

ALLEGHENY COUNTY HEALTH DEPARTMENT
HEARING OFFICER

DALILI T. HALL	:	In re: 7825 Kelly Street
	:	
Appellant	:	Docket No.: ACHD 23-009
	:	
v.	:	
	:	
ALLEGHENY COUNTY HEALTH	:	
DEPARTMENT	:	
	:	
Appellee.	:	

**APPELLEE ALLEGHENY COUNTY HEALTH DEPARTMENT'S
MOTION TO DISMISS**

AND NOW comes Appellee Allegheny County Health Department (“Appellee,” “ACHD,” or the “Department”) and files this Motion to Dismiss Appellant Dalili T. Hall’s Notice of Appeal of Department’s Penalty Assessment Warning (the “PAW”), and, in support thereof, presents as follows:

1. On December 20, 2022, Department transmitted a Notice of Violation (the “NOV”) to Appellant, apprising her of Violations of its Article VI Rules and Regulations pertaining to Housing and Community Environment (“Article VI”) at certain leased property owned by her and located at 7825 Kelly Street, Pittsburgh, PA 15208 (the “subject property”). Exhibit A.
2. The NOV set a re-inspection date of December 27, 2022 for the emergency violations included therein and January 8, 2023 for all others. Exhibit A.
3. On January 9, 2023, the Department sent a PAW pertaining to the emergency violations stating that a January 3, 2023 follow-up inspection had found the emergency violations had not been corrected. Exhibit B.
4. The PAW stated that if the condition was not abated by January 16, 2023, a civil penalty would be levied. Exhibit B.

5. On January 20, 2023, Appellant transmitted proof that she had sold the property on January 11, 2023 ACHD Environmental Health Specialist, Jeff O'Brien. Exhibit C.

6. On February 9, 2023, Appellant submitted her Notice of Appeal of the PAW. Exhibit D.

7. Section 1108.1 of Article XI of ACHD's Rules and Regulations pertaining to Hearings and Appeals states:

The Department, an appellee-intervenor, or the permittee in a third party appeal, may file a motion to dismiss the appeal. The Director or Hearing Officer shall evaluate motions to dismiss in the light most favorable to the appellant, and may only grant the motion against the appellant when there are no material facts in dispute and appellant is incapable of demonstrating a right to relief with respect to issues raised by the moving party.

Art. XI § 1108.1.

8. Generally, a Court "will dismiss an appeal as moot unless an actual case or controversy exists at all stages of the judicial or administrative process." *Consol Pennsylvania Coal Co., LLC v. Department of Environmental Protection*, 129 A.3d 28, 38-39 (Pa.Cmwlth. 2015) (quoting *Horsehead Resource Development Co. v. Department of Environmental Protection*, 780 A.2d 856, 858 (Pa.Cmwlth.2001)).

9. Such controversy must be real and affect a party "in a concrete manner so as to provide a factual predicate for reasoned adjudication, with sufficiently adverse parties to sharpen the issues for judicial resolution." *Id.* (quoting *City of Philadelphia v. Southeastern Pennsylvania Transportation Authority (SEPTA)*, 937 A.2d 1176, 1179 (Pa.Cmwlth.2007)).

10. In the instant action, no such controversy exists as no penalty was levied and the Department is no longer positioned to do so against Appellant given that they no longer own the property in question.

11. For instance, in its PAW, the Department alleges violations of Sections 622 and 624 of Article VI. Exhibit B.

12. Section 621 of Article VI states that “[t]he responsibility for compliance with the applicable requirements of Sections 622 through 625 shall be upon the owner.” Art. VI § 621.

13. Appellant sold the property, no longer owns the property and hence is not responsible for these violations.

14. Furthermore, the Department also alleges violations of Sections 628, 629, 630, 631, and 632 of Article VI. Exhibit B.

15. Section 626 of Article VI states that “[e]xcept as provided in Section 629, the responsibility for compliance with the applicable requirements of Sections 627 through 635 shall be upon the owner or operator. Art. VI § 626.

16. The exceptions listed in Section 629 are not relevant here.

17. Appellant sold the property, no longer owns the property, has no apparent part in operating the property and hence is not responsible for these violations.

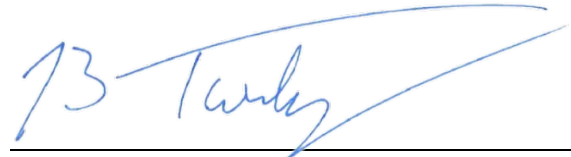
18. Finally, the Department alleges violations of Sections 650 and 652 of Article VI. Exhibit B.

19. Remediating Sections 650 and 652 would require care and control over the subject property. Art. VI §§ 650, 652.

20. Appellant sold the subject property and hence cannot make the necessary repairs, nor are they responsible for making such repairs.

Wherefore, Appellee respectfully requests that the Hearing Officer enter an order dismissing Appellant's Appeal.

Date: February 21, 2023



Brendan Turley, Esq.,
Pa. Id. No.: 326538
Allegheny County Health Department
301 39th Street
Pittsburgh, PA 15201-1811
Email: brendan.turley@alleghenycounty.us
Telephone: (412) 578-8398

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

Ms Dalili Hall
102 Urban Drive
Verona PA 15147

December 20, 2022

RE : SR# HCE-20221212-5560

Property 7825 KELLY STREET
Address : Pittsburgh, PA 15208
Census Tract : 31304

Dear Ms Hall:

An inspection of the property listed above was conducted on 12/20/2022 by Angela Wilson. The following violations of Article VI, "Housing and Community Environment," were verified at that time. Attached is an inspection report listing these violations.

1 Checked Emergency Class 1 violation(s) exist(s). A Class 1 violation is defined as a condition which poses a real and immediate threat to life, health and safety of the occupant. These violations are to be corrected by 12/27/2022 for checked emergency.

2 Class 3 violation(s) exist(s). A Class 3 violation is defined as a condition which represents an actual or potential health hazard or nuisance. These violations are to be corrected by 01/08/2023 .

9 Class 4 violation(s) exist(s). A Class 4 violation can contribute to substandard housing, but is not used to determine fitness for human habitation. These violations are to be corrected by 01/08/2023 .

The above conditions qualify the property as eligible for Rent Withholding. See attached eligibility letter.

Failure to comply will result in a complaint filed before the Magistrate and/or civil penalties. Under Section 660, should the dwelling become vacant prior to correction of these violations, the dwelling must be inspected and corrections verified by this Department prior to reoccupancy.

Pursuant to Article XI entitled "Hearings and Appeals," you are hereby notified that you have thirty (30) days after issuance of this written notice to file an appeal. The appeal shall be made in writing and must set forth with particularity all issues to be raised. The notice of appeal shall be submitted to the Allegheny County Health Department, Office of the Director, 542 4th Ave, Pittsburgh, Pennsylvania 15219. In the event that an appeal is not filed within thirty (30) days after issuance of this written notice, the within action shall become final. If you have any questions, you may contact this office at (412)350-4046.

Sincerely,

Angela Wilson
Environmental Health Specialist II

AW:Kd

Attachment

cc: Occupant

FILE COPY
DEC 20 2022



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
HOUSING & COMMUNITY ENVIRONMENT PROGRAM
3190 SASSAFRAS WAY (NEAR 32ND ST. AT LIBERTY AVE.)
PITTSBURGH, PA 15201-1443
PHONE: 412.350.4046 • FAX: 412.350.2792
WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



Allegheny County Health Department

Inspection Report - Complaint Housing

SR#: HCE-20221212-5560

Owner Violations

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 1 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : December 20, 2022 Time : 09:00

Contacts:

Ms SHEENA DAVIS Tenant
7825 Kelly Street
Pittsburgh , PA 15208

Ms MALAIKA HALL Owner
12400 Great Park Circle Apt 201
Germantown , MD 20876

(412) 612-6371

(301) 523-6469

Listed below are the Article 6 violations that require corrective action :

No Specific Level

House

Section 630 001 (O)(D)

Class 1

Location : None

Violation Status : **First**

Violation : No water supplied to dwelling unit.

Remedy : Provide piped, running, potable water to dwelling.

EMERGENCY

No Specific Level

House

Section 628 A 043 (O)(D)

Class 4

Location : None

Violation Status : **First**

Violation : Missing coverplate(s) on electrical convenience outlet(s).

Remedy : Provide coverplate(s).

Comments : Missing coverplates in the following locations:

- Living Room rear wall
- Right Bedroom rear room 2nd Floor
-
-

No Specific Level

House

Section 631 003 (O)(D)

Class 3

Location : None

Violation Status : **First**

Violation : No hot water to dwelling unit.

Remedy : Provide hot water of at least 110 degrees Fahrenheit to all fixtures as required.

Comments : No water supplied resulting in no hot water

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 1 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : December 20, 2022 Time : 09:00

No Specific Level

House

Section 622 049 (O)(S)

Class 4

Location : Right

Violation Status : **First**

Violation : Damaged and/or unsecured downspout(s).

Remedy : Repair/replace.

Comments : Downpout on right side of house not secured nor connected to a drainage system

Below Ground Level

Basement

Section 629 A 082 (O)(D)

Class 4

Location : None

Violation Status : **First**

Violation : Clogged or dirty furnace filter.

Remedy : Provide clean filter.

Comments : Missing filter

1st Floor

Living Room

Section 628 A 044 (O)(D)

Class 4

Location : Wall

Violation Status : **First**

Violation : Cracked, broken or damaged coverplate(s) on electrical convenience outlet(s).

Remedy : Replace.

Comments : Left wall behind TV outlet coverplate damaged

1st Floor

Living Room

Section 629 A 049 (O)(D)

Class 4

Location : None

Violation Status : **First**

Violation : Thermostat in disrepair: furnace/boiler.

Remedy : Repair/replace.

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 1 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : December 20, 2022 Time : 09:00

1st Floor

Entrance

Section 624 027 (O)(D)

Class 4

Location : None

Violation Status : **First**

Violation : Exterior door(s) not weathertight.

Remedy : Repair, seal gaps.

Comments : Front and rear doors not weather tight.

1st Floor

Kitchen

Section 632 A 093 (O)(D)

Class 3

Location : None

Violation Status : **First**

Violation : Missing sink faucet(s)/knob(s)/sprayer.

Remedy : Repair or replace.

Comments : Missing faucet handle in kitchen

1st Floor

Kitchen

Section 652 012 (O)(D)

Class 4

Location : None

Violation Status : **First**

Violation : Minor rodent infestation.

Remedy : Exterminate using licensed pesticide treatment person/company. Remove food sources, harborage areas, and eliminate entries.

Comments : Droppings seen in cabinet left of rear door in kitchen

OWNER RESPONSIBLE DUE TO ENTRY POINTS

1st Floor

Hallway

Section 629 A 054 (O)(D)

Class 4

Location : None

Violation Status : **First**

Violation : Broken, damaged, or missing register cover(s).

Remedy : Provide, repair, or secure as needed.

Comments : Entrance hallway register cover not secured

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 1 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : December 20, 2022 Time : 09:00

2nd Floor

Bedroom, Left

Section 650 A 007 (O)(D)

Class 4

Location : Closet

Violation Status : **First**

Violation : Opening(s) in wall permits rodent or other animal entry.

Remedy : Eliminate opening(s).

Comments : Holes found in left bedroom closet which could permit rodent entry
OWNER RESPONSIBLE DUE TO ENTRY POINTS

----- END OF REPORT -----

All Violations Verified by the Inspector : _____

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

Ms Dalili Hall
102 Urban Drive
Verona PA 15147

January 9, 2023

RE : SR# HCE-20221212-5560

Property 7825 KELLY STREET
Address : Pittsburgh, PA 15208
Census Tract : 31304

Dear Ms Hall:

Re: Violation of Section(s) 630 of Article VI Allegheny County Health Department Rules and Regulations entitled Houses and Community Environment at the above mentioned property.

You are hereby notified that you are in violation of Section(s) 630 of Article VI of the Allegheny County Health Department Rules and Regulations. Said violations, see inspection report dated 01/03/2023 occurred on or about 12/20/2022 and continue to the present time.

On behalf of the Director of the Allegheny County Health Department, it is hereby ordered that you shall abate the above situation by 01/16/2023. In the event that the condition is not abated by 01/16/2023, you are hereby notified that the Department is authorized to levy a civil penalty of up to \$10,000.00 for the violation of the within sections. In the event that violations are not corrected by the next compliance date, an additional civil penalty of up to \$2,500.00 per day may be levied.

Pursuant to Article XI entitled "Hearings and Appeals," you are hereby notified that you have thirty (30) days after issuance of this written notice to file an appeal. The appeal shall be made in writing and must set forth with particularity all issues to be raised. The notice of appeal shall be submitted to the Allegheny County Health Department, Office of the Director, 542 4th Ave, Pittsburgh, Pennsylvania 15219. In the event that an appeal is not filed within thirty (30) days after issuance of this written notice, the within action shall become final.

If you have any questions regarding this matter, you may feel free to contact the undersigned at 412-350-4046.

Sincerely,

Jeff O'Brien
Environmental Health Supervisor
JOB:Kd
Attachment
cc: Occupant

m FILE COPY

JAN 09 2023



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
HOUSING & COMMUNITY ENVIRONMENT PROGRAM
3190 SASSAFRAS WAY (NEAR 32ND ST. AT LIBERTY AVE.)
PITTSBURGH, PA 15201-1443
PHONE: 412.350.4046 • FAX: 412.350.2792
WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



Allegheny County Health Department

Inspection Report - Complaint Housing

SR#: HCE-20221212-5560

Owner Violations

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 2 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : January 3, 2023 Time : 09:00

Contacts:

Ms SHEENA DAVIS Tenant
7825 Kelly Street
Pittsburgh , PA 15208

Ms MALAIKA HALL Owner
12400 Great Park Circle Apt 201
Germantown , MD 20876

(412) 612-6371

(301) 523-6469

Listed below are the Article 6 violations that require corrective action :

No Specific Level

House

Section 630 001 (O)(D)

Class 1

Location : None

Violation Status : **EMERGENCY Remains**

Violation : No water supplied to dwelling unit.

Remedy : Provide piped, running, potable water to dwelling.

No Specific Level

House

Section 628 A 043 (O)(D)

Class 4

Location : None

Violation Status : **No Access**

Violation : Missing coverplate(s) on electrical convenience outlet(s).

Remedy : Provide coverplate(s).

Comments : Missing coverplates in the following locations:

- Living Room rear wall
- Right Bedroom rear room 2nd Floor
-
-

No Specific Level

House

Section 631 003 (O)(D)

Class 3

Location : None

Violation Status : **No Access**

Violation : No hot water to dwelling unit.

Remedy : Provide hot water of at least 110 degrees Fahrenheit to all fixtures as required.

Comments : No water supplied resulting in no hot water

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 2 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : January 3, 2023 Time : 09:00

No Specific Level

House

Section 622 049 (O)(S) Class 4

Location : Right

Violation Status : **No Access**

Violation : Damaged and/or unsecured downspout(s).

Remedy : Repair/replace.

Comments : Downspout on right side of house not secured nor connected to a drainage system

Below Ground Level

Basement

Section 629 A 082 (O)(D) Class 4

Location : None

Violation Status : **No Access**

Violation : Clogged or dirty furnace filter.

Remedy : Provide clean filter.

Comments : Missing filter

1st Floor

Living Room

Section 628 A 044 (O)(D) Class 4

Location : Wall

Violation Status : **No Access**

Violation : Cracked, broken or damaged coverplate(s) on electrical convenience outlet(s).

Remedy : Replace.

Comments : Left wall behind TV outlet coverplate damaged

1st Floor

Living Room

Section 629 A 049 (O)(D) Class 4

Location : None

Violation Status : **No Access**

Violation : Thermostat in disrepair: furnace/boiler.

Remedy : Repair/replace.

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 2 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : January 3, 2023 Time : 09:00

1st Floor

Entrance

Section 624 027 (O)(D)

Class 4

Location : None

Violation Status : **No Access**

Violation : Exterior door(s) not weathertight.

Remedy : Repair, seal gaps.

Comments : Front and rear doors not weather tight.

1st Floor

Kitchen

Section 632 A 093 (O)(D)

Class 3

Location : None

Violation Status : **No Access**

Violation : Missing sink faucet(s)/knob(s)/sprayer.

Remedy : Repair or replace.

Comments : Missing faucet handle in kitchen

1st Floor

Kitchen

Section 652 012 (O)(D)

Class 4

Location : None

Violation Status : **No Access**

Violation : Minor rodent infestation.

Remedy : Exterminate using licensed pesticide treatment person/company. Remove food sources, harborage areas, and eliminate entries.

Comments : Droppings seen in cabinet left of rear door in kitchen

OWNER RESPONSIBLE DUE TO ENTRY POINTS

1st Floor

Hallway

Section 629 A 054 (O)(D)

Class 4

Location : None

Violation Status : **No Access**

Violation : Broken, damaged, or missing register cover(s).

Remedy : Provide, repair, or secure as needed.

Comments : Entrance hallway register cover not secured

Property Address : **7825 Kelly Street , Pittsburgh 15208**

Inspection # 2 Census Tract : 31304 Property Type : (Single-Family Units)

Inspector : Angela Wilson Inspection Date : January 3, 2023 Time : 09:00

2nd Floor

Bedroom, Left

Section 650 A 007 (O)(D)

Class 4

Location : Closet

Violation Status : **No Access**

Violation : Opening(s) in wall permits rodent or other animal entry.

Remedy : Eliminate opening(s).

Comments : Holes found in left bedroom closet which could permit rodent entry
OWNER RESPONSIBLE DUE TO ENTRY POINTS

----- **END OF REPORT** -----

All Violations Verified by the Inspector : _____

- GENERAL INFORMATION
- BUILDING INFORMATION
- TAX INFO eBILL / ePAY
- OWNER HISTORY
- IMAGE
- COMPARABLES
- APPEAL STATUS
- MAPS

Parcel ID : 0174-S-00038-0000-00 Property Address : 7825 KELLY ST PITTSBURGH, PA 15208	Municipality : 113 13th Ward - PITTSBURGH Owner Name : HALL MALAIKA
--	--

School District :	Pittsburgh	Neighborhood Code :	11303
Tax Code :	Taxable	Owner Code :	Regular
Class :	Residential	Recording Date :	1/20/2023
Use Code :	SINGLE FAMILY	Sale Date :	1/11/2023
Homestead* :	No	Sale Price :	\$1
Farmstead :	No	Deed Book :	19185
Clean And Green	No	Deed Page :	579
Other Abatement :	No	Lot Area :	5,492 SQFT

* If this property had a recent sale or deed change the 'YES' that is showing may apply to the prior owner.
 New owners wishing to receive the abatement must apply.
 The deadline to apply is March 1st of each year.
 Details may be found on the [County's abatement page](#) .

Dalili T. Hall

102 Urban Drive

Verona, PA 15147

(412) 243-7858

February 09, 2023

HAND-DELIVERED

Allegheny County Health Department
Office of the Director
542 4th Avenue
Pittsburgh PA 15219



RE: SR# HCE-20221212-5560; property at 7825 Kelly Street; Pittsburgh PA 15208

Dear Director Bogen and Jeff O'Brien, Environmental Health Supervisor,

Please consider this correspondence as my **written appeal** of the January 9, 2023, letter from your office, ordering abatement of the situation at the above-listed property.

The resident at the above-listed property, Ms. Sheena Davis, has been severely and chronically delinquent with rent payments, and simply failed in many of the payments, over an extended period of time; thousands and thousands of dollars worth of still outstanding rent. Ms. Davis has been in the property for the past few years, as a courtesy, particularly given all her various issues, conditions and hardships, and more significantly, as a favor to her deceased Mother. I have tried, excessively and to my own detriment to work with Ms. Davis and support her to remain in the property, so she and her child would have somewhere to live. I have over-extended myself offsetting her rent, and paying other property related expenses to the point where I could no longer continue to financially carry Ms. Davis. Despite that Ms. Davis has repeatedly promised to move out of the property, she has not done so. I have no capacity to continue to incur bills and costs on her behalf, with no realistic likelihood of ever recovering those costs. I also do not want to incur the damage to my credit that goes along with continued delinquencies waiting to see when or if she vacates the property. Because I am so financially over-extended with this situation, I cannot afford the costs associated with investing work in the property.

Furthermore, it was recently brought to my attention that Ms. Davis, her family, friends and visitors have been particularly horrible neighbors. The surrounding neighbors, like me, had been trying excessively to extend grace to Ms. Davis, both as a favor to me, and because they could see that she is immature, struggling and seemingly lacking in many of the characteristics that go along with being well-raised and socialized.

Sadly, the situation deteriorated to the point of proceeding to an eviction process which local District Justice Cooper granted in January 2023, and Ms. Davis, with the support of Neighborhood Legal Services, has an appeal pending. Upon my advising Ms. Davis of my intentions and formally initiating the eviction process, in December 2022, Ms. Davis then pursued her complaint with your office. And now, your office has generated all of this additional process and cost and potential fines and threat of loss of the property to accommodate someone who has already taken extreme advantage. When most recently viewed, about a week and ½ ago, the property will basically need to be gutted and totally refreshed, despite that when Ms. Davis moved into the property, it was in very nice, very livable condition. At this point, that is hard to envision, since she has torn up, torn down, run down and damaged the property so badly that I do not have the finances to do all that needs to be done and all that I would like to have done. Every item listed in your "Inspection Report," and more, has evolved while Ms. Davis has resided in the property.

In light of the requirements and timetable set by your agency, I have in somewhat of a panic, sold the property, since I cannot comply with what your office has set forth. I am deeply disappointed and frustrated that I have taken such a loss, under such circumstances. This has been a life lesson in *"no good deed goes unpunished."*

It is my hope that your agency will relieve me of any further burden or responsibility for carrying Ms. Davis, providing a place for her to live or repairing property that she has damaged, destroyed and not paid for. It is also my hope that you will give the new property owner an opportunity to have Ms. Davis formally and officially removed from the property, since the new owner does not have the history or burden of "relationship" with Ms. Davis, that I so unsuccessfully navigated. It is my understanding that the new property owner will need some reasonable period of time to do a quality renovation of the property to their own satisfaction and at their own financial pace.

Thank you for what I hope will be your favorable consideration of this situation. Please let me know what the options are for next steps.

Respectfully,



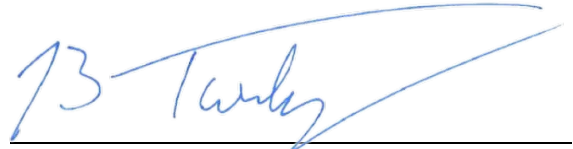
Dalili T. Hall

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Motion to Dismiss** was served by electronic mail this 21st day of February, 2023, as follows:

Dalili T. Hall
102 Urban Drive
Verona, PA 15147
(412) 243-7858

Date: February 21, 2023



Brendan Turley, Esq.,
Pa. Id. No.: 326538
Allegheny County Health Department
301 39th Street
Pittsburgh, PA 15201-1811
Email: brendan.turley@alleghenycounty.us
Telephone: (412) 578-8398