

COMMONWEALTH COURT OF PENNSYLVANIA

Core5 at Route 100, LLC v. Lowhill Township and Lowhill Township
Board of Supervisors

No. 57 C.D. 2025 (Pa. Commw. Ct. Apr. 7 2026) · No. 57 C.D. 2025 · Decided April 7, 2026

SUMMARY

The Pennsylvania Commonwealth Court considers whether the de facto officer doctrine validates a township supervisor’s vote when the supervisor was appointed through a procedurally defective vacancy process. The Court holds that evidence of bad faith, ill will, personal benefit, or furtherance of an official’s own agenda may preclude application of the doctrine when a timely objection is raised. The Court vacates the trial court’s order and remands for factfinding regarding the officials’ knowledge and motivation.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Renée Cohn Jubelirer, President Judge; Christine Fizzano Cannon, Judge; Stella M. Tsai, Judge
JURISDICTION	Commonwealth Court of Pennsylvania
DECIDED	April 7, 2026
DOCKET	57 C.D. 2025
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the Lehigh County Court of Common Pleas after a nonjury trial, denial of post-trial relief, and entry of judgment for Lowhill Township and its Board of Supervisors in Core5's action seeking declaratory and mandamus relief concerning denial of its land-development plan.
STANDARD OF REVIEW	The Commonwealth Court reviewed the trial court's decision in its appellate capacity, was bound by factual findings supported by substantial evidence, and recognized that the trial court remained the factfinder on credibility, conflicts in the evidence, and weight. The legal application of the de facto doctrine was reviewed for error of law.
PRECEDENTIAL VALUE	published and precedential

PARTIES

Core5 at Route 100, LLC v. Lowhill Township, Lowhill Township
Board of Supervisors

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QUESTIONS PRESENTED

1. Whether the de facto officer doctrine validates an official's vote when the official's appointment was unlawful and there is evidence that the appointing official or appointee knew of the defect, acted in bad faith or with ill will, benefited from the defect, or acted to further a personal agenda.
2. Whether a party that timely objects to the official's authority before the challenged action may obtain relief notwithstanding the de facto officer doctrine.
3. Whether the trial court erred by treating the supervisors' knowledge, motivation, and bad faith as irrelevant and failing to make factual findings on those issues.
4. Whether the trial court's order should be vacated and the matter remanded for additional factfinding and a new determination on the merits.

HOLDINGS

1. The de facto doctrine does not shield an official's actions when the official knew of the defect in title, benefited from the defect, or acted in bad faith, with ill will or motive, or to further a personal agenda, provided the affected party timely objects to the official's authority.
2. Core5's objection, made before Hughes and Dietrich voted on the plan, was timely and could permit relief if the remand findings establish the requisite knowledge, benefit, bad faith, ill will, motive, or personal agenda.
3. The trial court erred by concluding that knowledge and motivation were irrelevant and by failing to make specific findings on those issues; the order therefore had to be vacated and the case remanded.

KEY QUOTATIONS

“Central to this appeal is the de facto doctrine, an equitable principle that has been applied in the Commonwealth for more than two centuries.” (15)

“The de facto doctrine seeks to protect the public by ensuring the orderly functioning of the government despite technical defects in title to office.” (19)

“Invoking the de facto doctrine to shield deliberate, wrongful actions does nothing to promote the orderly functioning of government and, instead, serves to undermine public confidence and trust.” (25)

“Accordingly, we vacate the trial court’s order and remand for it to make those determinations and issue a new decision on the merits.” (29)

FACTUAL BACKGROUND

Lowhill Township Supervisor Robb Werley resigned, and the remaining supervisors, Richard Hughes and George Wessner, disagreed about how to fill the vacancy. Hughes, who had expressed opposition to warehouse development, arranged a Vacancy Board meeting before the statutory period for filling the vacancy had elapsed and during Wessner's unavailability; Hughes and Vacancy Board chair Carol Betz appointed Curtis Dietrich, who also opposed warehouse projects. Hughes and Dietrich subsequently voted to deny Core5's warehouse development plan, despite Core5's timely objection that Dietrich's appointment and the meeting were unlawful. Dietrich was later removed in a quo warranto proceeding because his appointment violated the governing statute.

PROCEDURAL HISTORY

Core5 challenged the legality of the appointment of Curtis Dietrich to a vacant township-supervisor position and Dietrich's subsequent vote denying Core5's preliminary land-development and lot-consolidation plan. The trial court held that the de facto officer doctrine validated Dietrich's actions despite the defective appointment, denied Core5 post-trial relief, and entered judgment for the Township and Board. The Commonwealth Court vacated the trial court's order and remanded for additional factual findings and a new merits determination.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Lehigh County Court of Common Pleas must make additional factual findings from the existing record concerning whether Hughes and/or Dietrich knew of the appointment defect, benefited from it, acted in bad faith or with ill will or motive, or acted to further their own agenda. The trial court must then apply the Commonwealth Court's de facto-doctrine standard and issue a new determination on the merits of Core5's claims.

CASES CITED

- Waite v. City of Santa Cruz, 184 U.S. 302, 324 (1902)
- Core5 at Route 100, LLC v. Lowhill Township, No. 11 C.D. 2025 (Pa. Commw. Ct. May 2, 2025)
- Nationwide Mutual Insurance Co. v. Wickett, 763 A.2d 813, 815 (Pa. 2000)
- Riddle v. County of Bedford, 7 Serg. & Rawle 386 (Pa. 1821)
- Keyser v. M’Kissan, 2 Rawle 139 (Pa. 1828)
- Commonwealth ex rel. Raker v. Snyder, 144 A. 748 (Pa. 1929)
- Commonwealth ex rel. Palermo v. City of Pittsburgh, 13 A.2d 24 (Pa. 1940)
- Borough of Pleasant Hills v. Jefferson Township, 59 A.2d 697 (Pa. 1948)
- State Dental Council and Examining Board v. Pollock, 318 A.2d 910, 913 (Pa. 1974)

- Coyle v. Commonwealth, 104 Pa. 117, 130 (1883)
- Commonwealth v. Brownmiller, 14 A.2d 907 (Pa. Super. 1940)
- Commonwealth v. Pontious, 578 A.2d 1 (Pa. Super. 1990)
- D & B Auto Sales v. Department of State, State Board of Motor Vehicle Manufacturers, Dealers and Salesmen, 370 A.2d 428 (Pa. Commw. Ct. 1977)
- Quest Land Development Group, LLC v. Township of Lower Heidelberg, 971 A.2d 540 (Pa. Commw. Ct. 2009)
- Carroll v. Bair, No. 2377 C.D. 2009 (Pa. Commw. Ct. June 16, 2010)
- Frame v. Menellen Township, No. 1921 C.D. 2009 (Pa. Commw. Ct. Aug. 5, 2010)
- In re Application of the Humane Society of the Harrisburg Area, Inc., 92 A.3d 1264, 1272 n.9 (Pa. Commw. Ct. 2014)
- Tweed's Case, 83 U.S. 504 (1872)
- McDowell v. United States, 159 U.S. 596 (1895)
- Nguyen v. United States, 539 U.S. 69 (2003)
- Ryder v. United States, 515 U.S. 177 (1995)
- Malacina v. Cook County Sheriff's Merit Board, 197 N.E. 3d 182 (Ill. App. Ct. 2021)
- Lerch v. Unemployment Comp. Bd. of Rev., 180 A.3d 545, 550 (Pa. Commw. Ct. 2018)

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