

No. 2015-0604

In the Supreme Court of Ohio

ORIGINAL ACTION FOR WRIT OF PROHIBITION

STATE ex rel. CHESTER TOWNSHIP, ET AL.,

Relators,

v.

**THE HONORABLE TIMOTHY J. GRENDALL, JUDGE
GEAUGA COUNTY COURT OF COMMON PLEAS, PROBATE DIVISION**

Respondent.

AFFIDAVIT OF MARY JANE TRAPP

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*Counsel for Respondent The Honorable Timothy J.
Grendell, Judge Geauga County Court of Common
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3. Following my appointment to serve as a Master Commissioner, I then proceeded to conduct an investigation of the issues raised by the 2013 Review and submitted a 252-page report, with recommendations, to Judge Grendell that is included in Volume 2 of the Joint Submission of Evidence at pages 158-409 (the “Master Commissioner’s Report”).

4. As set forth in the Master Commissioner’s Report, the Chester Township Park District (the “Park District”) is a separate legal entity that was created by a Judgment Entry issued by Judge Frank G. Lavrich, Geauga County Court of Common Pleas, Probate Division (the “Probate Court”), on May 10, 1984, under Ohio Revised Code 1545.02 (the “1984 Judgment Entry”). A true and correct copy of the Probate Court’s 1984 Judgment Entry is included in the Joint Submission of Evidence at pages 16-17.

5. Among other things, the 1984 Judgment Entry defines the territorial limits of the Chester Township Park District and provided that all of the township parks within Chester Township shall fall under the jurisdiction of the Chester Township Park District.

6. Moreover, the 1984 Judgment Entry provides for the appointment of three commissioners in accordance with Ohio Revised Code 1545.05, and further provides that “said commissioners shall constitute the Board of Park Commissioners of the Chester Township Park District, a body politic and corporate with full authority and subject to such limitations as provided by law.” (*Id.*)

7. Following its creation in May 1984, the Chester Township Park District Board of Commissioners (the “Board”) held its first organizational meeting on June 12, 1984, and adopted a set of written By-Laws that provided that the Board of Park Commissioners “shall possess all the powers and shall be subject to all of the responsibilities conferred on it by Chapter 1545 of the Ohio Revised Code.” A true and correct copy of the By-Laws for the Chester Township

Park District Board of Commissioners is attached as Exhibit I to the Master Commissioner's Report and included in the Joint Submission of Evidence at pages 316 through 326.

8. Throughout my investigation of the Park District, I interviewed and consulted with all three of the Chester Township Trustees and the Chester Township Fiscal Officer who fully participated and cooperated with my investigation of the issues raised by the 2013 Review. Indeed, during the course of my investigation, none of the Township Trustees objected to my appointment to serve as the Master Commissioner in Case No. 84-PC-139.

9. During my interviews, the Chester Township Trustees raised, among other things, a number of issues regarding whether the Park District improperly accepted donations and discounts on contracts given as donations. As set forth in the Master Commissioner's Report, however, I found no evidence of any actual improprieties in that regard. (*See* Joint Submission of Evidence, Volume II, pages 169-170). Based upon my investigation and review, however, I found that the Chester Township Board of Trustees demonstrated an incomplete understanding of the independent nature of the park district under R.C. Chapter 1545.

10. When it was originally created, the Chester Township Park District was funded by its share of local government and library funds passed through from the State of Ohio by the Geauga County Budget Commission, by donations, and by inside millage of .08 mills that was raised in 1992 to .1 mill from Chester Township. As set forth in my report, however, the Chester Township Board of Trustees voted in 2002 to eliminate the third source of funding for the park district – the inside millage – citing a sufficient reserve for the park district's 2003 budget and the township trustees' intent to shift money toward developing other park lands. From that point on, funding from the township has been basically on a project basis with maintenance services

provided by the township's road department, and those maintenance services were eliminated in 2013. (*See* Master Commissioner's Report, pg. 10, Joint Submission of Evidence, pg. 167).

11. After the Park District was created in May 1984, the Chester Township Trustees and the Park District Commissioners signed a written agreement by which the Park District assumed control of all parks and park lands owned by Chester Township beginning on April 5, 1985. A true and correct copy of the 1985 Agreement is attached as Exhibit J to the Master Commissioner's Report and is included in the Joint Submission of Evidence at pages 328-329.

12. This 1985 Agreement was later amended and superseded by a 1993 Agreement that is attached as Exhibit K to the Master Commissioner's Report, dated July 28, 2014, and is included in the Joint Submission of Evidence at pages 331-333. Among other things, the 1993 Agreement provides that "the term of this agreement shall be for a period of five (5) years," and that thereafter, "the agreement shall renew on an annual basis unless either parties terminate the agreement as provided herein." (1993 Agreement, ¶ 10). Moreover, Paragraph 11 of the 1993 Agreement provides that "[e]ither party may terminate this agreement prior to its expiration or the expiration of any renewal term by giving written notice of the intent to terminate to the chairman or clerk of the other party." (*Id.* at ¶ 11). Paragraph 12 of the 1993 Agreement further provides that, "upon the expiration or termination of this agreement as provided herein, control of all parks and parklands shall revert to the Township." (*See* 1993 Agreement, ¶ 12).

13. After I submitted my 252-page Report and Recommendation on July 28, 2014, Judge Grendell scheduled a public hearing for August 25, 2014. The Chester Township Trustees all attended the public hearing. A true and correct copy of the Transcript of Proceedings that were held on August 25, 2014, is included in the Joint Submission of Evidence at pages 27-94.

14. Judge Grendell also invited written comments and objections to the Master Commissioner's Report and Recommendations by October 2014. In this regard, the Chester Township Trustees submitted timely comments by letter to Judge Grendell on October 8, 2014. A time-stamped copy of the Chester Township's letter to Judge Grendell is included in the Joint Submission of Evidence at pages 99-102.

15. In the letter, dated October 8, 2014, the Township Trustees did not object to my appointment as a Master Commissioner. Rather, in their letter, the Township Trustees stated:

"We are pleased that the Master Commissioner (MC) has incorporated a number of opportunities for improvement that include recommendations to the MC by members of the Board of Trustees and/or Fiscal Officer. We are hopeful that moving forward the Park Board will work with the Board of Trustees in developing strategic plans and stabilized funding for the park."

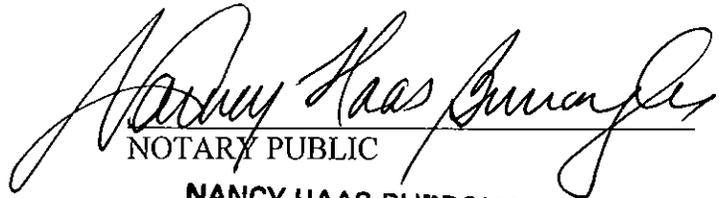
(See Joint Submission of Evidence, pg. 99).

16. On April 29, 2015, I was instructed by Judge Grendell to submit a second report as to the status of my review and investigation of the Chester Township Park District. In response, I prepared and submitted a second report on May 11, 2015. A true and correct copy of my second report is included in the Joint Submission of the Evidence at pages 410-421.

17. R.C. 2101.07 provides that "[t]he court shall allow [a master] commissioner such fees as are allowed to other officers for similar services, which fees shall be taxed with the costs." To date, the total amount of my fees as a Master Commissioner in Case No. 84-PC-000139, are \$ 37,070.00.


MARY JANE TRAPP, ESQ.

SIGNED AND SWORN BEFORE ME ON THIS 1st DAY OF JUNE, 2015.



Nancy Haas Burroughs

NOTARY PUBLIC

**NANCY HAAS BURROUGHS
ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Does Not Expire**

PROOF OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Affidavit of Mary Jane Trapp* was served on June 1, 2015, pursuant to Civ. R. 5(B)(2)(f) by electronic mail to the following counsel of record for Relators:

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/s/ Stephen W. Funk

Stephen W. Funk