

[J-108-2006]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

COOLSPRING STONE SUPPLY, INC.,	:	No. 55 WAP 2005
	:	
Appellant	:	
	:	Appeal from the Order of the
	:	Commonwealth Court, entered May 25,
v.	:	2005, at No.128 CD 2005, affirming the
	:	Order of the Court of Common Pleas of
	:	Fayette County, entered January 5, 2005,
COUNTY OF FAYETTE, NORTH UNION	:	at No. 141 of 2004GD.
TOWNSHIP AND LAUREL HIGHLANDS	:	
SCHOOL DISTRICT,	:	
	:	
Appellees	:	ARGUED: September 11, 2006

CONCURRING OPINION

MR. JUSTICE SAYLOR

DECIDED: AUGUST 20, 2007

I join the majority opinion. I write only to note that, in the LOGA case, I joined Mr. Justice Nigro's concurrence, which relied on the special characteristics of oil and gas to support the conclusion that such minerals were beyond the reach of Section 201 of the General County Assessment Law. I appreciated that oil and gas have been termed "real estate" in various decisions, but applying a strict construction of the statute most favorable to the taxpayers, I found sufficient ambiguity in Section 201 with regard to these minerals, in light of their vagrant and fugacious character, to support the taxpayers' position. However, with regard to solid minerals attached to the earth, on or beneath its surface, there seems to me to be no room for any similar ambiguity -- these are almost universally understood to be real estate. See generally 58 C.J.S. Mines and

Minerals §141 (2007) (“Minerals in place are generally held to be a part of the real estate with all the attributes and incidents peculiar to the ownership of land, but after their removal from the land they become personalty.”). Thus, I conclude that Section 201 was plainly intended to reach them. See 72 P.S. §5020-201(a) (providing for taxation of “[a]ll real estate” and “all other real estate not exempt by law from taxation”).