

Protecting Parks under the DDPA

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Who? Why?



Who has
Standing under the DDPA?

- Residents
- Attorney General

The Attorney General



What is a “dedicated property”?

- **53 P.S. § 3381 Definitions**

(3) “Public facility” shall mean without limitation any park, theatre, open air theatre, square, museum, library, concert hall, recreation facility or other public use.

- **53 P.S. § 3382 - Property held in trust**

All lands or buildings heretofore or hereafter donated to a political subdivision for use as a public facility, or dedicated to the public use or offered for dedication to such use ...

- **53 P.S. § 3383 - Use of property**

All such lands and buildings held by a political subdivision, as trustee, shall be used for the purpose or purposes for which they were originally dedicated ...



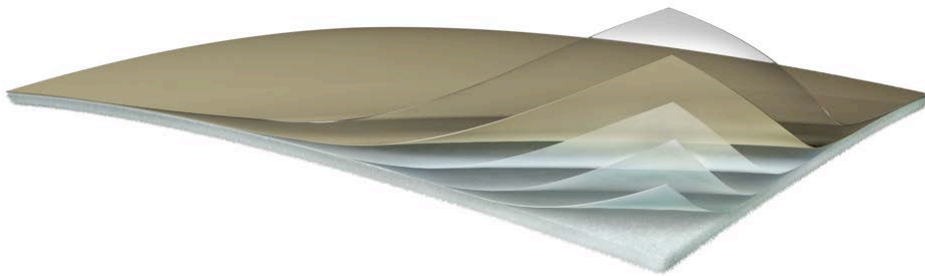
- **53 P.S. § 3384. Orphans' court relief**
- When, in the opinion of the political subdivision which is the trustee, the continuation of the original use of the particular property held in trust as a public facility is **no longer practicable or possible** and has ceased to serve the public interest ...

Flexibility

- Supreme Court in Erie Golf Course: the DDPA similarly allows municipal flexibility and “shares considerable similarities with the *cy pres* doctrine applicable to charitable trusts.”
- Supreme Court in Robinson Twp.: public trust principles have “flexibility” and natural resources “have relative rather than absolute attributes.” Sustainable development must consider issues of feasibility - allowing “checks and balances of government to operate in their usual fashion for the benefit of the people to accomplish the purposes of the trust.”

The Section 6 Exclusion

- “Nothing in this act shall be construed to limit or affect the control by a political subdivision of public **lands or buildings** acquired by such political subdivision by **purchase or condemnation.**”
- Does not exclude “public facilities” or “dedicated” properties



- Commonwealth Court in *Borough of Downingtown*: the DDPA, the Eminent Domain Code and the Project 70 Act need to be “**considered together**” and read in *pari materia*.



rock



paper



scissors

- Does the removal of the Project 70 Act restrictions allow municipalities the unfettered right to sell properties purchased with a Project 70 grant?
- Does Section 310 of the Eminent Domain Code (“Abandoned Projects”) allow municipalities the unfettered right to sell properties acquired by condemnation?

Eminent Domain Code § 310

“Abandonment of project”

(a) Disposition of property.--If a condemnor has condemned a fee and then **abandons the purpose** for which the property has been condemned, the condemnor may dispose of it by sale, lease, gift, devise or other transfer with the following restrictions ...

Private Easements over Public Parks

