



COUNTY *of* LUZERNE
P E N N S Y L V A N I A
ESTABLISHED 1786
OFFICE OF THE CONTROLLER

Audit of
The Luzerne County
Magisterial District Court Leases
as of December 31, 2016

Michelle A. Bednar
Luzerne County Controller

Fieldwork Performed By:
Aaron A. Hojnowski

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Objective:

The objective of this audit was to analyze all leases for Luzerne County Magisterial District Court offices to ensure the leases were properly executed and paid accordingly.

Scope:

In reviewing the leases for the sixteen Magistrate District Judges (magistrates), the status (current or expired) of the leases was investigated. Additionally, if amounts were over or underpaid, action was taken to see that the errors were rectified.

Methodology:

During the course of this audit, the Controller's Office met with the County Solicitor's Office and was in communication with Court Administration regarding the leases and control structure.

Using the County's New World Financial System, the Controller's Office reviewed lease payments made for the magistrates' offices. Those payments were then compared to the costs as dictated by the respective leases. Also, the cost details as outlined in the leases were reviewed to determine whether or not they were in compliance with the Luzerne County Charter.

General Findings:

After receiving all magistrates' office leases from Court Administration and the Solicitor's Office, the Controller's Office found that not all leases are current. It shows there is a deficiency in operations, which exists when a person(s) performing a control function does not perform it effectively.

Below is a chart showing the status of all leases. The leases listed as expired do not have a renewal currently on file.

<u>District Court</u>	<u>Landlord</u>	<u>Status of Lease</u>
11-01-01 Judge Cronauer	FREEMAN REALTY INC.	Current
11-01-02 Judge Malloy	FREEMAN REALTY INC.	Current
11-01-03 Judge Zola	GRANDE INC.	Expired as of 03/31/2016
11-01-04 Judge Kravitz	PITTSTON CITY COUNCIL	Current
11-01-05 Judge Roberts	KINGSTON BORO COUNCIL	Expired as of 12/31/2015
11-01-06 Judge Barilla	LUZERNE COUNTY LCTA	Current
11-02-01 Judge Carmody	W PITTSTON BORO COUNCIL	Expired as of 12/31/2005
11-02-03 Judge Halesy	UFCW FEDERAL CREDIT UNION	Current
11-03-01 Judge Hasay	SHICKSHINNY BORO COUNCIL	Current
11-03-02 Judge Whittaker	CITY OF NANTICOKE	Expired as of 12/31/2005
11-03-03 Judge O'Donnell	NE REAL ESTATE DEVELOPMENT, LLC	Expired as of 08/31/2015
11-03-04 Judge Dixon	KRISHANI, LLC	Current
11-03-06 Judge Swank	WRIGHT TWP SUPERVISORS	Expired as of 12/31/2006
11-03-07 Judge Dotzel	CORGAN REALTY CO.	Expired as of 12/31/2007
11-03-08 Judge Spagnuolo	PLAINS AMBULANCE ASSOCIATION	Current
11-03-09 Judge Tupper	KINGSTON TOWNSHIP	Current

11-01-01 Magistrate Judge Cronauer

The lease for this office at 100 Hazle Street, Wilkes-Barre is **current**.

11-01-02 Magistrate Judge Malloy

In April 2016, the County terminated the original lease for Judge Malloy's 280 Sherman Street office in Wilkes-Barre, after the previous magistrate retired. The plan was to consolidate two magistrates' offices into one location, sharing a waiting room and support staff and ultimately reducing costs for the County. The new location is 100 Hazle Street, Wilkes-Barre, which houses both Magistrate Judges Malloy and Cronauer.

The rent savings from combining the offices was anticipated to be as follows:

	Office	Monthly Rent	Annual Rent
Before Combining Offices	Sherman Street office	7,886.74	94,640.88
	Hazle Street office	3,187.50	38,250.00
	Rent for two offices before combining	\$ 11,074.24	\$ 132,890.88
After Combining Offices	Sherman Street office	-	-
	Hazle Street office	7,079.00	84,948.00
	Rent for two offices after combining	\$ 7,079.00	\$ 84,948.00
	Savings from combining offices	\$ 3,995.24	\$ 47,942.88

Upon terminating the Sherman Street lease, Judge Malloy's office was charged an early termination fee of \$15,773.48, as agreed in the lease terms, and was given until April 30, 2016 to vacate the premises. However, proper planning had not occurred and the time needed to obtain Administrative Office of Pennsylvania Courts (AOPC) approval to relocate took longer than estimated. As a result, Judge Malloy was unable to move to the Hazle Street office until late August 2016, which resulted in the original Sherman Street lease becoming a month-to-month lease at \$8,872.58, an increase of \$985.84 per month.

If proper planning had occurred before the lease termination in April 2016, the County could have saved \$19,924.32, for the four-month transition period (May 1, 2016 through August 31, 2016), as calculated below:

Savings from combining offices (\$3,995.24 x 4 months)	\$ 15,980.96
Savings if hadn't had to pay increased Sherman St. rent (\$985.84 x 4 months)	\$ 3,943.36
Total Lost Savings, due to poor planning	\$ 19,924.32

Since the termination fee of \$15,773.48 was unavoidable, regardless of proper or improper planning, it was not included in the calculations.

Going forward, the new combined-office location will save the County \$3,995.24 per month or \$47,942.88 per year.

Note that the current location listed for Judge Malloy on the Luzerne County website has not been updated. The Controller's Office contacted the correct departments with regard to this error.

11-01-03 Magistrate Judge Zola

The lease for this office at City Hall Building, 615 East Broad Street, Hazleton, is not current, as it **expired 3/31/2016** and there is no renewal on file. The Controller's Office's review calculated a different rent payment for 27 months, totaling an additional \$8,103.99 owed to the property owner. However, it is possible that a new lease was negotiated. After contacting the landlord, we were unable to confirm this, due to unforeseen complications on the landlord's part.

11-01-04 Magistrate Judge Kravitz

The lease for this office at 35 Broad, Pittston is **current**.

11-01-05 Magistrate Judge Roberts

The lease for this office at Kingston Municipal Building, 500 Wyoming Avenue, Kingston **expired 12/31/2015** and no renewal is currently on file.

11-01-06 Magistrate Judge Barilla

The lease for this office at Swoyersville Borough Building, 675 Main Street, Swoyersville was terminated at the County's request on September 30, 2015, with the understanding that the County would vacate the facility on December 31, 2015 and relocate the court to a County-owned building, as a cost-saving measure. The court was moved to the Luzerne County Transportation Authority building in Kingston, but that change is not yet reflected on the County website.

11-02-01 Magistrate Judge Carmody

The lease for this office at West Pittston Municipal Building, 555 Exeter Avenue, W. Pittston **expired on 12/31/2015** and no renewal is currently on file.

11-02-03 Magistrate Judge Halesey

The lease for this office at 1460 Sans Souci Parkway, Hanover is **current**.

11-03-01 Magistrate Judge Hasay

The lease for this office at Shickshinny Municipal Building, 33 West Union Street, Shickshinny is **current**. However, in July 2016 this lease was inadvertently paid \$2,268.00, instead of the correct amount of \$1,500.00. Notification was made of this error and the December 2016 rent amount will be adjusted accordingly.

11-03-02 Magistrate Judge Whittaker

The lease for this office at 15 East Ridge Street, Nanticoke **expired on 12/31/2015** and no renewal is currently on file.

11-03-03 Magistrate Judge O'Donnell

The lease for this office at 5 South Main Street, Sugarloaf **expired on 8/31/2015** and no renewal is currently on file.

11-03-04 Magistrate Judge Dixon

The lease for this office at 789 Airport Road, 102 Sunset Beltway, Hazle Township is **current**.

11-03-06 Magistrate Judge Swank

The lease for this office at Wright Township Municipal Building, 321 South Mountain Boulevard, Wright Township **expired on 12/31/2006** and no renewal is currently on file.

11-03-07 Magistrate Judge Dotzel

The lease for this office at 240 Johnson, Wilkes-Barre Township **expired on 12/31/2007** and no renewal is currently on file.

11-03-08 Magistrate Judge Spagnuolo (formerly Magistrate Judge Malast)

The lease for this office at 62 Maffet Street, Plains was current and not due to expire until 12/31/2017. However, the Controller's Office learned that this lease was terminated early and the office was recently relocated to Plains Ambulance Association Building, 90 Maffet Street, Plains Township. This new lease was entered into on 12/30/2016 and began on 1/1/2017 for a term of two years. Therefore, it is **current** and is not due to expire until 12/31/2018. As of mid-January 2017, the relocation has not yet occurred.

11-03-09 Magistrate Judge Tupper

The lease for this office at 180 East Center Street, Shavertown is **current**. However, it was discovered that the rent was underpaid by \$112.87 per month. This oversight has been corrected and the property owner will be compensated for the difference.

Conclusion:

In closing, nine of the sixteen magistrate leases are up to date. Additionally, one case was confirmed to have been overpaid and two others are potentially being underpaid.

Since the leases are not being stored properly with the most current information, it was extremely time consuming locating the files that we did obtain. Also, while initially many files appeared to be complete, investigation showed that they were outdated and did not include renewals to make the information current and accurate.

The Controller's Office has determined that the responsibilities regarding the Magisterial District Court facilities are as follows:

- Court Administration is responsible for all aspects of the building, including finding the location, coordinating approval with AOPC, releasing an RFP, and notifying the Solicitor's Office. Additionally, they should monitor and identify when a negotiation should begin on a new lease.
- Solicitor's Office negotiates and reviews the contract, puts a resolution to County Council, serves the executed lease to the lessor, provides a copy of the lease to Court Administration, and posts a copy of the lease on the County website.
- County Council passes the resolution to enter into the lease, thereby approving the action.
- County Manager signs the lease, since the lease is between the property manager and the County.

Recommendation:

- Condition: Magistrate lease information is not being retained properly.
- Criteria: A current listing of all lease details, including costs and terms, should be kept on file.
- Cause: No department claimed responsibility with regard to maintaining a current, updated file of the magistrate leases.
- Effect: Incorrect rent payments have been made and expired leases exist.
- Recommendation: A copy of each lease should be kept, in both hard and soft copy form, at both the Court Administration Office and the County Solicitor's Office. Furthermore, a yearly review of the leases and rent payments should be conducted to ensure the leases are in order.

Please Note:

Luzerne County Home Rule Charter: Section 3.08 (C.) 3.


The audited entity shall respond in writing, specifying agreement with the audit findings and/or recommendations or the reasons for disagreement with the findings and/or recommendations, along with any plans and timetable for implementing remedies. The response shall be provided to the Controller within 14 days after the audited entity's receipt of the draft audit. The Controller shall include the audited entity's response in his/her final audit report.

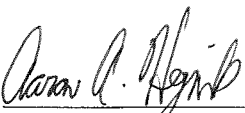
Fourteen Days from the Audit date, as amended, is: February 2, 2017

Please attach any additional written responses to the audit.

**Signature Page
Magisterial Lease Audit
2016**

Controller's Office:



Michelle A. Bednar Date
Controller

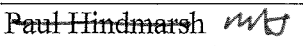

Aaron A. Hojnowski Date
Deputy Controller

County Manager's Office:

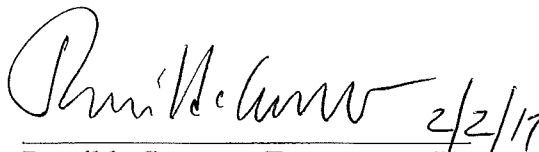

David Pedri Date
Luzerne County Manager

Court Administration:


Michael Shucosky Date
Court Administrator


~~Paul Hindmarsh Date~~
~~Deputy Court Administrator~~

Solicitor's Office:


Romilda Crocamo, Esq. Date
Chief County Solicitor

Phone (570)-825-1596
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OFFICE OF COURT ADMINISTRATION

COURT OF COMMON PLEAS

LUZERNE COUNTY COURTHOUSE
200 NORTH RIVER STREET
WILKES-BARRE, PENNSYLVANIA 18711

January 12, 2017

To: Michelle Bednar, Controller

From: Michael Shucosky, Court Administrator

Re: Clarification of audit conclusion and recommendation of the Luzerne County
Magisterial District Court Leases (2016)

Dear Ms. Bednar,

While we do not dispute nor disagree with the findings contained within the audit conducted of the Luzerne County Magisterial District Leases, we wish to provide some clarifications as to the conclusion reached by your office wherein the Controller's Office has determined that Court Administration is responsible for the timely upkeep and recordkeeping of the said leases and the Solicitor's Office is responsible for lease negotiations.

As directed by Title 42 Pa. Code Chapter 15 Section 1514: "The governing body of the county shall establish an office or offices for each Magisterial District Judicial District at such locations within the county as may be approved by the President Judge of the Court of Common Pleas of the Judicial District in compliant with general rules."

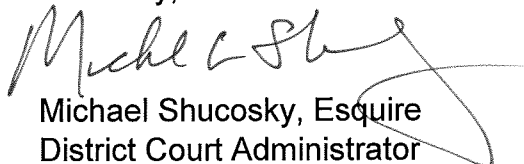
Accordingly, the County or their designee, in this case, the Solicitors Office's should be responsible for the timely upkeep and record keeping of all Magisterial District Court leases to ensure that these records are updated and accurately maintained in a timely manner. As always, Court Administration will work with cooperatively with the County as they wish to review the leases for these offices.

1/12/2017

Page 2.

Should you have any questions, please contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Shucosky". The signature is fluid and cursive, with a large loop at the end of the last name.

Michael Shucosky, Esquire
District Court Administrator

MAS/sh

Cc: Honorable Richard M. Hughes, III
David Pedri, Esquire, Luzerne County Manager
Romilda Crocamo, Luzerne County Solicitor

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C. DAVID PEDRI, ESQUIRE

CHIEF COUNTY SOLICITOR
ROMILDA P. CROCAMO, ESQUIRE

COUNTY of LUZERNE
P E N N S Y L V A N I A
E S T A B L I S H E D 1 7 8 6

February 2, 2017

Michelle Bednar
Luzerne County Controller

VIA EMAIL AND IN HOUSE MAIL

Re: Audit of Luzerne County Magisterial District Court Leases

Dear Madam Controller:

We are in receipt of the revised Audit of Luzerne County Magisterial District Court Leases.

Pursuant to Pennsylvania Rule of Judicial Administration, Rule 605, Supervision of Magisterial District Courts by President Judge, matters involving Magisterial District Courts fall the under the purview of the Courts. County administration will continue to cooperate and offer assistance to the Luzerne County Court of Common Pleas in processing the Magisterial District Court leases.

Thank you for the time and attention you have given this matter.

Sincerely,

C. David Pedri, Esquire
County Manager
Luzerne County Executive Office
200 North River Street
Wilkes-Barre, PA 18711
570.825.1635 (phone)

cc: Edmund O'Neill, Director of Operational Service
Romilda Crocamo, Esq., Chief Solicitor
Michael Shucosky, Esq., Court Administrator
Paul Hindmarsh, Court Administration

Audit of the Luzerne County
Magisterial District Court Leases

This report was distributed to the following:

Mr. David Pedri	Luzerne County Manager
Mr. Michael Shucosky	Court Administrator
Mr. Paul Hindmarsh	Deputy Court Administrator
Ms. Romilda Crocamo, Esq.	Chief County Solicitor
Ms. Linda McClosky Houck	County Council Chair

This report is a matter of public record and is available online at <http://www.luzernecounty.org>, found under Audit Reports on the Luzerne County Controller's section of the website. A hardcopy is also available at the Luzerne County Controller's Office. Media questions about the report may be directed to the Luzerne County Controller's office at 20 North Pennsylvania Blvd., Suite 213, Wilkes Barre, PA 18701 or via email to Controllers.Office@luzernecounty.org.