

IN THE SUPREME COURT OF PENNSYLVANIA

Docket Nos. 2, 3 EAP 2018

LORA JEAN WILLIAMS; GREGORY J. SMITH; CVP MANAGEMENT, INC.
d/b/a or t/a CITY VIEW PIZZA; JOHN'S ROAST PORK, INC. f/k/a JOHN'S
ROAST PORK; METRO BEVERAGE OF PHILADELPHIA, INC. d/b/a or t/a
METRO BEVERAGE; DAY'S BEVERAGES, INC. d/b/a or t/a DAY'S
BEVERAGES; AMERICAN BEVERAGE ASSOCIATION; PENNSYLVANIA
BEVERAGE ASSOCIATION; PHILADELPHIA BEVERAGE ASSOCIATION;
and PENNSYLVANIA FOOD MERCHANTS ASSOCIATION,
Plaintiffs-Appellants,

v.

CITY OF PHILADELPHIA and FRANK BRESLIN, IN HIS OFFICIAL
CAPACITY AS COMMISSIONER OF THE PHILADELPHIA DEPARTMENT
OF REVENUE,
Defendants-Appellees.

**BRIEF OF *AMICIS CURIAE* THE PHILADELPHIA PARKS ALLIANCE IN
SUPPORT OF APPELLEES TO AFFIRM THE COMMONWEALTH
COURT'S OPINION AND ORDER IN NOS. 2077, 2078 C.D. 2016,
ENTERED ON JUNE 14, 2017**

Appeal from the Order of the Commonwealth Court of Pennsylvania, in Nos. 2077,
2078 C.D. 2016, entered June 14, 2017, affirming Orders of the Court of Common
Pleas of Philadelphia County, Pennsylvania, September Term 2016,
No. 1452, entered on December 19, 2016

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I. STATEMENT OF INTEREST

Amicus the Philadelphia Parks Alliance is a 501(c)(3) organization that champions for the Philadelphia Community through its dedication to creating a great community through open spaces, parks and recreation centers. The Philadelphia Parks Alliance advocates for the advancement of policies and practices through diversity and community involvement to support the ongoing social, economic and environmental fabric of Philadelphia. The Philadelphia Parks Alliance supports the City of Philadelphia's Beverage Tax ("PBT"), as this much-needed revenue-raising measure will help fund early childhood education, community schools, libraries, and parks.

Since its inception the Philadelphia Parks Alliance has worked to advance public space programming, park policy and park advocacy. The Philadelphia Parks Alliance partners with the Philadelphia Parks and Recreation Department in support of continuing after-school programs, summer camp programs and summer meals to students living below the poverty level. The Philadelphia Parks Alliance's work helps sustain and enhance the City of Philadelphia. This is why the Philadelphia Parks Alliance supports the PBT, as the revenue generate will help fund programs that will make Philadelphia a healthy, vibrant, and sustainable city. Pursuant Pennsylvania Rules of Appellate Procedure 531(b)(2), no one other than

amicus and its counsel have paid in whole or in part for the preparation of this brief or in whole or in part authored this brief.

II. SUMMARY OF ARGUMENT

If the PBT is not upheld, there will be a detrimental economic impact on the community the Philadelphia Parks Alliance serves, as well as a negative impact on the environmental fabric of the City. The Philadelphia Parks Alliance has a strong interest in the viability of the PBT, as the tax revenues would be used to fund the City of Philadelphia's seven-year, \$500 million Rebuilding Community Infrastructure Program ("Rebuild") that will improve the parks, recreation centers, libraries and open spaces. These funds are badly needed as roughly 90% of the City's 150 recreation centers are in need of capital investment.

The Rebuild initiative will be the greatest single investment ever seen in Philadelphia's community infrastructure and will lead to unprecedented improvements to every neighborhood in the City of Brotherly Love. The return investment of Rebuild will be significant. Parks increase property values and attract businesses and industry to the community. Recreation centers improve the fitness and wellness of the residents. If children have access to parks, playgrounds, and recreation centers, child obesity rates will decrease. They will also have safe places play. The revenue generated by the PBT will allow the City's diverse parks and recreation system to maintain and continue to grow neighborhood parks,

recreations centers, playgrounds, environmental centers, pools, skating rinks, tennis courts, basketball courts, and after-school programs around the communities.

III. ARGUMENT

Philadelphia City Council implemented the PBT to generate revenue from the tax that will help fund improvements in neighborhoods, overall wellness of children, and services that encourage the citizens to thrive, exercise, and increase overall health. By directing funds generated by the PBT to community parks, recreation centers, and playgrounds, the City of Philadelphia will help alleviate poverty and improve the wellness of Philadelphians.

Philadelphia has one of the earliest and most important American urban park and recreation systems in the county. William Penn’s desire to create a “Green Countrie Towne” turned into a development that shaped Philadelphia’s architecture, city planning and public art. His vision also influenced Philadelphia’s culture institutions and conservation of natural resources.¹

In today’s Philadelphia community, parks and recreation centers improve neighborhood aesthetics, and serve the residents around them by providing after-school services, summer camps, cultural education, and education in

¹ Philadelphia Parks and Recreation, *available at* <https://beta.phila.gov/departments/philadelphia-parks-recreation/about>.

environmental preservation. According to a Pew Charitable Trust study, more than 37% of Philadelphia's children under the age of 18 live below the federal poverty level.² Philadelphia's libraries and recreation centers are the most concentrated among the most publicly accessible places available to address this issue; and do so in every neighborhood of the City. Further, 93 percent of Philadelphia residents live within a ten (10) minute walk of a Parks and Recreation facility. This is great as the average for cities in the United States is 66 percent.³ The impact of these facilities is significant from, not just a program and service standpoint, but also from a neighborhood aesthetics standpoint.

While the City of Philadelphia has the highest poverty rate of the country's 10 largest cities, according to the Trust for Public Land, the Philadelphia Parks and Recreation Department ranks 9th in funding per resident for these cities' parks and recreation.⁴ This is despite the fact that parks, playgrounds, and recreation centers play a direct role in alleviating poverty and improving health and wellness of residents. Philadelphia spends \$59.00 per person on parks, while the United States average is \$80.00.⁵ As a comparison, Philadelphia spends roughly half per-

² Pew Charitable Trust report 2017, *available at* <http://www.pewtrusts.org/en/research-and-analysis/reports/2017/11/philadelphias-poor>

³ Romer, Melissa, "Here's how Philly's parks compare to other U.S. Cities." *Curbed Philadelphia*, May 24, 2017.

⁴ Harnik, Peter, McCabe, Charlie, and Hiple, Alexandra, "2017 City Park Facts." *The Trust for Public Land*, April 2017, at 20. *Also available at*, https://www.tpl.org/sites/default/files/files_upload/CityParkFacts_2017.4_7_17.FIN_LO_.pdf

⁵ Romer, Melissa, "Here's how Philly's parks compare to other U.S. Cities." *Curbed Philadelphia*, May 24, 2017.

resident of what Pittsburgh spends on parks and recreation, which is \$52.00 to \$99.00 per resident.⁶ Philadelphia Commissioner Kathryn Ott Lovell gave testimony at the Philadelphia Council Meeting held on April 24, 2017. She reported that in the 2017 Fiscal Year, more than 230,000 individuals attended recreational programs.⁷ The revenue generated from the PBT will allow even more programs to be available to the community.

Most of the City's recreation facilities are in need of capital investment. A lot of these facilities are in disrepair, despite serving the thousands of Philadelphia youth daily. Some have non-functional HVAC systems, leaking roofs, and array of cosmetic defects. The City of Philadelphia also has one of the highest childhood obesity rates in the country, with lower income communities particularly impacted. In neighborhoods such as Upper North Philadelphia, seven out of ten kids are considered obese. The Cecil B. Moore Recreation Center, the recreation center that serves this community, needs a multi-million-dollar upgrade, to be able to properly address the needs of children in this area.⁸ Rebuild Philadelphia is key to fixing these facilities and addressing health issues such as obesity.

⁶ Harnik, Peter, McCabe, Charlie, and Hiple, Alexandra, "2017 City Park Facts." The Trust for Public Land, April 2017, at 20. *Also available at*, https://www.tpl.org/sites/default/files/files_upload/CityParkFacts_2017.4_7_17.FIN_LO_.pdf

⁷ Philadelphia Commissioner Kathryn Ott Lovell, Testimony at the City Council Meeting (April 26, 2017). *available at* <http://phlcouncil.com/wp-content/uploads/2017/04/FY18-PPR-Testimony-final-version-4.24.17.pdf>

⁸ Newall, Mike, "Before the soda tax vote, a reminder of what it will pay for," The Inquirer, June 8, 2016.

IV. CONCLUSION

Parks and recreation centers are valuable and necessary assets to every community. The time to decrease poverty levels in Philadelphia is now, which is why funding to parks and recreation centers is crucial. The PBT helps to address the need for services and facilities that have a stabilizing effect on the lives of Philadelphia's youth. The City's investment in parks and recreation through the revenue from the PBT will guarantee an economic return as the poverty levels decrease, community health will increase, and the neighborhood aesthetics invite further community development. For the reasons set forth above, the Order from the Commonwealth Court should be affirmed.

Respectfully submitted by,

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Dated: April 13, 2018

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2018, I served a true and correct copy of the foregoing Brief for the *Amicus Curiae* The Philadelphia Parks Alliance in Support of Appellees via Electronic Filing on the following:

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