

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Matthew Macias, Clarence Bouchat, and John Cookus,	:	CASES CONSOLIDATED
	:	
Appellants	:	
	:	
v.	:	Nos. 272 & 565 C.D. 2025
	:	Argued: April 13, 2026
Southfield Crossing Homeowners Association, Inc., Southfield Crossing Homeowners Association II, Inc., Matthew Fritz, Adam Swalm, Lydia Stufft, Theresa O'Connor, and York H-G Properties, LLC	:	
	:	

BEFORE: HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE STACY WALLACE, Judge

OPINION BY
JUDGE WALLACE

FILED: August 28, 2026

In these consolidated appeals, Matthew Macias, Clarence Bouchat, and John Cookus (Plaintiffs) appeal from the January 29, 2025 order (Order) of the Court of Common Pleas of Cumberland County (trial court), granting a motion to dismiss filed by Matthew Fritz, Adam Swalm, Lydia Stufft, and Theresa O'Connor (collectively, the Individual Defendants), the Southfield Crossing Homeowners Association, Inc. (HOA I), the Southfield Crossing Homeowners Association II, Inc. (HOA II), and York H-G Properties, LLC's (York H-G) (all collectively, Defendants). The Order allowed Plaintiffs to avoid dismissal of the action by joining

certain indispensable parties within 60 days. Plaintiffs did not join those parties but, after that period expired, filed a praecipe for entry of an adverse judgment. The prothonotary entered judgment, thereby rendering the Order final. Upon review, we affirm the Order.

BACKGROUND¹

Plaintiffs own properties in the Southfield Crossing residential development (Southfield Crossing), located in Silver Spring Township, Cumberland County, Pennsylvania. Southfield Crossing was developed in two phases, Phase I and Phase II, with a separate homeowners' association created for each.

In 1987, Southfield Development Company (Southfield Development) recorded a declaration covering Phase I of the development (the Phase I Declaration), that established an owners committee for Phase I, to be taken over upon completion of all phases of the development by a homeowners' association. The Phase I Declaration imposed use restrictions applicable to Phase I properties, including "Common Elements," to be used "for the furnishing of services and facilities for which they are reasonably suited and which are incident to the use and occupancy of the units." Reproduced Record (R.R.) at 106a, 108a (¶¶ 9, 20).

HOA I was created in 1992. Its bylaws define "Common Area" as "all real property owned by the Association for the common use and enjoyment of the Owners." *Id.* at 130a (art. 2.03).

¹ Unless otherwise stated, the facts are taken from the trial court's September 30, 2022 opinion disposing of the parties' motions for summary judgment and its April 11, 2025 opinion filed pursuant to Pennsylvania Rule of Appellate Procedure 1925(a). The additional facts summarized here, with citations to the Reproduced Record, come from documents setting forth rights and obligations of the parties and residential owners in the development, included in the record and cited by both sides. Review of the briefs indicates these facts are not disputed.

In 1991, the property that ultimately encompassed the entire development, excluding the individual lots in Phase I already conveyed to residential buyers, was conveyed to P.O.S.C., Inc. (POSC). In 1993, POSC recorded a declaration for Phase II of the development (the Phase II Declaration). In 1994, HOA II was created.

In 1999, POSC conveyed the common areas in Phase II, identified as lots 22, 23, and 24 (Common Areas), to HOA II, which made the Common Areas subject to the use restrictions in the Phase I Declaration.

In 2020, Matthew Fritz, one of the Individual Defendants, issued a notice for a special meeting of HOA I. *Id.* at 23a. According to the meeting minutes, the attendees elected three of the Individual Defendants, Fritz, Adam Swalm, and Lydia Stufft, as directors of HOA I, and a “Phase 1 Officer Election” resulted in the installation of those individuals as officers of that association. *Id.* at 138a. In December 2020, HOA II conveyed the Common Areas to HOA I, though Plaintiffs disputed the validity of the conveyance. *Id.* at 10a-11a (Complaint ¶¶ 49-53).

The complaint asserted the election of the three Individual Defendants as HOA I directors and officers was improper, because the special meeting was not properly called, the required quorum of HOA I members was not present, and Phase II owners improperly were included in the determination of a quorum and improperly participated in the vote. *Id.* at 9a-10a (Complaint ¶¶ 36-46). The complaint also asserted actions allegedly taken by the Individual Defendants as HOA I directors and officers, including acceptance of the conveyance of the Common Areas, were invalid. *Id.* at 10a-11a (Complaint ¶¶ 49-53). The complaint sought, among other remedies, a declaration voiding the deed (Deed) by which HOA II conveyed the Common Areas to HOA I.

Defendants moved to dismiss the action for lack of subject matter jurisdiction. *Id.* at 569a-75a. They asserted all Phase I owners were indispensable parties because a judgment voiding the Deed would affect their property rights. *Id.* On January 29, 2025, the trial court entered the Order, directing “that the motion is granted to the extent that the plaintiff is directed to join and serve all owners *within 60 days; if such is not possible*, then the action will be dismissed.” Trial Ct. Order, 1/29/25, Pls. Br., App. C (emphasis added).

I. Plaintiffs did not join the other owners. On February 26, 2025, Plaintiffs filed a notice of appeal from the Order.² On April 14, 2025, after the expiration of the 60 days allowed for joinder, Plaintiffs filed a “Praecipe to Enter Judgment,” directing the Prothonotary as follows: “Please enter judgment in favor of the Defendants pursuant to the January 29, 2025 Order of the Honorable Edward E. Guido In Re: Defendant’s Motion to Dismiss, sixty days having expired.” Original Record at 3389. The Prothonotary entered judgment and gave notice, *id.* at 3388, and on April 17, 2025, Plaintiffs filed a notice of appeal from the judgment.³ This Court *sua sponte* consolidated the appeals.

DISCUSSION

On appeal, Plaintiffs raise five issues for our review, though we address only the first, because it is dispositive: “Whether the lower court erred in finding that all

² This Court docketed that appeal at No. 272 C.D. 2025 and, on April 24, 2025, issued an Order directing the parties to address whether the January 29 Order is appealable.

³ This Court docketed Plaintiffs’ appeal of the judgment at No. 565 C.D. 2025.

owners of lots in Phase I of Southfield Crossing are indispensable parties[.]” Pls. Br. at 4.⁴

A. Jurisdiction

We must determine whether either appeal presents a final order subject to our review. Our April 24, 2025 Order directed the parties to address that question with respect to the Order. Both sides posit we have jurisdiction to review a final order here. Pls. Br. at 1; Defs. Br. at 1. However, their position does not bind us; we must quash the appeals if we conclude we lack jurisdiction. *See Lower Paxton Twp. v. Fieseler Neon Signs*, 391 A.2d 720, 721 (Pa. Cmwlth. 1978).

The Order granted Defendants’ motion to dismiss for lack of jurisdiction but, as we observed in our April 24, 2025 Order, it did not immediately dismiss the case or put Plaintiffs out of court, because it gave Plaintiffs an opportunity to cure the jurisdictional defect by joining the remaining Phase I owners. Unwilling to join those parties, and wishing to challenge the ruling that joinder was required, Plaintiffs acted to obtain a final and appealable order of dismissal by filing the praecipe directing the Prothonotary to enter judgment pursuant to the Order, after the 60 days expired.

The applicable rule, and our precedents, allow this procedure to be used to finalize a conditional order of dismissal. In *Ayre v. Mountaintop Area Joint Sanitary Authority*, 427 A.2d 1294 (Pa. Cmwlth. 1981), the trial court sustained preliminary objections but allowed 30 days to file an amended complaint. Plaintiffs appealed but this Court concluded the order was interlocutory. On remand, plaintiffs did not amend but stood on their original complaint and, after the time to amend expired,

⁴ The other four issues address the merits of the trial court’s orders disposing of various motions for summary judgment.

filed a “praecipe for judgment . . . directing the prothonotary to dismiss their complaint with prejudice.” *Id.* Plaintiff then appealed, and we exercised jurisdiction, holding the praecipe for entry of judgment “was required to establish an appealable order.” *Id.* at 1296-97 (citing Pa.R.A.P. 301(d)).⁵

Similarly, in *Hionis v. Concord Township*, 973 A.2d 1030 (Pa. Cmwlth. 2009), the trial court sustained preliminary objections without prejudice to the filing of an amended complaint, and Plaintiff appealed. *Id.* at 1032-33. We quashed the appeal because the order sustaining objections and granting leave to replead was interlocutory. *Id.* at 1034-35. However, we made clear plaintiff could file a praecipe to dismiss with prejudice and thereby “convert an interlocutory order into a final and appealable order.” *Id.* at 1035-36.

We applied the same principle again in *May v. Doe*, 269 A.3d 1286 (Pa. Cmwlth. 2022), in which plaintiff appealed an order that sustained a demurrer and allowed 30 days to file an amended complaint. *Id.* at 1288. We again quashed the appeal, *id.* at 1289, but, citing *Ayre* and *Hionis*, explained plaintiff could obtain an appealable order by filing a praecipe to dismiss with prejudice, *id.* at 1289 n.7.

In this case, as in *May*, *Hionis*, and *Ayre*, the trial court issued a conditional order dismissing the action but allowing plaintiff to cure the defect. As in those prior decisions, Plaintiffs chose to stand on their original filing and challenge the trial court’s ruling, and by filing a praecipe for entry of judgment based on the Order

⁵ Pennsylvania Rule of Appellate Procedure 301(d) requires “the clerk of the trial court . . . on praecipe of any party (except a party who by law may not praecipe for entry of an adverse order) . . . [to] forthwith prepare, sign and enter an appropriate order, judgment, or final decree in the docket, evidencing any action from which an appeal lies either as of right or upon permission to appeal or allowance of appeal.”

Plaintiffs “convert[ed the] . . . interlocutory order into a final and appealable order.” *Hionis*, 973 A.2d at 1035-36. Accordingly, we have jurisdiction over these appeals.

B. Failure to join indispensable parties

With the foregoing in mind, we now address whether the trial court erred in concluding that all Phase I owners were indispensable and, in turn, rendering the trial court without subject matter jurisdiction. Pls. Br. at 4. Specifically, the trial court determined the Deed conferred property rights upon all Phase I owners, and those rights would be extinguished if Plaintiffs secured an order declaring the Deed void, making the remaining owners indispensable. Trial Ct. Op., Apr. 11, 2025, at 4-5, Pl. Br., App. D.

The parties do not identify, and we do not discern in the record, any factual disputes material to whether the other owners are indispensable. Thus, only questions of law remain, as to which our scope of review is plenary and the standard of review is *de novo*. “This means we review the entire record on appeal, and we do not defer to the lower court when reaching our decision.” *Allegheny Cnty. Prison Emps. Indep. Union v. Allegheny Cnty.*, 313 A.3d 358, 367 (Pa. Cmwlth. 2024) (citing *Mercury Trucking, Inc. v. Pa. Pub. Util. Comm’n*, 55 A.3d 1056, 1082 (Pa. 2012)).

Summarily, Plaintiffs’ purpose in bringing the current lawsuit is to obtain a judicial order that would alter the property rights of all Phase I owners by eliminating their shared interest in the Common Areas with Phase II owners. Plaintiffs’ position is emphasized repeatedly on behalf of all Phase I owners, hence the request to nullify the Deed. This collective position is reflected in Plaintiffs’ filings, including a brief they filed in the trial court in support of their cross-motion for summary judgment and in opposition to Defendants’ motion for partial summary judgment, which states:

Any action that adds units to the Phase I homeowners' association, requires payment of association fees, or requires contribution to the upkeep of common areas . . . cannot be done without the consent of the owners of all lots in Phase I. *Property rights "cannot be repealed or altered without the consent of the parties whose interests are thereby impaired."*

R.R. at 208a (emphasis added) (quoting *Scheid v. Hotel Easton Co.*, 87 A.2d 227, 230 (Pa. 1952)). In their brief opposing summary judgment, Plaintiffs posit the Defendants "are restraining the *property rights of Phase I lot owners*, and . . . have no business doing so." R.R. at 370a. *See also id.* at 373a ("The actions taken by Defendant[s] in this case have created significant confusion and *clouds on title* [of Phase I lot owners] . . . Deeds and resale certificates have been issued with incorrect information . . ."); *id.* at 582a (Defendants' opposition to motion to dismiss asserts "Plaintiffs' requested relief does not alter the right of Phase I lot owners to use their properties as they please. To the contrary, *it frees their properties* from the obligations Defendants attempt to impose.") (all emphasis added).

Pennsylvania Rule of Civil Procedure 1032(b) provides that "[w]hensoever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter or that there has been a failure to join an indispensable party, the court shall order . . . that the indispensable party be joined, but if that is not possible, then it shall dismiss the action." Pa.R.Civ.P. 1032(b). Failure to join indispensable parties deprives the court of subject matter jurisdiction and requires dismissal. *Columbia Gas Transmission Corp. v. Diamond Fuel Co.*, 346 A.2d 788, 789 (Pa. 1975); *HYK Constr. Co. v. Smithfield Twp.*, 8 A.3d 1009, 1015 (Pa. Cmwlth. 2010). The absence of subject matter jurisdiction may be raised at any time by the parties or must be raised by the court *sua sponte*. *HYK Constr.*, 8 A.3d at 1015; *see* Pa.R.Civ.P. 1032 ("whensoever it appears" the court lacks subject matter jurisdiction

or there was a failure to join an indispensable party the court “shall” direct joinder or dismiss the action).

In undertaking the inquiry as to whether justice can be done in the absence of an indispensable party, “the nature of the claim and the relief sought must be considered.” *City of Phila. v. Cmwlth.*, 838 A.2d 566, 581 (Pa. 2003); *accord CRY, Inc. v. Mill Serv., Inc.*, 640 A.2d 372, 376 (Pa. 1994). The relevant analysis examines the following factors:

1. Do absent parties have a right or interest related to the claim?
2. If so, what is the nature of that right or interest?
3. Is that right or interest essential to the merits of the issue?
4. Can justice be afforded without violating the due process rights of absent parties?

Mechanicsburg Area Sch. Dist. v. Kline, 431 A.2d 953, 956 (Pa. 1981).

Here, Plaintiffs seek a judicial declaration that the Deed be deemed void from its inception. R.R. at 20a. Such relief directly impacts all Phase I owners’ interest in their property through the Common Areas in general, as well as the associated stormwater management system. As noted earlier, the Deed conveys title to the Common Areas to HOA I, and the bylaws for that association define “Common Area” as “all real property owned by the Association *for the common use and enjoyment of the Owners.*” *Id.* at 130a (art. 2.03) (emphasis added). Where litigation adversely affects an individual’s right to the use and enjoyment of his property, that party must be joined as an indispensable party. *Columbia Gas*, 346 A.2d at 789; *see*

also Pa. CONST. art. I, § 1.⁶ As such, the Phase I owners are indispensable parties who must be given an opportunity to participate and be heard in the litigation.⁷

Importantly, Plaintiffs' reliance on *Belleville v. David Cutler Group, Inc.* (Pa. Cmwlth., No. 284 C.D. 2013, filed January 3, 2014), is misplaced. In *Belleville*, our Court determined that property owners were not indispensable parties when the interest asserted was purely monetary. Here, the interest in question is the actual use and enjoyment of property, which is a constitutionally protected interest.

CONCLUSION

For the reasons stated above, we affirm the Order.

STACY WALLACE, Judge

President Judge Cohn Jubelirer did not participate in the decision of this case.

⁶ Article I, section 1 of the Pennsylvania Constitution provides:

All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

This section has been interpreted as affording property owners' rights comparable to the due process and equal protection rights under the Fourteenth Amendment of the United States Constitution, including the right to the use and enjoyment of their property provided they do not interfere with their neighbors' reasonable enjoyment of their properties and subject to reasonable regulations for the public good imposed under the police power of the state. *See Cmwlth. v. Nat'l Gettysburg Battlefield Tower, Inc.*, 302 A.2d 886, 887 (Pa. Cmwlth. 1973).

⁷ Based on our disposition of this issue, consistent with controlling case law, we need not address the alternative argument that the Declaratory Judgment Act required joinder of the other Phase I owners. *See* Defs. Br. at 20 (citing 42 Pa.C.S. § 7540(a)).

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Matthew Macias, Clarence Bouchat, and John Cookus,	:	CASES CONSOLIDATED
	:	
Appellants	:	
	:	
v.	:	Nos. 272 & 565 C.D. 2025
	:	
Southfield Crossing Homeowners Association, Inc., Southfield Crossing Homeowners Association II, Inc., Matthew Fritz, Adam Swalm, Lydia Stufft, Theresa O'Connor, and York H-G Properties, LLC	:	

ORDER

AND NOW, this 28th day of August 2026, the order entered by the Court of Common Pleas of Cumberland County, dated January 29, 2025, is **AFFIRMED**.

STACY WALLACE, Judge