

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

BUNTING GRAPHICS, INC.,	:	In Re: Appeal of Bunting Graphics,
	:	Inc. from July 12, 2019 Enforcement
Appellant,	:	Order
v.	:	
	:	Docket No. ACHD-19-032
ALLEGHENY COUNTY HEALTH	:	
DEPARTMENT,	:	
	:	
Appellee.	:	

APPELLANT’S RESPONSE IN OPPOSITION TO ALLEGHENY COUNTY HEALTH DEPARTMENT’S MOTION TO DISMISS APPEAL

Bunting Graphics, Inc. (“Bunting” or “Appellant”) is appealing an Enforcement Order of the Allegheny County Health Department (the “Department”) dated July 12, 2019. The Department has moved to dismiss the appeal, arguing that it is untimely under Article XI, Section 1104(A) of the Department’s Rules and Regulations because Bunting received “written notice” of the Order more than 30 days prior to filing its Notice of Appeal on August 16, 2019. Specifically, the Department contends that the appeal period commenced on July 12, 2019 when its Assistant Solicitor sent a copy of the Order to two of Bunting’s employees as an email attachment. The Department’s position is legally and factually baseless, most significantly because email is not an effective form of notice under the Department’s own Rules and Regulations, and when the Department served notice by valid means, it did so only 29 days before Bunting filed its Notice of Appeal. Thus, as explained more fully below, the Department’s motion is without merit and should be summarily denied.

Section 1104(A) instructs that a “Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of the action by which the Appellant is aggrieved.” Although the Department’s Rules and Regulations do not define the term “written notice,” they

clearly require more than an email. The form and manner in which such notice must be given is dictated by Article XXI, Section 2109.03, which specifically provides that enforcement orders “*shall* be served upon the person responsible” in one of three ways:

- 1) Personally handing him a copy;
- 2) Serving him in the manner provided [by the Pennsylvania Rules of Civil Procedure] for the service of a complaint in a civil action; or
- 3) Mailing a copy to him at his last known address by registered or certified mail, return receipt requested.

§2109.03(c) (emphasis added).

Here, the Department eventually used the third method of service by sending the Enforcement Order to Bunting via USPS certified mail – a fact conspicuously omitted from the Department’s motion. Article XI, Section 1112 provides that “[w]here notice is given by United States mail, the time of service of such notice shall be the date of receipt.” The timeliness of Bunting’s appeal is, therefore, a simple question of when it received the Order by mail. One would ordinarily expect to find such information concerning the service of an appealable order recorded on the docket. But there is nothing ordinary about the Department’s handling of this matter. To date, the docket does not reflect entry or mailing of the Enforcement Order at all, much less the date it was received by Bunting.¹

Fortunately, however, Bunting preserved the envelope that the Department used to mail the Order, a true and correct copy of which is attached hereto as Exhibit B. The envelope shows that the Order was not mailed until July 16, 2019, and only received by Bunting on July 18, 2019. That undisputed evidence (which is undoubtedly confirmed by a return receipt in the Department’s

¹ A true and correct copy of the docket retrieved from the Department’s website on August 29, 2019 is attached hereto as Exhibit A.

possession) makes the analysis extremely straightforward: The thirty-day appeal period commenced on July 18, 2019 when valid notice of the Enforcement Order was served on Bunting by mail, and Bunting filed its Notice of Appeal less than thirty-days later, on August 16, 2019. Thus, there is no question that the appeal was perfected less than thirty days “after receipt of written notice” and is therefore timely under Section 1104(A).

The Department nonetheless relies on the solicitor’s email to insist that the appeal should be found untimely. The argument is specious in a number of respects and, frankly, disturbing in its disingenuity. For one, the Department’s position is obviously contrary to its own Rules and Regulations. As noted above, Section 2109.03(c) dictates that the Department must serve enforcement orders in one of three specific ways, all of which necessitate delivery *of a physical document*. Clearly, the July 12, 2019 email sent by the solicitor to Bunting’s employees did not constitute valid service or “written notice” of the Enforcement Order.

The Department’s implicit contention that despite being an invalid form of service, the email was somehow sufficient to trigger the appeal clock, is nonsensical. There is nothing in the Department’s Rules to support that proposition, which if accepted would to render the service rules in Section 2109.03(c) and concept of “written notice” completely meaningless. The Department’s purported service of notice by email is likewise inconsistent with analogous Pennsylvania rules and statutes governing local and commonwealth agency procedures. For instance, the Local Agency Law provides: “All adjudications of a local agency . . . shall be served upon all parties or their counsel personally, or by mail.” 2 Pa.C.S. §555. *See also* 1 Pa. Code §33.31 (“Orders, notices and other documents originating with an agency . . . shall be served by the office of the agency by mail, except when service by another method shall be specifically required by the

agency”); §31.13 (“[T]he day of issuance of an order shall be the day the office of the agency mails or delivers copies of the order to the parties. . . .”). There is simply no authority in Pennsylvania to suggest that emails are an effective form of notice under these circumstances.

Furthermore, the Department was, and is of course, well-aware that the email was ineffective; that is why it subsequently sent the Enforcement Order to Bunting by certified mail. The Department’s motion is nothing more than a cynical attempt to capitalize on the preemptory email that its solicitor inexplicably decided to send days before the Order was properly mailed. The Commonwealth Court rejected a similar agency tactic in *Soil Remediation Systems, Inc. v. Department of Environmental Protection*, 703 A.2d 1081 (Cmwlt. Ct. 1997). There, the Pennsylvania Department of Environmental Protection (“DEP”) simultaneously sent a copy of a letter constituting a final agency action to Soil Remediation by facsimile, and a copy by certified mail that was received three days later. 703 A.2d at 1082. Soil remediation filed an appeal with the Environmental Hearing Board (“EHB”) 29 days after receipt of the letter sent by certified mail and 32 days after receipt of the facsimile copy. *Id.* at 1083 n. 1. DEP filed a motion to dismiss the appeal as untimely, which the Board granted on grounds that Soil Remediation had 30 days to appeal after receiving actual or constructive notice of the action, and the facsimile letter provided actual notice. *Id.* at 1083. The Commonwealth Court reversed, finding that the “advance” copy sent by facsimile did not provide adequate notice of a final action and, regarding which of the two forms of notice controlled, opined:

Moreover, when viewed in conjunction with the receipt of the certified letter sometime thereafter, which included the language “[a]ppeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action” (as did the so called “advanced copy”), we feel that it was even more understandable that SRS relied on the certified letter as the operative notice for purposes of the thirty-day appeal period.

Id. at 1084.

Similarly, in *Laurel Land Development, Inc. v. Pennsylvania Department of Environmental Protection*, the EHB concluded that the appeal period ran from receipt of DEP's order by certified mail, rather than an earlier date of notice urged by the DEP in its motion to dismiss the appeal as untimely. EHB No. 2003-033-R, 2003 WL 21632605 (Pa.Env.Hrg.Bd. June 20, 2003).² In that case DEP evidently left a voicemail for Laurel's president on January 2, 2003 informing him that the subject order had been signed and would be issued that day. *Id.* at 2. Instead of returning the call, the president traveled to the DEP office where he was handed a copy of the order. One week later DEP mailed an original copy by certified mail, which Laurel received on January 14, 2003. *Id.* DEP argued that Laurel's appeal, filed on February 12, 2003, was untimely because its president had been personally served on more than 30 days earlier on January 2, 2003. The EHB disagreed, admonishing that "it is absolutely essential that when the Department orders a member of the public to take some action that there be no doubt as to when the thirty day appeal clock starts." *Id.* After reviewing DEP's contradictory actions relative to service of the order, the Board concluded:

When [Laurel's president] was personally served with a copy of the Administrative Order it could properly be viewed as a draft, non-final, and conditional document. This conclusion is strongly supported by the Department's forwarding days later the original Administrative Order by certified mail. This step, when viewed in the context of the facts of this case, effectively nullified the earlier service of the Order and started a new "30 day appeal clock."

Id. at 3. Thus, the Board ruled that Laurel "was justified in relying on the Order sent by certified letter as the operative notice for purposes of the 30 day appeal period" and its notice of appeal was timely filed. *Id.*

² A copy of the Board's decision is attached hereto as Exhibit C.

While *Soil Remediation* and *Laurel* are not exactly on point – which is unsurprising since the Department’s purported service of an appealable order by email is novel to say the least – their determination that the appeal period ran from receipt of certified mail is directly applicable. The theme in both decisions is that an agency should not be permitted give notice in multiple forms at different times, and then profit from the confusion it sowed by selecting the earliest of the potential appeal periods. That is precisely what the Department is attempting to do here. And to make matters worse, the Department compounded the confusion by misstating the length of the appeal period in the Enforcement Order as only ten days rather than thirty. See Dept’s. July 12, 2019 Enforcement Order at 10 (“[Y]ou have ten (10) days from the date of receipt of this Order in which to file an appeal.”).³

The inherent contradiction between the Department’s decision to mail the Order and position espoused in its motion raises the same type of questions rhetorically posed in *Laurel*:

[W]hy did the Department even need to send the Order by mail since [Laurel’s president] had already been personally served? If this Order is ‘just for Laurel Land’s files’ why was it sent by certified mail rather than ordinary mail? Finally, why is the Department sending a file copy of the Order to Laurel Land anyway? Did it not think the hard copy would be the file copy or that Laurel Land did not have a photocopier? Why would this even matter?

2003 WL 21632605 at *3. But in this case the real mystery is why the solicitor decided to gratuitously send a copy of the Enforcement Order by email four days before it was mailed, or indeed at all. Perhaps the email was merely a courtesy, or perhaps it was intended from the outset

³ In addition, the circumstances in those decisions and the present matter differ in two respects that make the Defendant’s position even less reasonable. First, the applicable rules in *Soil Remediation* required an appeal to be filed within 30 days of “actual” or “constructive” notice of the agency action. In contrast, the form of notice does matter here, as the Department’s Rules provide that the appeal period commences only upon “receipt of *written notice*.” Second, the order in *Laurel* was initially served by personally handing the president a physical copy, which is a universally valid means of service. The solicitor’s email plainly was not. Thus, *Soil Remediation* and *Laurel* both involved certified mail plus another potentially valid form of notice, while the only arguably effective notice given in this case was by certified mail.

to provide a pretext for the Department's instant motion. Whatever the explanation, it is of no consequence because the email plainly has no bearing on the timeliness of Bunting's appeal.

Viewed in full context, it becomes apparent that the Department's motion is just a bald assertion of the power to ignore its own Rules when convenient and arbitrarily declare that an email constitutes adequate "written notice" to trigger the appeal clock. That attempt is not only unsupported by any facet of Pennsylvania law, it is also repugnant to fundamental principles of due process. As observed by the Commonwealth Court, the Pennsylvania Supreme Court has developed a line of decisions that require agencies to provide notice of the starting date of an appeal period with sufficient clarity for the recipient to exercise his appeal rights, which is "clearly based on principles of due process." *Schmader v. Cranberry Twp. Bd. of Supervisors*, 67 A.3d 881, 884 (Commw. Ct. 2013) (citing, *inter alia*, *Schmidt v. Comm.*, 433 A.2d 456 (Pa. 1981), *Hanna v. Zoning Bd.*, 437 A.2d 115 (Pa. 1981)). For instance, in cases where the appeal period commences upon mailing of an agency decision, the Court has stated that "[k]nowledge of a decision's mailing date is *essential*" and it would be "manifestly unjust" to dismiss an appeal when the agency did not inform the recipient of the mailing date. *Schmidt*, 433 A.2d at 457. Without belaboring the point, it would undoubtedly be a transgression of Constitutional magnitude to dismiss an appeal as untimely based upon an email when that is not an effective form of notice under the agency's own rules, and where the agency gives putative notice in different forms on two separate dates; misstates the time for appeal in both instances; and then misleadingly attempts to conceal the later effective form of notice from the tribunal.

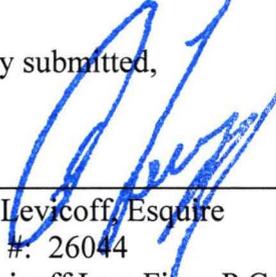
The Department's motion to dismiss must be evaluated in the light most favorable to Bunting, and may not be granted unless the Department establishes that there is no material dispute

relative to its assertion that Bunting’s appeal is untimely. *See* Article XI, § 1108.1. As demonstrated above, there is no question that Bunting timely filed its Notice of Appeal less than thirty days after receiving effective “written notice” of the Enforcement Order. The Department on the other hand, has failed to provide any colorable basis for finding the appeal untimely, including even evidence as to whether or when the email it relies upon was received. Consequently, the Department’s has not come close to satisfying its burden as the moving party, and its motion must be denied.⁴

WHEREFORE, for all of the foregoing reasons, the Department’s motion to dismiss the appeal is without merit and should be summarily denied.

Respectfully submitted,

Date: August 30, 2019

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⁴ Alternatively, even if the appeal is somehow deemed untimely, Bunting should nevertheless be permitted to continue its appeal, *nunc pro tunc*. A party should be permitted to pursue a *nunc pro tunc* appeal where (1) he filed the appeal shortly after learning of the untimeliness; (2) the elapsed time is of very short duration; and (3) the appellee is not prejudiced by the delay. *V.S. v. Dep’t. of Public Welfare*, 131 A.3d 523, 527 (Cmwlth. Ct. 2015). All of those factors militate in favor of a *nunc pro tunc* appeal since, according to the Department, Bunting’s appeal was filed just four days late, which is “a reasonable time.” *Calcagni v. Pennsy. Bd. of Probation and Parole*, 582 A.2d 1141, 181 (Cmwlth. Ct. 1990). Furthermore, late filing has been excused by “negligence on the part of administrative officials,” including “a failure to properly send a notice” *id.* at 180, or when an agency provides inaccurate information regarding the time or manner for taking an appeal. *See, e.g., Moore v. Pennsy. Bd. of Prob. & Parole*, 503 A.2d 1099, 1101 (Cmwlth. Ct. 1986); *Roderick v. State Civil Svc. Comm’n.*, 463 A.2d 1261 (Cmwlth. Ct. 1983); *Tarlo v. Univ. of Pittsburgh*, 443 A.2d 879 (Cmwlth. Ct. 1982). A *nunc pro tunc* appeal is certainly appropriate here in light of the Department’s confused and conflicting methods of serving notice of its Enforcement Order, misrepresentation of the time for appeal in the Order, and the reasonableness of Bunting’s reliance on the mailed copy of the Order as operative notice under the Department’s own Rules.

EXHIBIT A

Consolidated with "Sheraton Asbestos Cases" at 18-049

Case Name: **Bunting Graphics**

Case Number: 18-002

Date	Document Type	Party Filing Document
2/2/2018	Scheduling Order	Hearing Officer
2/9/2018	Stay Order	Hearing Officer
2/26/2018	Intervention Order	Hearing Officer
3/14/2018	Scheduling Order	Hearing Officer
3/14/2018	Case Management Order	Hearing Officer
4/16/2018	Withdrawal Order	Hearing Officer
4/19/2018	Rev. Case Management Order	Hearing Officer
6/5/2018	Motion to Compel Order	Hearing Officer
8/27/2018	Issue Narrowing Order	Hearing Officer
9/6/2018	Scheduling Order	Hearing Officer
10/12/2018	Scheduling Order	Hearing Officer
3/1/2019	Appellant Brief	Appellant
4/2/2019	ACHD Brief	ACHD
6/5/2019	Administrative Decision	Hearing Officer

Case Name: Bunting Graphics - July 2019

Case Number: 19-032

Date	Document Type	Party Filing Document
8/16/2019	Appeal	Appellant
8/19/2019	Motion to Dismiss	ACHD

Case Name: Green Maple Enterprises (Servpro)

Case Number: 18-067

EXHIBIT B



Air Quality Program
 Building #7 - 301 39th Street
 Pittsburgh, PA 15201-1811

UNITED STATES POSTAL SERVICE **CERTIFIED MAIL**



9489 0090 0027 6038 2068 09

Label 100-897-06E 2013
 PPHR Bopw L.A.S.S



U.S. POSTAGE PITNEY BOWES



ZIP 15219 \$ 005.55⁹
 02 4Y
 0000348379 JUL 16 2019



Bunting Graphics, Inc
 Attn: Cliff Woodward
 20 River Road
 Verona, PA 15147

PHAB
 Advancing public health performance

27-W

1514721.PBS.CO#1



EXHIBIT C

2003 WL 21632605 (Pa.Env.Hrg.Bd.)

Environmental Hearing Board

Commonwealth of Pennsylvania

LAUREL LAND DEVELOPMENT, INC.

v.

COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION

EHB Docket No. 2003-033-R

June 20, 2003

OPINION AND ORDER ON DEPARTMENT OF ENVIRONMENTAL PROTECTION'S MOTION TO DISMISS

***1 By Thomas W. Renwand, Administrative Law Judge**

Synopsis:

Under the unique facts of this case, where the Department personally serves the permittee with a copy of an Administrative Order but then serves the original Administrative Order by certified mail the 30 day Appeal period begins to run from the date the Administrative Order is received by certified mail. Looking at the facts in this case practically rather than technically we conclude that at the time of personal service of the Administrative Order it was a draft, non-final and conditional document. The Department's Motion to Dismiss is denied.

Introduction

Appellant Laurel Land Development, Inc. ("Laurel Land" or "the mining company"), is engaged in the surface mining of bituminous coal. Mr. Kenneth Morchesky is the President of Laurel Land. This Appeal involves a bituminous coal mine (the McDermott Mine) in Cambria County operated by Laurel Land pursuant to a permit issued by the Pennsylvania Department of Environmental Protection. ("Department" or "DEP")

This area of Pennsylvania has been extensively mined over the years. There are two abandoned Lower Kittanning deep mine discharges designated as MD3 and MD5 on land adjacent to the McDermott Mine site. After a hydrogeologic investigation completed in September, 2001, the Department determined that Laurel Land's mining operations at the McDermott Mine resulted in water quality degradation of the discharges at MD3 and MD5. The parties subsequently engaged in extensive discussion and the Department, at Laurel Land's request, conducted a second hydrogeologic review. The results of the second hydrogeologic review were similar to the first hydrogeologic review. In January, 2003, the Department issued an Administrative Order directing Laurel Land to take various steps to correct the water quality degradation of the discharges at MD3 and MD5. Laurel Land appealed the Administrative Order contending that its mining operations did not cause or contribute to the problems with the discharges.

The Department's Motion to Dismiss

Presently before the Board is the Department's Motion to Dismiss Laurel Land's Appeal as untimely.¹ The Board will grant a motion to dismiss only where there are no material factual disputes and the moving party is clearly entitled to judgment as a matter of law.² The Board evaluates motions to dismiss in the light most favorable to the non-moving party.³

The Department contends the Appeal is untimely because it issued the Administrative Order on January 2, 2003, personally served it on Laurel Land's President that same day, and Laurel Land's Appeal was docketed with the Board more than 30 days later - on February 12, 2003. The Board's Rules of Practice and Procedure⁴ provide that the jurisdiction of the Board will not attach to an appeal from an action of the Department unless the appeal is in writing and is filed with the Board within 30 days after the party appellant has received written notice of the action unless a different time is provided by statute. Laurel Land contends that it was its belief that the Administrative Order handed to Mr. Morchesky on January 2, 2003 was not a final order. Instead, the actual Order would only be sent to the mining company by certified mail if Laurel Land was unable to persuade the Department to reconsider its position.

*2 According to the Department's Motion and supporting affidavits, the Administrative Order was final once it was signed by Cambria Office District Mining Manager Donald A. Barnes on January 2, 2003. Moreover, "upon Mr. Barnes' signature, the Order was final and ready to be issued."⁵ In what the Department contends was a courtesy, Mr. Rodgers "telephoned Mr. Morchesky in an attempt to notify him that an Administrative Order had been signed and *would be issued that day*."⁶ Mr. Morchesky received the voice mail message from Mr. Rodgers but instead of returning the call he traveled to the Cambria District Mining Office, met with Mr. Rodgers and two other Department officials, and was handed a copy of the Administrative Order. The Department contends it informed Mr. Morchesky that the Order was final but that a copy of the Order would be mailed to him "for his files."

Instead of mailing the Administrative Order to Laurel Land on January 2, 2003 the Department waited an entire week and then mailed the original Administrative Order (which now contained a Department docket number) by *certified mail*. The Department letter enclosing the Order is dated January 9, 2003. The letter was received by Laurel Land on January 14, 2003.

Discussion

As the Department is well aware its mission is to serve and protect the public and the environment. Therefore, it is absolutely essential that when the Department orders a member of the public to take some action that there be no doubt as to when the thirty day appeal clock starts. The facts of this case are very similar to the facts in *Soil Remediation Systems, Inc. v. Department of Environmental Protection*.⁷ In *Soil Remediation* the Department sent a letter constituting final agency action to Soil Remediation by both facsimile and certified mail. The cover sheet of the facsimile was marked "advanced copy." The letter sent by facsimile was received that same day while the letter sent by certified mail was received three days later.

Soil Remediation appealed the Department's action to the Board. The Department filed a motion to dismiss contending the appeal was untimely. The appeal had been filed 29 days after receipt of the certified letter but 32 days after receipt of the letter sent by facsimile.

The Board granted the Department's motion and dismissed the appeal.⁸ Commonwealth Court reversed. In an opinion written by Judge Colins, Commonwealth Court indicated that what constitutes a final administrative action is determined by looking at the facts practically rather than technically. Applying this standard, the court held as follows:

In the present case, Soil Remediation was not apprised of the finality of DEP's determination until it received the certified letter on December 9, 1996. This Court's practical construction of the "advanced copy" notification on the facsimile leads to the conclusion that it was reasonable for Soil Remediation to have believed that this was not the operative notice for purposes of appeal. The inclusion of the conditional language in and of itself made the notice defective. Moreover, when viewed in conjunction with the receipt of the certified letter sometime thereafter, which included the language "appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action"(as did the so called "advanced

copy”), we feel that it was even more understandable that Soil Remediation relied on the certified letter as the operative notice for purposes of the 30 day appeal period.”⁹

*3 The Department does not explain why it took a week to mail the original order to the permittee. This is especially important to our consideration in conjunction with the Department's Motion and Mr. Rodgers' affidavit which states that the Administrative Order would be mailed that same day, January 2, 2003. What is readily apparent is the Department had intended to mail the Administrative Order to Mr. Morchesky on the day it was signed but instead chose to wait an entire week after he conferred with three Department officials. Why?

The Department's delay of one week when all it was doing was adding a docket number to the original order certainly leads to the inference that it might be reconsidering its earlier decision. In addition, why did the Department even need to send the Order by mail since Mr. Morchesky had already been personally served? If this Order is “just for Laurel Land's files” why was it sent by certified mail rather than ordinary mail? Finally, why is the Department sending a *file copy* of the Order to Laurel Land anyway? Did it not think the hard copy would be the file copy or that Laurel Land did not have a photocopier? Why would this even matter?

When Mr. Morchesky was personally served with a copy of the Administrative Order it could properly be viewed as a draft, non-final, and conditional document. This conclusion is strongly supported by the Department's forwarding days later the original Administrative Order by certified mail. This step, when viewed in the context of the facts of this case, effectively nullified the earlier service of the Order and started a new “30 day appeal clock.” When considering all of these facts and inferences in a practical manner as instructed by the Commonwealth Court, we have no choice but to conclude that the final Department action did not occur until the certified letter enclosing the original Administrative Order was received by Laurel Land. It was certainly understandable, after a period of lengthy administrative negotiations with the Department, that the final action of the Department did not take place until the original Order was sent to Laurel Land by certified mail. Thus, Laurel Land was justified in relying on the Order sent by certified letter as the operative notice for purposes of the 30 day Appeal period. Consequently, Laurel Land's Notice of Appeal was timely filed.

ORDER

AND NOW, this 20th day of June, 2003, after reviewing the facts in the light most favorable to the non-moving party and in a practical rather than a technical manner, the Department's Motion to Dismiss is **denied**.

Thomas W. Renwand
Administration Law Judge
Member

Footnotes

- 1 The Department's Motion to Dismiss and supporting papers were filed on April 14, 2003. Laurel Land's Response and supporting papers were filed on May 14, 2003. The Department's Reply was filed on June 9, 2003.
- 2 *Borough of Chambersburg v. DEP*, 1999 EHB 92, *Smedley v. DEP*, 1998 EHB 1281, 1282.
- 3 *Solebury Twp. and Buckingham Twp. v. DEP and Penn Dot*, EHB Docket No. 2002-323-K (Opinion issued February 20, 2003). *O'Reilly v. DEP and JDN Development Company, Inc.*, 2000 EHB 723.
- 4 25 Pa. Code § 1021.52.
- 5 ¶ 11, Affidavit of Raymond Rodgers, Department Compliance Specialist.
- 6 ¶ 13, Affidavit of Raymond Rodgers. (*emphasis added*).
- 7 703 A.2d 1081 (Cmwlth. Ct. 1997).

BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT

BUNTING GRAPHICS, INC., : In Re: Appeal of Bunting Graphics,
 : Inc. from July 12, 2019 Enforcement
 Appellant, : Order
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 : Docket No. ACHD-19-032
 ALLEGHENY COUNTY HEALTH :
 DEPARTMENT, :
 :
 Appellee. :

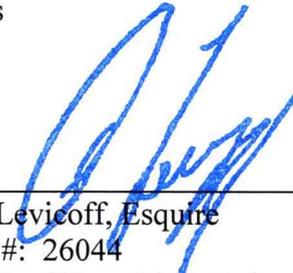
CERTIFICATE OF SERVICE

The undersigned hereby certifies that this 30th day of August, 2019 a true and correct copy of the foregoing *Appellant's Response in Opposition to Allegheny County Health Department's Motion to Dismiss Appeal* has been served via electronic mail upon the following:

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By: _____


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