



**MEYER UNKOVIC SCOTT**  
ATTORNEYS AT LAW

Writer's direct dial phone number and e-mail address:  
(412) 456-2836 ~ [jrl@muslaw.com](mailto:jrl@muslaw.com)

May 11, 2018

**VIA E-MAIL AND U.S. MAIL**

Max Slater, Esquire  
Administrative Hearing Officer  
Allegheny County Health Department  
542 Fourth Avenue  
Pittsburgh, PA 15219

E-mail: [Max.slater@alleghenycounty.us](mailto:Max.slater@alleghenycounty.us)

RE: Michael A. and Janice M. Caputo – 6410 Adelphia Street, Pittsburgh, PA 15206  
Allegheny County Health Department – Plumbing Code Variance Request

Dear Mr. Slater:

In response to the Allegheny County Health Department's ("ACHD") Post-Hearing Memorandum ("Memorandum"), please accept this correspondence on behalf of Appellants, Michael A. and Janice M. Caputo (together, the "Caputos").

**I. The Caputos have not Waived Any Argument on Appeal.**

Contrary to the suggestion of the ACHD, the Caputos have not waived any argument on appeal. As stated in their November 29, 2017 Appeal (Tr. Ex. P.), the Caputos filed their Appeal "...with respect to the November 6, 2017 denial of their request for a variance under Section AC-701.3.1 of the Allegheny County Health Department plumbing regulations." That Appeal is precisely what is presently before the Administrative Hearing Officer. The Caputos did provide in their Appeal "further explanation" for certain of their reasoning in light of the rationale set forth in the ACHD's November 6, 2017 denial (Tr. Ex. L) and subsequent November 22, 2017 correspondence (Tr. Ex. O). However, the Caputos' Appeal specifically states that, "[n]othing contained in this letter should be deemed to limit any arguments or facts the Caputos may wish to present to the hearing officer." (Tr. Ex. P). Moreover, the Caputos were not under any requirement to set forth in their Appeal each and every legal theory as to why the ACHD's denial of their request for a variance was improper, nor has the ACHD cited any authority to this effect. Notably, when the issue arose during the March 7, 2018 hearing as to whether a line of questioning being pursued by the ACHD was relevant or proper, the Administrative Hearing Officer allowed the

Max Slater, Esquire  
Administrative Hearing Officer  
Allegheny County Health Department  
Page 2  
May 11, 2018

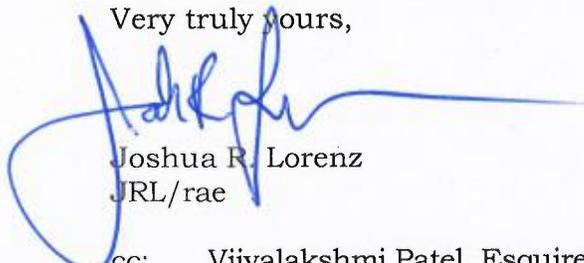
testimony to continue and advised the Caputos to address such legal issues in their post-hearing submission. (Tr. pp. 94-95). The Caputos followed this directive in preparing and submitting their Proposed Findings of Fact and Conclusions of Law on April 19, 2018.

**II. The ACHD Waived any Objections as to Hearsay Regarding Mr. Caputo's Communications with Mr. Obermeier of PWSA.**

As was previously addressed during the hearing in this matter on March 7, 2018, the ACHD specifically asked Mr. Caputo during cross-examination about his conversations with Mr. Obermeier of PWSA. (Tr. pp. 60-61). Counsel for the Caputos noted on the record that the ACHD opened the door to that testimony and, thus, waived any objections as to hearsay. (Tr. pp. 61-62). In response, the Administrative Hearing Officer ruled that, "I'm going to allow for all of this to be admitted. Mr. Lorenz, if you wanted to ask Mr. Caputo on redirect about this conversation with Mr. Obermeier, then you can do so." (Tr. p. 62). This issue already has been decided; Mr. Caputo's testimony regarding his communications with Mr. Obermeier of PWSA has been admitted into the record.

The above points are not intended to be an exhaustive response to each and every contention or argument raised by the ACHD in its Memorandum. Rather, this submission is providing the Caputos' position on several issues not directly addressed in their Proposed Findings of Fact and Conclusions of Law. Should you have any questions or require anything further from the Caputos, please let us know.

Very truly yours,



Joshua R. Lorenz  
JRL/rae

cc: Vijyalakshmi Patel, Esquire (via e-mail and U.S. Mail)  
Michael A. and Janice M. Caputo (via e-mail)  
Kevin F. McKeegan, Esquire (via e-mail)

2876152