

Thursday, February 28, 2013

COMPRESSOR STATIONS allowed in Clinton Township

From Clinton Township Solicitor, Michael Gallagher:

There is a 2010 Commonwealth Court Opinion, *New Century Pipeline v. Bradford Township*, 43 A.2d 544 (Pa. Cmwlth. 2010), which is on point. In the *New Century* case, New Century sought to erect a compressor station in the Forest/Slope Residence District. Oil and gas production, including equipment necessary to drilling or pumping operations, was a permitted use in the Forest/Slope Residential District. The Township Zoning Officer took the position that the compressor station was not directly related to oil and gas operations and was therefore not a permitted use. Both the Zoning Hearing Board and the McKean County Court agreed. Commonwealth Court, however, reversed.

The reason that Commonwealth Court reversed is because of the expert testimony presented by New Century:

1. Oil and gas at the wellhead generally runs 1350 BTUs.
2. The compressor station increases the pressure of gas to strip it of propane, butane and water.
3. This in turn decrease the BTUs so that the gas achieves pipeline quality.
4. If the gas can't be stripped, the gas cannot be moved from the wellhead.

Based on this testimony (and some other legal issues which are beyond the scope of this email), **the Court held that a compressor station constitutes "gas production"**.

Therefore based on the *New Century Pipeline* case, a compressor station would be permitted in any district in which oil and gas operations are permitted. It is not an excluded use. We should not have to delve into the issue of a validity challenge.

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From Clinton Township Zoning Ordinance 2009-01 ORD

Gas and Oil Drilling is a PRINCIPAL PERMITTED USE in

- Conservation District (Section 202),
- Agricultural Conservation District (Section 203) and
- Limited Business District (Section 205).

Gas and Oil Drilling is a CONDITONAL USE in the R-1 Rural Residential District (Section 204).

Mining and Mineral Extraction is a CONDITIONAL USE in the Conservation District and Agricultural Conservation District

Heavy Industry is a CONDITONAL USE in the IP Industrial Park District (Section 206).

In addition, Section 32 and Section 33 of Act 13 of the Oil and Gas Act have been challenged in Commonwealth Court and until that is settled, those sections of the Act relating to the validity or the invalidity of local zoning ordinances remain unsettled.

Clinton Township would take the position that the sections of Act 13 relating to Compressor Stations and those requirements be considered by a developer.

Clinton Township would encourage developers to refer to our Ordinances relating to roads and weight limits, to our road bonding procedures and, if necessary, our Ordinance 2011-06 ORD relating to holding tanks.

It is the position of Clinton Township, based on the above evidence, that Compressor Stations are an allowable use in the Township.