

Rule 14 Land Use Appeals

(1) **Notice of Appeal – Content:** A land use appeal shall contain the following information:

(a) A caption in substantially the following form:

Name of Appellant	:	IN THE COURT OF COMMON PLEAS
	:	DAUPHIN COUNTY, PENNSYLVANIA
v.	:	
	:	No. _____
Name of municipality of name of body	:	
(i.e. zoning hearing board, governing	:	
body or planning commission) which	:	CIVIL ACTION - LAND USE APPEAL
rendered decision	:	

(b) When applicable, in separately numbered paragraphs and in the following order:

- (i) Name and address of the appellant.
- (ii) Name and address of the zoning hearing board, governing body or planning commission (“local agency”) which rendered the decision. If the local agency issued a written decision, appellant shall attach a copy of the written decision to the appeal notice.
- (iii) Name and address of the applicant to the local agency, if the applicant is not the appellant, and of all other persons or entities recognized as parties to the proceeding before the local agency.
- (iv) Name and address of the owners, both real and equitable, of any real estate which was the subject of the decision and a description sufficient to identify the real property.
- (v) The procedural history of the matter, including the following as applicable:
 - (a) Date of filing application or appeal with zoning officer or other official.
 - (b) Date of action of the zoning officer or other official.
 - (c) Date of appeal from action of zoning officer or other official to local agency or date of filing application with local agency.
 - (d) Dates of all hearings or meetings of the local agency.
 - (e) Date of written decision or, if applicable, date of deemed decision from which the appeal has been taken.
 - (f) Date written decision served.
- (vi) The basis for the Court’s jurisdiction of an appeal from the local agency’s decision.
- (vii) The basis for appellant’s standing to file the appeal.

- (viii) All specific legal and factual grounds for the appeal.
 - (ix) Specific request for relief from the Court.
- (2) **Service of the Land Use Appeal Notice.** Within seven (7) days of filing the land use appeal notice with the Prothonotary, appellant shall serve a copy of the land use appeal notice upon the local agency, the applicant before the local agency (if appellant was not the applicant), the legal and equitable owner of the real property which is the subject of the appeal and all other persons or entities recognized as parties to the proceedings before the local agency. Service upon the local agency's counsel and upon counsel for parties represented by counsel before the local agency shall be sufficient. Appellant shall file proof of service with the Prothonotary within three (3) days of making service.
- (3) **Transcript of Proceedings before the Local Agency.** If a court reporter was present and if a transcript is not already in existence, appellant's certification that appellant has ordered a transcript of the proceedings and has made satisfactory arrangements with the court reporter for payment. Upon receipt of the transcript, appellant shall provide the original transcript to the solicitor of the local agency to be filed with the record. If appellant does not include a certification that appellant has ordered the transcript, any other party may file a petition requesting the Court dismiss the appeal.
- (4) **No Answer to Land Use Appeal Notice.** No answer need be filed to a land use appeal notice. The grounds for the appeal set forth therein shall be deemed to be denied and at issue.
- (5) **Intervention**
- (a) A notice of intervention under Section 1004-A of the Pennsylvania Municipalities Planning Code, 53 P.S. §11004-A, shall contain:
 - (i) The caption and number of the appeal.
 - (ii) Name and address of intervenor
 - (iii) Nature of the interest of intervenor in the appeal
 - (iv) Legal and factual circumstances under which intervenor claims a right to intervene.
 - (v) Summary of intervenor's position and grounds therefor.
 - (b) Any person or entity who wishes to intervene in an appeal of a land use matter and who cannot intervene as a matter of right pursuant to Section 1004-A of the Pennsylvania Municipalities Planning Code, 53 P.S. Sec. 1104-A, shall file a petition to intervene pursuant to Pa.R.C.P. 2326 et seq. In addition to the information required by Pa.R.C.P. 2328, the petition shall contain:
 - (i) The caption and number of the appeal.
 - (ii) Name and address of intervenor

- (iii) Nature of the interest of intervenor in the appeal.
- (iv) Legal and factual circumstances under which intervenor claims a right to intervene.
- (v) Summary of intervenor's position and grounds therefor.

(6) Certiorari to the Local Agency

- (a) The local agency shall submit its entire record within twenty (20) days after receipt of the writ of certiorari or receipt of the transcript(s), whichever is later, including but not limited to:
 - (i) All original papers filed in chronological order, commencing with the application or appeal filed with the local agency.
 - (ii) Minutes of meetings of the local agency at which the application was considered.
 - (iii) The transcript of all hearings. The local agency shall not submit its record to the Prothonotary until appellant has provided the transcript of all hearings if the transcript is not in existence and available to the local agency prior to appellant's filing the appeal. In the event that the appellant has not provided the local agency with a transcript within forty-five (45) days of the filing of the appeal, the local agency shall submit its record to the Prothonotary with a certification that a transcript has not been provided and the reason.
 - (iv) The complete ordinance under which the local agency rendered its decision, including maps.
 - (v) All exhibits received or offered into evidence before the local agency.
 - (vi) The findings of fact and conclusions of law of the local agency, if any, and its written decision.
 - (vii) Names and addresses of all persons the local agency recognized as parties to the proceedings.
- (b) The chairperson, presiding officer, keeper of the records, or solicitor of the local agency shall certify the submission of the record.
- (c) The Prothonotary shall give notice of the return of the local agency's record to appellant who shall, within seven (7) days after receipt of the notice, notify the local agency, the applicant before the local agency (if appellant was not the applicant), the legal and equitable owner of the land which was the subject of the application, any intervenors in the appeal, and all other persons recognized as parties to the local agency's proceedings. Service upon the local agency's counsel and upon counsel for parties represented by counsel before the local agency shall be sufficient. Appellant shall file proof of notice with the Prothonotary within three (3) days of making service.

- (d) Contemporaneously with giving notice of the filing of the complete return of the record, the Prothonotary shall forward the appeal to Court Administration for assignment to a Judge of the Court of Common Pleas. Court Administration shall assign appeals to the judges on a rotating basis.

(7) **Disposition**

- (a) Within thirty (30) days after the Prothonotary gives notice of the filing of the complete return of the record, any party who believes the appeal is not ready for disposition may file an Administration Application for Status Conference pursuant to Local Rule 215.3. The application for a conference shall state why the party believes that the appeal is not ready for disposition and shall identify all actions that the party requests.
- (b) At the status conference, the Court may, inter alia:
 - (i) Require or approve supplementation of the record.
 - (ii) Schedule a time for a de novo hearing before the Court.
 - (iii) Employ expert(s) to aid the Court to frame an appropriate order.
 - (iv) Refer the appeal to a master to receive additional evidence, with directions as to time deadlines and other matters the Court deems appropriate.
 - (v) If allowed by law, remand the appeal to the local agency with directions as to time deadlines and other matters, including mediation.
- (c) After the conference, the Court shall issue an appropriate order addressing the filing of briefs.
- (d) If no party has filed an Administrative Application for Status Conference, the standard briefing schedule shall be as follows:
 - (i) The appellant shall file a brief within sixty (60) days after service of notice of the filing of the local agency's complete record. The appellant shall limit the brief to the issues appellant raised in the land use appeal.
 - (ii) Each other party shall file a responsive brief within thirty (30) days after service of appellant's brief.
 - (iii) The appellant, and any party which supports appellant's position, may file a reply brief within fifteen (15) days after service of the responsive brief.

Any party may thereafter file an original and one copy of a Certificate of Readiness with the Prothonotary. The Certificate of Readiness must indicate whether or not oral argument is requested by any party.

- (e) If appellant fails to file a brief within the time period established by Paragraph (7)(d) above or by the Court after a conference, and no other party files a brief in support of appellant's position, then any other party to the appeal may petition the Court for dismissal of the appeal. If appellee fails to file its brief within the

time period established by Paragraph (7)(d) above or by the Court after a conference, then the Court may consider appellee to have abandoned its position and proceed to dispose of the appeal on the merits upon the filing of a Certificate of Readiness.

- (8) **Appeal after Remand.** An appeal filed from a decision rendered by a local agency after a remand from this Court shall be filed and docketed to the original number. All other requirements of this rule shall apply to an appeal from a decision after remand.
- (9) **Supersedeas.** An appeal from a decision of a local agency shall not act as a supersedeas without special order of court. An appellant may file a motion for a supersedeas pursuant to the procedure set forth in Local Rule 208.3.