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Geryville Materials, Inc. v. Board of Supervisors of Lower Milford Tp.

Commonwealth Court of Pennsylvania - June 18, 2014 - Not Reported in A.3d - 2014 WL 2754930

Geryville Materials, Inc. and the Board of Supervisors of Lower Milford Township each appealed an order of the Court of Common Pleas of that ruled upon Geryville's substantive challenge to several provisions of the Township's Zoning Ordinance.

The trial court held that almost all of Section 523, entitled "Extraction of Natural Resources," was preempted by the Noncoal Surface Mining Conservation and Reclamation Act (Noncoal Act). The trial court also held that Section 470, entitled "Protection of Natural Resources," was not unduly restrictive of non-coal surface mining in the Township and, thus, was constitutional and compliant with the Pennsylvania Municipalities Planning Code (MPC).

The appeals court affirmed.

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