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May 5, 2026

VIA HAND DELIVERY

Jones Township Board of Supervisors
320 Faries Street
Wilcox, PA 15870

**RE: Jones Township
Large-Scale Solar Electric Energy Facilities Ordinance**

Dear Board of Supervisors:

I represent Terry J. Brawand and Tammy D. Brawand, co-executrixes of the Estate of William H. Brawand. The Estate of William H. Brawand is the legal owner of approximately 325 acres of land plus various oil, gas and mineral rights within Jones Township. My clients have provided me with a copy of the proposed Large-Scale Solar Electric Energy Facilities Ordinance for Jones Township (the “Ordinance”). I have been asked to review the proposed Ordinance to determine if it is valid under Pennsylvania law.

The purpose of the proposed Ordinance as set forth in Section 602 therein is to “provide for the construction, installation, operation and decommissioning of Principal Solar Energy Systems in Jones Township, subject to reasonable conditions that will protect the public health, safety and welfare. And to repeal Ordinance #124 duly adopted on August 12, 2022.” Those “reasonable conditions” include, *inter alia*, restrictions related buildable tract area, maximum collector height, setbacks, and screening. The proposed Ordinance indicates that it is intended to be adopted pursuant to the provisions of the Pennsylvania Municipalities Planning Code (the “MPC”).

Section 501 of the MPC grants a municipality the power to regulate subdivisions and land development within the municipality by enacting a subdivision and land development ordinance. 53 P.S. §10501. The appropriate regulations and provisions that may be included in a municipality’s subdivision and land development ordinance are enumerated in Section 503 of the MPC. 53 P.S. §10503. Notably, the ability to regulate the use, density, intensity and placement of particular land use is absent from the list of enumerated permissible subdivision and land development regulations. *Id.* Rather, those regulations are properly contained in a municipality’s zoning ordinance. *Cf.* 53 P.S. §10603.



May 5, 2026
Page 2

Here, the proposed Ordinance seeks to regulate the permissibility and conditions of a specific land use (*i.e.* Large-Scale Solar Electric Energy Facilities). It is, in substance, a zoning ordinance under the MPC and by adopting the proposed Ordinance Jones Township seeks to exercise zoning powers without adhering to the statutory and constitutional requirements governing the exercise of that power. The fact that the proposed Ordinance is framed as an amendment to the Jones Township Subdivision and Land Development Ordinance is an end-run around the provisions of the MPC. If adopted, we believe that the proposed Ordinance would be procedurally defective, substantively invalid, unenforceable and would not withstand judicial scrutiny.

My clients wish to express their strong opposition to the proposed Ordinance. If adopted, my clients reserve all rights to challenge the proposed Ordinance through a substantive validity challenge, procedural challenge, or other appropriate legal action, and to seek all available remedies, including declaratory and injunctive relief and the reimbursement of all costs and fees incurred therewith.

Please be guided accordingly.

Very truly yours,

Matthew J. McHugh

MJM:

cc: Elk County Planning Commission
Terry J. Brawand (via e-mail only)
Tammy D. Brawand (via e-mail only)