

[J-130-2006]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

MIDDLETOWN TOWNSHIP	:	No. 64 MAP 2006
	:	
v.	:	Appeal from the Order of the
	:	Commonwealth Court entered September
THE LANDS OF JOSEF SEEGAR	:	15, 2005, at No. 2152 CD 2004, which
STONE, EXECUTOR OF THE ESTATE	:	affirmed the Order of the Court of
OF SARA SEEGAR STONE, DECEASED,	:	Common Pleas of Bucks County entered
JOSEF SEEGAR STONE AND	:	September 28, 2004, at Nos. 2000-6119-
FRANCINE LIDA STONE, EXECUTORS	:	25-6 and TPM22-005-007.
OF THE ESTATE OF EZRA C. STONE,	:	
A/K/A EZRA STONE, DECEASED, AND	:	
JOSEF S. STONE AND FRANCINE LIDA	:	882 A.2d 1066 (Pa. Cmwlth. 2005)
STONE	:	
	:	
APPEAL OF: JOSEF SEEGAR STONE	:	ARGUED: October 17, 2006

CONCURRING OPINION

MR. JUSTICE SAYLOR

DECIDED: December 27, 2007

I join the majority opinion, subject only to a few modest differences. Primarily, I do not regard the finding that a taking is for recreational purposes as a pure conclusion of law. See Majority Opinion, slip op. at 10. Rather, I believe that there is a substantial factual dynamic, and therefore, I would treat it as a mixed question of fact and law. I am fully in line, however, with the majority's central conclusion that a more concrete plan is required to support a taking for recreational purposes than was put into place in this case, at least as reflected in the record presented.

Madame Justice Baldwin joins this concurring opinion.