

Attorney, solicitor offer some insight into gas drilling

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Recently John Smith of Southpointe based Smith Butz Law offered suggestions for residents and municipalities to consider:

- "If you own your surface and do not own your gas you have issues. Gas companies do not need your permission to drill absent some protections in an individual's chain of title. Unless the gas owner that leases gas protects the surface owner in the lease, there is an implied right under Pennsylvania law to use the surface to produce the gas. There is very little surface owners can do to protect themselves. There are various surface owners rights groups that have been formed in an attempt to seek changes to Pennsylvania law, but as of now, pursuant to the Pennsylvania Oil and Gas Act, a gas company can drill a Marcellus well within 200 feet of a residential structure without the permission of the surface owner who doesn't own their gas. The PaDEP has a process in place set forth in the Oil and Gas Act at 58 P.S. ss. 601.202,205 where a homeowner can object to the placement of a well at the permitting stage, but the reasons for objections are limited. Non-gas owning surface owners have little choice but to seek protections by way of new legislation at the local and state levels of government to assist them in protecting their land."
- "Like most communities, Cecil Township has a number of concerns regarding Marcellus Gas Drilling activities. With the understanding that the Pennsylvania Oil and Gas Act preempts local municipalities from passing legislation relative to the technical aspects of drilling, the Cecil Board of Supervisors put into place an ordinance that provides for various conditions base on "where" the companies drill. As a result of Cecil's ordinance, sound walls surround the drill sites, citizens are provided advanced notice of drilling activities by way of public hearing, companies are required to work with first responders, including, fire, police and ambulance with site orientation, 24-hour security at the site is in place as well as various fencing and warning requirements, to name a few of the pertinent conditions. The greatest environmental concerns of the township, include the fracturing "Frac" fluids that are used, and at times, housed on the drill site. Other than location and fencing requirements, these issues appear to be outside of the Township's reach. Cecil has also introduced legislation that will require bonding of their roadways and due to concerns about mine subsidence and related issues, will pass in August a "Seismic Testing" ordinance that will provide for greater oversight and protections from seismic testing activities. The location of Compressor Stations and Processing Plants, are of an environmental concern and the township has enacted legislation that limits the zoning districts where these uses are authorized, only if, in the board's discretion, appropriate safeguards can be met to minimize and/or eliminate any and all damaging effects on neighboring property owners." Copyright Observer Publishing Co.