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Elizabeth Tp. Sanitary Authority v. Mignogna

Commonwealth Court of Pennsylvania - May 21, 2013 - A.3d - 2013 WL 2178684

Township sanitary authority filed a municipal lien, seeking to recover costs associated with the abatement of a nuisance pursuant to Municipal Claims and Tax Liens Act (MCTLA) and town ordinance.

The Commonwealth Court held that affidavits of chairman of township sanitary authority and of the nuisance abatement project manager, in support of authority's municipal lien claim against landowners seeking recovery of costs associated with nuisance abatement, were not sworn to, affirmed, or verified as required by rule, and, therefore, were required to be disregarded as incompetent hearsay evidence to which landowners objected.

Dismissal of municipal lien claim with prejudice, rather than granting the township sanitary authority leave to amend its pleadings, was warranted upon determination that the only supporting affidavits for the asserted lien were defective and would be disregarded as incompetent hearsay evidence, where authority was not seeking to amend its pleadings but merely sought a second opportunity to submit new and different evidence in support of its lien.

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