



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD



WTA PROPERTIES, LLC

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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EHB Docket No. 2025-100-BP

Issued: January 7, 2026

**OPINION AND ORDER ON DISMISSAL OF APPEAL FOR
FAILURE TO OBTAIN COUNSEL**

By Paul J. Bruder, Jr., Judge

Synopsis

The Environmental Hearing Board (“Board”) dismisses the current appeal pursuant to 25 Pa. Code § 1021.161 as a sanction for Appellant’s failure to communicate with the Board or obtain counsel in violation of Board Orders, Board Rules of Practice and Procedure, and Pennsylvania law.

OPINION

Background

In this appeal, WTA Properties, LLC (“Appellant”) challenges the Department of Environmental Protection’s (“Department”) August 28, 2025 e-mail stating that Appellant would need to obtain an individual NPDES permit before conducting any earth disturbance activities.

On September 17, 2025, WTA Properties, LLC filed the instant appeal *pro se*. On September 18, 2025, the Board issued an Order mandating that WTA Properties, LLC obtain counsel by October 7, 2025 to comply with the Board’s Rules of Practice and Procedure and Pennsylvania law. *See* 25 Pa. Code § 1021.21(a). As of October 7, 2025, no counsel had entered

their appearance on behalf of WTA Properties, LLC. Additionally, WTA Properties, LLC did not file any response, nor did it contact the Board with any questions to clarify the Order.

On October 9, 2025, the Board issued a Rule upon WTA Properties, LLC to show cause as to why the Board should not dismiss the appeal for failure to obtain counsel. The Board ordered the entry of appearance by an attorney on behalf of WTA Properties, LLC or the filing of a statement addressing WTA Properties, LLC's progress toward obtaining counsel on or before November 10, 2025. The Board further advised that failure to comply with the Rule could result in dismissal of the appeal. No response was received by WTA Properties, LLC nor did any counsel enter their appearance for WTA Properties, LLC.

On November 12, 2025, the Board, again, issued a Rule upon WTA Properties, LLC to show cause as to why it should not dismiss the appeal as a sanction pursuant to 25 Pa. Code § 1021.161. The Rule further advised Appellant of Pennsylvania law mandating that a limited liability company must be represented by counsel and may not appear *pro se*. The Board provided WTA Properties, LLC until the end of the year – December 31, 2025 – to obtain counsel or file a statement of progress toward obtaining counsel. Appellant was notified in bold that “[f]ailure to comply with this Rule will result in dismissal of this appeal for WTA Properties, LLC.” To date, the Board has received no communication from Appellant nor has any counsel entered their appearance on Appellant's behalf.

Discussion

Under Pennsylvania law, a limited liability company must be represented by legal counsel in a judicial proceeding and may not appear *pro se*. See *The Spirit of the Avenger Ministries v. Commonwealth*, 767 A.2d 1130 (Pa. Cmwlth. 2001); *Walacavage v. Excell*, 480 A.2d 281, 284-85 (Pa. Super 1984) (“a corporation may appear in court only through an attorney at law admitted

to practice before the court. . . . The reasoning behind the rule is that a corporation can do no act except through its agents and that such agents representing the corporation in Court must be attorneys at law who have been admitted to practice, are officers of the court and subject to its control. . . . [A] person who accepts the advantages of incorporation for his or her business must also bear the burdens, including the need to hire counsel to sue or defend in court.”). Additionally, under Board Rules of Practice and Procedure, “[p]arties, except individuals appearing on their own behalf, shall be represented by an attorney in good standing at all stages of the proceedings subsequent to the filing of the notice of appeal or complaint[.]” and “[c]orporations shall be represented by an attorney of record.” 25 Pa. Code § 1021.21(a)-(b). As such, “this Board has regularly dismissed appeals filed by non-individuals for failure to obtain counsel once such entities have been given a reasonable opportunity to secure representation and have not done so.” *River Hill Coal Co., Inc. v. DEP*, EHB Docket No. 2024-173-CS, *slip op.* at 3 (Opinion issued May 16, 2025); *Lizabella Mining, LLC v. DEP*, 2024 EHB 783, 786-787; *Waroquier Coal Co. v. DEP*, 2024 EHB 396, 397-398; *Earth First Recycling, LLC v. DEP*, 2018 EHB 819, 820-821; *Falcon Coal and Constr. Co. v. DEP*, 2009 EHB 209, 210.

Further, this Board may impose sanctions, including dismissal, when an appellant demonstrates a clear lack of intent to comply with Board orders and pursue their appeal. 25 Pa. Code § 1021.161; *Waroquier*, 2024 EHB at 397; *Blackwood v. DEP*, 2020 EHB 442; *Scottie Walker v. DEP*, 2011 EHB 328; *K H Real Estate, LLC v. DEP*, 2010 EHB 151. Indeed, dismissal is appropriate when entities required to be represented by an attorney in good standing have failed to retain counsel and/or communicate their progress in obtaining counsel with the Board. *Waroquier*, 2024 EHB at 398 (dismissing an appeal as a sanction where a coal company failed to obtain counsel and ceased all communications with the Board); *Citizens Advocating a Clean*

Healthy Environment v. DEP, 2017 EHB 1077, 1078 (dismissing an appeal where a citizens group did not obtain counsel and became nonresponsive with Board Rules to Show Cause); *KH Real Estate, LLC v. DEP*, 2012 EHB 155, 156-157 (dismissing an appeal where a limited liability company failed to obtain counsel and ignored Board orders).

There is no dispute that WTA Properties, LLC has been provided numerous opportunities to obtain counsel or communicate with the Board about its progress in obtaining counsel. Since the inception of this appeal, WTA Properties, LLC has failed to make any contact with the Board to discuss the Rules to Show Cause or why it could not secure legal representation. This lack of response coupled with the language in the Rules to Show Cause exhibit Appellant's disinterest in pursuing this appeal. *Waroquier*, 2024 EHB at 398; *Citizens Advocating*, 2017 EHB at 1078; *KH Real Estate, LLC*, 2012 EHB at 156-57. As our Board has stated in the past:

The Board works hard to give parties a full and fair opportunity to challenge Department actions. That is our role in the system and what due process requires. However, our collective experience suggests that when a party fails to make even a basic attempt to comply with our orders or remains totally silent in the face of a possible dismissal, it generally portends a lack of interest in proceeding with the appeal and/or the inability or unwillingness to comply with the rules of proceeding in front of the Board. In such cases, we find it best to dismiss those actions early in the process rather than prolong it which most often simply delays the ultimate outcome and eventual dismissal.

Blackwood v. DEP, 2020 EHB 442, 444.

This Board has exercised its discretion and exhibited leniency toward WTA Properties, LLC by issuing several Orders/Rules upon it to obtain counsel, while no responsive action or communication was received. As the Board has not received any responses to its September 18, 2025 Order or its October 9, 2025 and November 12, 2025 Rules to Show Cause, WTA Properties, LLC has established a lack of intent to pursue its appeal. Thus, the Board dismisses this appeal



for WTA Properties, LLC's failure to comply with Board Orders as a sanction pursuant to 25 Pa.

Code § 1021.161.

Accordingly, we issue the following order.



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ORDER

AND NOW, this 7th day of January, 2026, following WTA Properties, LLC's failure to comply with Board Orders, Board Rules of Practice and Procedure, and Pennsylvania law it is hereby **ordered** that the appeal is **dismissed** pursuant to 25 Pa. Code § 1021.161. The 120-day conference call scheduled for January 16, 2026 is canceled. The docket will be marked as closed.

ENVIRONMENTAL HEARING BOARD

s/ Steven Beckman
STEVEN BECKMAN
Chief Judge and Chairperson

s/ Bernard A. Labuskes, Jr.
BERNARD A. LABUSKES, JR.
Judge

s/ Sarah L. Clark
SARAH L. CLARK
Judge

s/ MaryAnne Wesdock
MARYANNE WESDOCK
Judge

s/ Paul J. Bruder, Jr.
PAUL J. BRUDER, JR
Judge

DATED: January 7, 2026

c: DEP, General Law Division:
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(*via electronic mail*)

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