

## BY-LINED ARTICLE

# Township Solicitor Asks Court to Take Initiative Banning Drilling off the Ballot

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*Marcellus Shale Law and Policy Update*

Voters in Pennsylvania's Peters Township will never see a referendum banning oil and gas drilling if a Common Pleas judge sides with the township solicitor and blocks the question from appearing on the November ballot.

Township Solicitor William Johnson said the referendum violates two state laws, case law and even the state Constitution.

"This is so wrong on so many levels that it will end up costing the township millions in legal fees if this is approved in November," Johnson said.

Washington County Court of Common Pleas Judge Paul Pozonsky heard oral arguments concerning the referendum on September 28. Pozonsky said he will render a decision the week of October 2.

Citizens' group Marcellus Shale Awareness collected more than 2,500 signatures to get the question on the November ballot. The question amends the township's home rule charter and will be executed immediately if approved, Johnson said.

"The added danger to this is that question requires no approval or follow-up by the township council," Johnson said. "That means that zoning changes the councils put in place to restrict drilling to certain areas will be overturned. The irony is that it could leave the entire township open to drilling if a suit overturns the ban and we have no zoning laws restricting the drilling."

In August, the township council approved an ordinance with provisions that include restricting drilling to parcels of 40 acres or more along main roadways and requiring pre- and post-drilling tests on soil and water.

Johnson said it is legal for municipalities to contain certain industrial activities through changes in the zoning law. The proposed referendum, however, violates the state's Oil and Gas Act, as well as its Municipal Planning Code.

"Basically, landowners have rights to lease their property, and business—with reasonable safeguards in place—has a right to those minerals," Johnson said.

Peters Township lies on Allegheny County's southwest border. Median home prices in the township are more than \$330,000, compared with about \$125,000 for the rest of Washington County, according to census figures.

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