

**[J-66-2006]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

V.L. RENDINA, INC.,	:	No. 130 MAP 2005
	:	
Appellee	:	
	:	Appeal from the Order of the
v.	:	Commonwealth Court entered on October
	:	7, 2004 at No. 46 CD 2004 which reversed
	:	the Order of the Court of Common Pleas
	:	of Dauphin County, Civil Division, entered
THE CITY OF HARRISBURG AND THE	:	on December 10, 2003 at No. 2003 CV
HARRISBURG SCHOOL DISTRICT,	:	3148 MP.
	:	
Appellants	:	
	:	ARGUED: May 8, 2006

**DISSENTING OPINION**

**MR. CHIEF JUSTICE CAPPY**

**DECIDED: December 27, 2007**

I respectfully dissent. Under Ordinance 31, Appellants levied a business privilege tax. The propriety of Appellants' business privilege tax is measured under the Local Tax Enabling Act, 53 P.S. §6901 *et seq.* In this regard, this Court's decision in Gilberti v. City of Pittsburgh, 511 A.2d 1321 (Pa. 1986) is controlling. I agree with the Commonwealth Court, that application of Gilberti to the stipulated facts leads to the conclusion that Appellee's job trailer was not a base of operations within the taxing jurisdiction. See id. at 1326. Therefore, I would hold that Appellee was not subject to Appellants' business privilege tax, and would affirm the Commonwealth Court.