Township did not waive its challenge to denial of the Motion to Quash by the lower court.

Appellant has argued that North Annville Township has waived any challenge to the lower court's denial of the Motion to Quash Lebanon Solar's appeal at the lower court level. Their argument is without merit.

As Lebanon Solar aptly notes in its reply brief, the order and opinion that is the subject of this appeal was issued by the lower court on January 26, 2024. That ruling and the analysis therein have been the subject of extensive arguments by all sides. However, Lebanon Solar chooses to ignore very important language therein as it related to prior opinions issued.

LEBANON SOLAR immediately indicated its desire to appeal TOWNSHIP's decision. What occurred next was a cascade of legal filings pertaining to the manner by which LEBANON SOLAR went about communicating its desire to appeal. Eventually, this Court rendered a written Opinion on February 13, 2023 that afforded LEBANON SOLAR the

ability to have its substantive legal rights adjudicated by this Court. To the extent necessary, we incorporate by reference the entirety of our February 13, 2023, Opinion regarding the procedural aspects of LEBANON SOLAR's appeal.

Opinion of Judge Bradford Charles dated January 26, 2024 at pg. 7; Appendix A attached to Brief of Lebanon Solar.

The lower court's wording stated its intent to incorporate the rationale and ruling for the denial of the Motion to Quash into its most recent ruling in its entirety. It is as if that order and opinion had been reproduced into the opinion of January 26, 2024. There was no need to reference the prior opinion of February 13, 2023 in North Annville Township's Concise Statement. The lower court's action in incorporating that prior opinion by reference made an appeal of the January 26, 2024 order and opinion include the contents of that prior order as well.

Lebanon Solar's argument that North Annville Township has waived its challenge to the denial of the Motion to Quash is without merit.

V. CONCLUSION

For the foregoing reasons, North Annville Township requests that the rulings of the lower court be affirmed in the appeal of Lebanon Solar but overturned in the appeal of North Annville Township.

Respectfully Submitted,

Date: 10/30/24

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CERTIFICATE OF COMPLIANCE

It is certified this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that requires filing confidential information and documents differently than non-confidential information and documents.

Date: 10/30/24

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