

RESOLUTION NO. 02-2024

Resolution authorizing the acceptance of the proposed Agreed Entry resolving the West Chester Township Board of Trustee’s case involving the property at 8740 Cincinnati-Dayton Road, West Chester, Ohio 45069

WHEREAS, the Township has dealt with longstanding violations of its Zoning Resolution and Property Maintenance Code, as well as criminal nuisance activity, at the property located at 8740 Cincinnati-Dayton Road, West Chester, Ohio 45069 (the “Property”).

WHEREAS, the Township has received multiple complaints from neighbors over the past few years regarding these issues at the Property;

WHEREAS, the Township filed a case for injunctive relief to prevent further violations and to eliminate the nuisance activity under Butler County Court of Common Pleas Case Number CV 2023 02 0303 (the “Nuisance Case”);

WHEREAS, the Township’s primary goals in the Nuisance Case are to obtain and maintain compliance with the Zoning Resolution and Property Maintenance Code at the Property and to eliminate the nuisance activity occurring on the Property;

WHEREAS, the Board of Trustees has determined that it is in the best interests of the public health, safety and welfare to enter into the Agreed Final Entry, attached as Exhibit 1, as a resolution to the Township’s claims in the Nuisance Case;

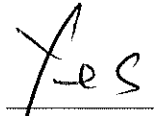
NOW THEREFORE, BE IT RESOLVED that on the basis of the above actions and findings, the West Chester Township Board of Trustees:

SECTION 1. That the Board of Trustees does hereby authorize the Township’s legal counsel to sign the Agreed Final Entry in substantially the same or similar form as the attached Exhibit 1, on behalf of the Township, and to sign any other documents necessary to effectuate the settlement, and to sign any documents necessary to enforce this Agreed Final Entry in the future.

Adopted this 9th day of January, 2024.



Lee Wong, Chair

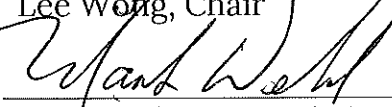


Yes/No


ATTEST:



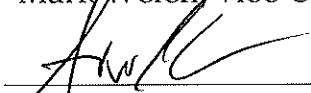
Bruce Jones, Fiscal Officer



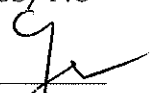
Mark Welch, Vice Chair



Yes/No




Ann Becker, Trustee



Yes/No

APPROVED AS TO FORM:



Scott D. Phillips, Law Director

EXHIBIT 1

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

FILED
MARY L. SWAIN
BUTLER COUNTY
CLERK OF COURTS
01/30/2024 08:32 AM
CV 2023 02 0303

BOARD OF TRUSTEES, WEST	:	Case No. CV 2023 02 0303
CHESTER TOWNSHIP, OHIO,	:	
	:	Judge: Daniel E. Haughey
Plaintiff,	:	
	:	<u>AGREED FINAL ENTRY</u>
-vs-	:	
	:	
RAY A. SKINNER,	:	
	:	
Defendant.	:	

Now comes Plaintiff the Board of Trustees of West Chester Township (hereinafter the “Township”) and Defendants Ray A. Skinner and Ray Skinner LLC (collectively “Defendants”) and agree to the following relief as a complete and final resolution of the Township’s Complaint against Defendants.

1. The Township and Defendants, having had the opportunity to consult with legal counsel, knowingly and voluntarily agree to the following as his, her, or its free act.
2. Defendant Ray Skinner LLC owns the real property located at 8740 Cincinnati-Dayton Road, West Chester, Ohio 45069, Butler County Auditor’s Parcel Nos. M5610023000017, M5610023000016, M5610023000024, M5610023000055, M5610023000062, and M5610023000063 (the “Property”). Defendant Ray Skinner and his son Jesse Skinner are the two designated managers of Ray Skinner LLC.
3. The Property has several different zoning classifications under the Township’s Zoning Resolution, including, without limitation, residential zoning classifications R-1, R-2, and R-3, and business zoning classifications B-1 and B-2.
4. Defendants operate a landfill on portions of the Property that accepts “clean hard fill,” such as concrete, brick, tile, and stone. The propriety or impropriety of this use of the Property

is not raised or challenged in the Township's Complaint and is not determined in this Agreed Final Entry.

5. Defendants also have fewer than 75 dumpsters or containers located on the Property that Defendants allow customers to use to dump trash and debris for a fee. Once these dumpsters are full, Defendants takes them to an appropriate, off-site landfill for disposal. The propriety or impropriety of this use of the Property is not raised or challenged in the Township's Complaint and is not determined in this Agreed Final Entry. Further, this paragraph does not constitute an acceptance or admission by the Township as to how many dumpsters or containers are currently, or have been, stored on the Property.
 - a. Defendants shall not dump non-clean fill, trash, or garbage from these dumpsters elsewhere on the Property.
6. This Agreed Final Entry shall not prevent or prohibit the Township from taking any action it deems necessary to prevent nonconforming use of the Property after August 1, 2025. Until August 1, 2025, the Township will not file a separate legal complaint regarding violations of its Zoning Resolution or public nuisance issues at the Property, unless Defendants change or expand operations at the Property beyond their current scope or ownership of the Property changes. This Agreed Final Entry shall not prevent or prohibit the Defendants from raising any defenses they deem appropriate relating to such action. Nothing herein will deemed to be a factual determination or legal finding impacting or prohibiting the assertion of such defenses.
7. In the Complaint in this matter, Plaintiff has made certain allegations, including without limitation that the Property is currently in violation of the Township's Zoning Resolution. Defendants dispute such allegations and allege that (a) certain of the contested uses are

conforming, (b) certain of the uses are non-conforming uses pre-existing the land codes referenced and (c) many of the contested uses have been abated since the filing of the suit.

8. Without any determination on the merits of the legal and factual allegations in the Complaint, Plaintiff and Defendants have agreed to fully resolve all issues raised in the Complaint through August 1, 2025, as follows:

a. Defendants shall remove all recreational vehicles and camping trailers from the Property within twenty-eight (28) days.

b. Within six (6) months of the date of this Agreed Final Entry, Defendants shall remove all inoperable, unlicensed, or junk vehicles from Butler County Auditor Parcel ID M5610023000055. For the purposes of this paragraph, the term “vehicles,” includes cars, vans, trucks, buses, box trucks, trailer trucks, boats, watercraft, and all other types of motorized vehicles. Moving vehicles from Butler County Auditor Parcel ID M5610023000055 to other portions of the Property shall not constitute compliance with the requirements of this Paragraph. Within eighteen (18) months of the date of this Agreed Final Entry, Defendants shall remove all inoperable, unlicensed, or junk vehicles from the Property. Only vehicles or pieces of equipment that meet the following criteria, and that are **both** listed and photographed in the attached Exhibit A, will be exempted from the foregoing and will be permitted to remain on the Property:

i. Equipment that is both operational and is to be used in the business or personal affairs conducted at the Property and such plows, buckets and other attachments that are affixed to such operational equipment. This includes without limitation dump trucks, bulldozers, front loaders, backhoes, cranes, and other similar equipment. “Operational” as used in this paragraph is a vehicle whose engine

starts and can achieve forward movement, or can be and is brought to such state with repairs within forty five (45) days of written notice from the Township.

- ii. Cars, trucks, and other vehicles that are operational and have a current tag or license plate on them or can be made operational and tagged within ten (10) days.
 - iii. Also excepted are vehicles and equipment maintained entirely inside a building, barn, or tank.
- c. Within six (6) months of the date of this Agreed Final Entry, Defendants shall remove all miscellaneous junk and debris, including, but not limited to, all metal beams, scrap metals, inoperable equipment, concrete, trash, and unused traffic or parking signs from Butler County Auditor Parcel ID M5610023000055. Moving miscellaneous junk and debris from Butler County Auditor Parcel ID M5610023000055 to other portions of the Property shall not constitute compliance with the requirements of this Paragraph. Anything contained entirely inside a building, barn, or tank is permitted to remain on the Property.
- d. Within eighteen (18) months of the date of this Agreed Final Entry, Defendants shall remove all miscellaneous junk and debris, including, but not limited to, all metal beams, scrap metals, inoperable equipment, concrete, trash, and unused traffic or parking signs from the Property, however, the metal beams presently on Parcel M5610023000024 may remain. Defendants shall remove all semi-trailers from the Property by December 31, 2023. The rail cars on the property may remain so long as the doors thereon are closeable so that all material stored therein is not visible; any rail cars not meeting such standard must be removed by December 31, 2023. The metal storage tanks may remain

at the Property. Any storage tank used for storage will be covered and closed, with the exception of the approximately 30-foot tall, cylindrical green tank on Parcel M5610023000055, depicted in **Exhibit B**, the front of which may remain open for inside storage. All outside storage around such tank will be abated (i.e., cleaned up) within eighteen (18) months. Anything contained entirely inside a building is permitted to remain on the Property. Notwithstanding the foregoing, materials buried in the landfill need not be removed.

- i. Eleven (11) semi-trailers or box trucks that do not have axels, wheels, operational engines, or transmissions, shall be exempted from this Paragraph and may remain at the Property, so long as they are brought into and maintained in a structurally safe, weathertight, clean, and tidy manner.
- e. The various garages, barns and storage buildings may remain so long as they have doors and windows in good repair and all outside storage in and around them is abated within twelve (12) months of the date of this Agreed Final Entry. The doors and windows of all garages, barns, and storage buildings shall be repaired to working and weathertight condition, or covered with a permanent covering, within six (6) months of the date of this Agreed Final Entry.
- f. Defendants shall ensure that any manufactured homes located on the Property are located so that there is only one manufactured home per parcel. Defendants shall remove any manufactured homes that do not comply with this paragraph within sixty (60) days of the date of this Agreed Final Entry.
- g. Within thirty (30) days of this Agreed Final Entry, Jesse Skinner and Captain Seth Hagaman of the Township Police Department will meet at and walk the Property and

determine suitable additional barricades to prevent unauthorized access to the Property and, within ninety (90) days thereafter, Defendants will place and maintain such barricades until agreed by the Township or until the Property is placed into other uses and the barricades are no longer necessary to prevent unauthorized access to the Property.

- h. Defendants shall place a gate on the Property's main driveway connecting the Property to Cincinnati-Dayton Road as and when agreed between Jesse Skinner and Captain Seth Hagaman of the Township Police Department. This gate shall be closed each night after 9:00 PM while Defendants own the Property. Defendants shall provide a key or passcode to the West Chester Police Department and Fire Department so that this gate can be bypassed in case of an emergency.
- i. Defendants shall provide the West Chester Police Department with a "right of entry letter" and "trespass list" by January 1, 2024. The "right of entry" letter will authorize the West Chester Police Department to enter onto the common areas of the Property until the Property is placed into a different use that eliminates the need for such "right of entry" letter. The "trespass list" will identify individuals that are allowed to be on the Property and will authorize the West Chester Police Department to arrest, cite, and/or verbally warn any individuals found trespassing on the Property, except for customers coming onto the Property to place materials in the landfill or to utilize the dumpster or container service on the Property.
- j. Without waiving any rights as to present and future uses on the Property, it presently is the intention of Defendants to terminate the use of the clean/roadway debris landfill business. It is not currently operating that use or business on the Property. In the event

that Defendants intend to re-commence and continue that use, prior to any such activity, Defendants shall install a “wheel-wash,” or other similar device used to clean the wheels of commercial vehicles exiting the Property. Such “wheel-wash,” or other similar device, shall be located on or adjacent to the Property’s main driveway connecting the Property to Cincinnati-Dayton Road. Defendants shall post a sign stating that all drivers of commercial vehicles leaving the Property are required to clean their wheels before exiting. Defendants shall take reasonable steps to ensure that commercial vehicles exiting the Property use the “wheel-wash,” or other similar device, before exiting. Defendants shall keep the “wheel-wash,” or other similar device, in good repair and operational for as long as Defendants operate a clean-fill dump site on the Property.

9. Except for the materials remaining pursuant to the cleanup schedule set forth above, Defendants are permanently enjoined from using the Property for exterior storage and from accumulating further junk vehicles, miscellaneous metal, and other miscellaneous junk and debris on the Property.
10. The Court grants a permanent injunction against further nuisance activity, including but not limited to illegal drug activity or the storage of stolen vehicles, at the Property. Defendants, including all members or managers of Defendants, are permanently enjoined from participating, allowing, or acquiescing to any nuisance activity on the Property.
11. Defendants agree that any new structures built on the Property will have permits and/or zoning certificates from the County and Township.

12. Defendants agree that as to any new structures built on the Property, such structures will comply with all applicable building codes, zoning resolutions, property maintenance codes, and other applicable laws and regulations at the Property.
13. Defendants agree to make the Property available for inspection to confirm compliance with the terms of this Agreed Final Entry upon request and reasonable notice from the Township. Reasonable notice of an inspection shall be given no less than three (3) business days before the inspection.
14. If Defendants fail to comply with any of his obligations under this Agreed Final Entry, the Township shall provide written notice to Defendants of such breach. Notice shall be sent in writing, via regular mail, to Defendants at 8740 Cincinnati-Dayton Road, West Chester, Ohio 45069. Notice shall also be sent to Defendants' attorneys Christopher Finney and Julie Gugino via email to chris@finneylawfirm.com and julie@finneylawfirm.com.
15. Defendants shall have 14 days from the date of mailing of written notice of such breach to cure the breach and to provide proof of such cure to the Township. Except for allowing third parties to live in RVs or mobile homes at the Property, or violating the injunction contained in Paragraph 10, both of which are punishable by immediate contempt proceedings, the penalty for non-compliance with this Agreed Final Entry will be:
 - \$500 fine payable to the Township for the first such offense per calendar year.
 - And thereafter such relief, including temporary receivership, abatement, or injunction as the Township may seek and the Court may find equitable. Any such receivership will last only until the issue or breach complained of is fully abated.
16. If Defendants fail to comply with any of their obligations under this Agreed Final Entry and fail to cure any breach of this Agreed Final Entry identified by the Township, the

Township shall be authorized to seek enforcement of this Agreed Final Entry via a motion filed with this Court pursuant to the foregoing penalty schedule. The Township, in its sole discretion, may elect to file a motion to enforce this Agreed Final Entry that includes two or more separate breaches of this Agreed Final Entry. Such breaches may, but are not required to, relate to the same requirements under this Agreed Final Entry but involve different dates of offense and separate opportunities to cure. If Defendants have breached this Agreed Final Entry more than once in a one-year period and failed to cure such breaches, the Township may file a motion to enforce this Agreed Final Entry requesting both a \$500 fine and a temporary receivership, abatement, injunction, or other relief available under the Court's contempt powers. The Township is not required to file a separate, initial motion to enforce the Agreed Final Entry requesting only a \$500 fine.

17. This Court shall retain jurisdiction to enforce the terms of this Agreed Final Entry and to ensure that all obligations under this Agreed Final Entry are fulfilled, limited only by the preceding escalating penalty schedule. This Agreed Final Entry shall be enforceable via contempt, limited only by the preceding penalty schedule.
 - a. In addition to all remedies available to the Court under its contempt powers, limited only by the preceding penalty schedule, the Court may also authorize the Township to enter onto the Property to complete any work required under this Agreed Final Entry and to assess any costs it incurs in completing such work against the Property for collection with other real estate taxes and assessments.
18. The obligations set forth in this Agreed Final Entry shall attach to the Property and shall run with the Property in the manner of a restrictive covenant. The obligations set forth in this Agreed Final Entry shall be enforceable against any successor, assign, or

person/company who obtains any interest in the Property. Defendants shall make any future purchaser, lessee, or person/company acquiring an interest in the Property aware of this Agreed Final Entry before such interest in the Property is acquired. Defendants shall not transfer, sell, or lease the Property in an attempt to avoid the obligations set forth in this Agreed Final Entry. The Township is entitled to record an Affidavit of Facts Relating to Title, pursuant to R.C. 5301.252, identifying the existence of this Agreed Final Entry.

- a. If Defendants fully comply with their obligations under this Agreed Final Entry, they shall notify the Township in writing of such compliance and make the Property available for inspection. If the Township confirms that the Property is fully in compliance with the terms of this Agreed Final Entry, and upon written request by Defendants, the Township shall record a rescission of the aforementioned Affidavit of Facts, and this Agreed Final Entry shall no longer run with the Property.

IT IS SO ORDERED.



01/29/2024
Date

Judge Daniel E. Haughey

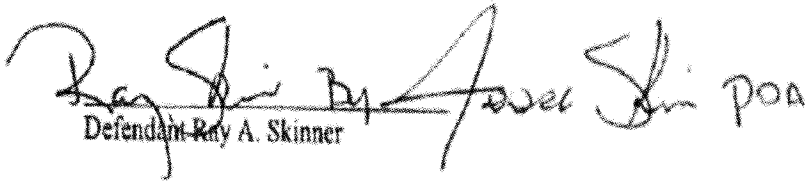
Agreed:



Jonathan E. Roach (0092498)
Counsel for West Chester Township



Christopher Finney (0038998)
Counsel for Defendant Ray A. Skinner



Defendant Ray A. Skinner

By: Ray SK By Jesse SK POA

Its: MEMBER

Defendant Ray Skinner LLC

0091532.0315629 4861-9238-0536v4

0091532.0315629 4861-9238-0536v7