

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DAVIS A. HUFFMAN, in his capacity as  
Register and Recorder of Lycoming County,  
Pennsylvania,  
Plaintiff

: NO. 2025-01591

vs.

: CIVIL ACTION - LAW

SCOTT METZGER,  
MARC S. SORTMAN, and  
MARK A. MUSSINA,  
In their capacity as Commissioners of  
Lycoming County, Pennsylvania, and  
COUNTY OF LYCOMING,  
Defendants

ORDER and DECREE

AND NOW this 26<sup>th</sup> day of June 2026, upon due consideration of the briefs and arguments of counsel, the Defendant's Motion for Summary Judgment and Motion to Dismiss Plaintiff's Petition for Injunction is hereby DENIED, pursuant to Pa.R.Civ.P. No. 1035.2(1), for the reason that a material factual dispute exists as to whether there has been a full and complete "consultation" between the parties as contemplated by 16 Pa.C.S. §12305(d), for relocation of Plaintiff's office based upon the following:

1. The statutory requirement is that "the County Commissioners shall, after consultation with an officer, furnish each officer {Register and Recorder} with an office and additional space in the county office, courthouse or other building at the counsel seat sufficient to perform the duties of the office". (emphasis added).
2. The term "consultation" is not defined.

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3. The ordinary meaning of the term in Black's Law Dictionary (11<sup>th</sup> ed 1999) is "The act of asking the advice or opinion of someone...2. A meeting in which parties consult or confer... See Foster v. Foster, 256 A.3d 28 (Title).

4. A compelling definition of the term is set forth in National Preservation Act of 1966: "the process of seeking, discussing and considering the views of other participants, and where feasible, seeking agreement with them..." See 36 CFR 800.16(f), incorporated into the Pennsylvania History Code 37 Pa.C.S. §101 et seq.

5. Plaintiff contends in his brief that his advice or opinion was never solicited; however, this assertion is strongly disputed by Defendants, particularly since a mediation session was attempted to resolve this litigation.

6. It is apparent Plaintiff has been somewhat dilatory in having the "consultation" in order to forestall the movement of his office to the location across the street from the courthouse proposed by the Defendants.

7. It is apparent the Commissioners have already made a determination of the new location, although no formal action has been taken at a duly advertised public meeting.

8. The new location must be sufficient to allow the Register and Recorder to perform his duties. It may not pose a threat to the continual operation of the office. The legal analysis is what is reasonably necessary to the Register and Records's Office's ability to adequately carry out the statutory duties. Medico vs Makowski, 793 A.2d 167, 171 (Pa. 2002).

9. There is somewhat of a Gordian knot in that the Commissioners cannot take official action at a public meeting by a vote on the project to proceed forthwith until the statutory consultation with the Register and Recorder has been deemed to have occurred, a matter of


factual dispute. Summary Judgment is not allowable where the facts on a material issue are disputed by the parties. Sevast v. Kokouras, 915 A.2d 1147 (Pa.2007). Any doubt is resolved against the moving party. Chorba v. Davlisa Enterprises, Inc., 450 A.2d 36 (Pa.Super. 1982).

10. Mandamus is granted by the law side of the court, however, equitable principles largely govern its issuance. Mandamus is “essentially equitable in nature, requiring the application of equitable principles”. Dombrowski vs City of Philadelphia, 245 A.2d 238, 249 (Pa.1968). See Green v. Tioga County Board of Commissioners, 661 A. 2d 932, 934 (Pa. Commonwealth, 1995).

11. Under equitable principals, such as “one who seeks equity must do equity”, it is recommended (on the basis that it is clear there has been over the past two years some communications and discussions between the parties) as follows: (a) there be a consultation; as that term is defined in paragraphs 3 and 4 hereof, scheduled to be conducted within 45 days of the date hereof, with all necessary participants including the architect and engineer, if any, in a non-adversarial manner and minutes taken. At least 2 hours should be allotted for it, with each party to have equal time to discuss their views or concerns; (b) the Commissioners should thereafter place a resolution on its agenda at a regular meeting with public input before the vote is taken on the matter.

12. This recommendation is not an order of court as no hearing on the injunction has been scheduled and conducted.

BY THE COURT,

  
Charles H. Saylor, Senior Judge

CC: ✓ J. Michael Wiley, Esquire  
✓ Gregory Stapp, Esquire  
✓ Court Administration