

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

David Kliss,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Civil Action No. _____
	:	
East Hanover Township and	:	<b>JURY TRIAL DEMANDED</b>
Light-Heigel & Associates, Inc.,	:	
	:	
Defendants.	:	

**DECLARATION OF DAVID KLISS PURSUANT TO 28 U.S.C. § 1746**

I, David Kliss, hereby declare under penalty of perjury the following:

1. I am an adult individual who at all times relevant hereto maintained a principal residence at 436 Pheasant Road, Hummelstown (East Hanover Township), Dauphin County, Pennsylvania 17036.

2. Defendant East Hanover Township (“Township”) is a political subdivision of the Commonwealth of Pennsylvania and is located in Dauphin County, Pennsylvania.

3. Defendant Light-Heigel & Associates, Inc. (“Light-Heigel”) is a corporation organized and subsisting pursuant to the laws of the Commonwealth of Pennsylvania which maintains a regular place of business at 805 Estelle Drive, Suite 111, Lancaster, Lancaster County, Pennsylvania

17601. Light-Heigel at all times relevant hereto served as the authorized zoning officer for Defendant Township.

4. Defendants at all times relevant hereto acted through one or more authorized agents or employees.

5. On or about July 14, 2010, I put up a sign on my property ("Sign") at 436 Pheasant Road, East Hanover Township, Dauphin County, Pennsylvania.

6. The Sign stated "\$10,000 TO TAKE A CRAP[.]" A true and correct picture of the Sign is attached to the complaint as Exhibit "A".

7. I erected such sign to protest a proposed mandatory sewer tie-in for my property which was then pending before the Township's board of supervisors, the cost of which would be several thousand dollars to me.

8. On or about July 22, 2010, the Township through its authorized code enforcement officer, Light-Heigel, issued an "ENFORCEMENT NOTICE" to me ("Enforcement Notice"). A true and correct copy of such Enforcement Notice, bearing certain non-original scribbled markings, is attached hereto as Exhibit "B" to the complaint.

9. The Enforcement Notice notified me that the Sign was in violation of the East Hanover Township Zoning Ordinance ("Zoning Ordinance") for, *inter alia*, violating Section 314.2.13 thereof states,

No Loud, Vulgar, Indecent, or Obscene Advertising matter shall be displayed in any manner, including, but not limited to:

- A. Any graphic illustration pertaining to specified sexual activities and/or specified anatomical areas; and
- B. Scenes wherein artificial devices are employed to depict, or drawings are employed to portray any of the prohibited signs, photographs or graphic representations described above[.]

Zoning Ordinance, § 314.2 (hereafter referred to as “Vulgar/Indecent/ Obscene” provision). A true and correct copy of the provision of the zoning ordinance pertaining to signs is attached as Exhibit “C” to the complaint.

10. The Terms “Loud,” “Vulgar,” “Indecent” and “Obscene” are nowhere defined in the Ordinance.

11. The Sign contained no “graphic illustration pertaining to specified sexual activities and/or specified anatomical areas[.]”

12. The Sign further contained no “[s]cenes wherein artificial devices are employed to depict, or drawings are employed to portray any of the prohibited signs, photographs or graphic representations described[.]” in the Ordinance.

13. Defendants Township and Light-Heigel, under color of law, prohibited me from speaking out, protesting in writing and petitioning government against the proposed mandatory sewer tie-in that was then

pending before the East Hanover Board of Supervisors, under threat of civil prosecution with fines of five hundred dollars (\$500) per day.

14. I attempted to avoid legal prosecution for violation of the Vulgar/Indecent/Obscene provision by painting a white strip over the word “crap” and re-posting the sign in a manner that did not transgress any other provisions of the Sign Ordinance invoked by defendants in the Enforcement Notice.

15. Enforcement of the Vulgar/Indecent/Obscene provision of the Sign Ordinance has violated and continues to violate my rights to freedom of speech, press and petitioning of government under the First Amendment to the Constitution of the United States.

16. The Vulgar/Indecent/Obscene provision of the Sign Ordinance works content-restriction and viewpoint discrimination in violation of my First Amendment rights.

17. As a result of the unconstitutionality of the Sign Ordinance, both facially and as applied, I have suffered a loss of my First Amendment rights and suffered oppression, humiliation and embarrassment for which I must be compensated.

18. I wish to again put out a sign with its original language, but fear to do so because of the threat of government retaliation and civil prosecution.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

9/9/10

David Kliss  
David Kliss