

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

PETERS CREEK UNITED PRESBYTERIAN CHURCH,

Plaintiff,

v.

WASHINGTON PRESBYTERY OF PENNSYLVANIA,

Defendant.

I hereby certify that the actual location of the parcels of real property is in the Township of Peters, County of Washington, Commonwealth of Pennsylvania and known as parcel numbers 540-002-07-00-0001 and 540-002-00-00-0024

\_\_\_\_\_  
Frank Kosir, Jr., Counsel for Plaintiff

) CIVIL DIVISION

) No.:

) Code:

) **COMPLAINT IN CIVIL ACTION FOR  
DECLARATORY JUDGMENT AND TO  
QUIET TITLE**

) Filed on Behalf of Plaintiff,  
Peters Creek United Presbyterian Church

) Counsel of Record for this Party:

) Frank Kosir, Jr., Esquire  
PA ID # 87329

) Andrea Geraghty, Esquire  
PA ID # 38525

) June F. Swanson, Esquire  
PA ID # 41012

) GERAGHTY + ASSOCIATES, P.C.  
Two Gateway Center, Suite 2050  
603 Stanwix Street  
Pittsburgh, PA 15222

) (412) 232-7070  
) (412) 232-7071 – Fax

) Firm No. 320

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

PETERS CREEK UNITED PRESBYTERIAN CHURCH,	)	CIVIL DIVISION
	)	
	)	No.:
Plaintiff,	)	
	)	
v.	)	
	)	
WASHINGTON PRESBYTERY OF PENNSYLVANIA,	)	
	)	
Defendant.	)	

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED in court. IF YOU WISH TO DEFEND against the claims set forth in the following pages, YOU MUST TAKE ACTION WITHIN **TWENTY (20) DAYS** after this Complaint and notice are served, by entering written appearance personally or by attorney and filing in writing with the court your defenses and objections to the claims set forth against you. You are warned that if YOU FAIL to do so, the case may proceed without you and A JUDGMENT may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the Plaintiff. YOU MAY LOSE MONEY OR PROPERTY or other rights important to you.

If you do not know a lawyer, contact:

**LAWYER REFERRAL SERVICE**  
Washington County Bar Association  
119 South College Street  
Washington, Pennsylvania 15301

Telephone: (724) 225-6710

If you cannot afford a lawyer, contact:

**SOUTHWESTERN PENNSYLVANIA LEGAL AID SOCIETY**  
10 West Cherry Avenue  
Washington, Pennsylvania 15301

Telephone: (724) 225-6170

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

PETERS CREEK UNITED PRESBYTERIAN CHURCH,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No.:
	)	
v.	)	
	)	
WASHINGTON PRESBYTERY OF PENNSYLVANIA,	)	
	)	
Defendant.	)	

**COMPLAINT IN CIVIL ACTION**

AND NOW comes Plaintiff, Peters Creek United Presbyterian Church, by and through its attorneys, Andrea Geraghty, June F. Swanson, Frank Kosir, Jr. and Geraghty + Associates and files the herein Complaint in Equity as follows:

1. Plaintiff, Peters Creek United Presbyterian Church (“Peters Creek Church”) is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania with a principal business address of 250 Brookwood Road, Venetia, PA 15367.
2. Defendant, the Washington Presbytery of Pennsylvania (the “Washington Presbytery”) is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania with a principal business address of P.O. Box 146, 89 Lively Road, Eighty-Four, PA 15330-0146.
3. The Washington Presbytery is the representative governing body of the Presbyterian Church in the United States of America (“PCUSA”), in the Washington, Pennsylvania, geographical district in which Peters Creek Church is located.
4. On or about July 25, 1931, a group of thirteen (13) individuals submitted a Charter to the Judges of the Court of Common Pleas of Washington County to establish the “Peters Creek United Presbyterian Church of Peters Township, Washington County, Pennsylvania”, which Charter was recorded on August 31, 1931 in Equity Docket 22, Pages 105-106 (the “Charter”) and approved by Decree of the Court on September 28, 1931 (the "Decree") recorded at Equity

Docket No. 3452 of 1931. True and correct copies of the Charter and Decree are incorporated as "Exhibit A".

5. In 1931, at the time of its incorporation, the Peters Creek Church was a local church affiliated with the national denomination of the United Presbyterian Church of North America, a small group of Presbyterian churches following conservative tenets.

6. In 1958, the United Presbyterian Church of North America merged with the Presbyterian Church in the United States of America to form the United Presbyterian Church in the United States of America. As it had at since its inception, the Peters Creek Church continued to follow conservative tenets at the time of this 1958 merger.

7. In 1983, the United Presbyterian Church in the United States of America merged with the Presbyterian Church of the United States to form the PCUSA. As it had at its inception, the Peters Creek Church continued to follow conservative tenets at the time of this 1983 merger, and continues to follow conservative tenets today.

8. Since its inception as an unincorporated association in the 1700's, Peters Creek Church has purchased a number of pieces of real property located within the Township of Peters, County of Washington and Commonwealth of Pennsylvania (the "Peters Creek Property"). The Peters Creek Properties are identified, in part, in two recorded plans, the Peters Creek United Presbyterian Church Plan (the "Peters Creek Plan"), recorded on December 19, 2005, and the Lushen Plan of Lots (the "Lushen Plan"), recorded on March 12, 1993, both in the Office of the Recorder of Deeds for Washington County. Peters Creek acquired the property identified as Parcel A in the Lushen Plan in 2005.

9. For ease of reference, and to simplify this analysis, we referred to the Peters Creek Plan and the Lushen Plan, and have assigned a number to each parcel as shown on Exhibit B, as follows:

- Parcel 1 - Original portion of the Brush Run Cemetery, located immediately East of the office and educational buildings, with Brush Run Road, located in part, within the border of Parcel 1, and in part along the southern border of Parcel 1.

- Parcel 2 - Parcel identified as “Parcel A Remainder” in the Peters Creek Plan, located immediately West of “Parcel 1,” on which the church, office and educational buildings are located. This parcel extends West of and includes a part of Brookwood Road, and also extends North of and includes a part of Brush Run Road.
- Parcel 3- Small triangular-shaped Parcel located immediately south of “Parcel 2,” with Brookwood Road along its Northeastern boundary.
- Parcel 4- Parcel immediately North of “Parcel 2,” and bordering “Parcel 2” and Brookwood Road to the East. This land is Parcel “A” in the Lushen Plan.

10. Parcels 1, 2 and 3 collectively have an address of 250 Brookwood Road and are identified by the Washington County Office of Property Assessment as Parcel No. 540-002-07-00-0001.

11. Parcel 4 also has an address of 250 Brookwood Road and is identified by the Washington County Office of Property Assessment as Lot and Block No. 540-002-00-00-0024.

12. The abstract of title for Parcels 1 and 2 is as follows:

Date: August 28, 1809  
 Grantors: James Mitchell and wife  
 Grantees: John Friar, et al., Trustees of the Associate Congregation of Peters Creek  
 Consideration: \$10.00  
 Recorded: Deed Book U Volume 1, page 712  
 Description: Beginning at a point on the bank of the run south 13 degrees east twenty perches to a white oak north seventy seven east sixteen perches to a post north thirteen west twenty perches to a post south seventy seven west sixteen perches to the place of beginning containing two acres to be the same more or less and the liberty of the water of the spring west of the Meeting house and a foot path to the spring from the meeting house and of a road, the same road between Jas Mof’s farm where it will least injure the plantation of said Mitchell to continue out to Alexander Sweeney’s line.

Date: April 1, 1873  
 Grantors: James Wright and Sarah Wright (husband and wife)  
 Grantees: Harry McMurray, et al., Trustees of the U.P. Peters Church  
 Consideration: \$180.00  
 Recorded: Deed Book X Volume 5, page 284  
 Description: All of a certain parcel of land adjoining the church lot situate on three sides of said lot; Beginning at a point at the road thence by land of William Wright and church lot North 3 West 8 perches to a post North seventy nine East 11 perches to a stone thence by land Jonnee Wright

south 1 east 26 to a stone south 72 and 1/2 West 2 perches to a corner of church lot thence by church lot 77 West 2 perches south 77 west 2 perches south to the place of beginning, containing one acre second lot beginning at a post in run West 46 East 22.1 perches by land of J. Patterson, thence by church lot and first lot described South 77 West 18 perches to a post South 13 East 10 perches to a post at the place of beginning; Containing 90 perches.

Date: October 18, 1894  
Grantor: Milton A. Douglass  
Grantee: Trustees U.P. Church of Peters Creek  
Consideration: \$80.31  
Recorded at: Deed Book Volume 191, pages 385-387  
Description: Beginning at a point in the road on the western side of the church ground, hence by said ground south nine degrees East twenty five and eight hundredths rods (25.08) to a stake near the run, by land of John Patterson; thence by land of said Patterson, South seventy and one half degrees West Four and one-half rods (4.5) to a stake by land of Milton Douglass; thence by land of said Douglass North fifty-two degrees West one and four tenths rods (1.4) to a stake by land of former, thence North seven and one-half degrees West, twenty four and eight tenths rods (24.8) to a stake by land of said Douglass, thence by land of the former North eight degrees East four and eight tenths rods (4.8) to the point of beginning.

Date: December 23, 1897  
Grantor: Milton A. Douglass  
Grantee: John Willson, et. al., Trustees of the United Presbyterian Church of Peters Creek  
Consideration: \$300  
Recorded at: Deed Book Volume 214, page 72.  
Description: Beginning at a fence post by land of said church thence by the same North Eight and three fourths ( $8 \frac{3}{4}$ ) degrees West twenty and eight – tenths (20.8) rods to a stake by the land of the same and of Milton A. Douglass thence by land of said Douglass South sixty-nine and one-fourth ( $69 \frac{1}{4}$ ) degrees West, twenty-two and thirty-six hundredths (33.36) rods to a stake by land of Douglass thence by the same land, South Eight and three fourths ( $8 \frac{3}{4}$ ) degrees East twenty-two (22) rods to a point in the line between the lands of Douglass and Patterson thence by land of John Patterson North sixty-nine and one fourth ( $69 \frac{1}{4}$ ) degrees East twenty-three and thirty-six hundredths (23.36) rods to a point by the same (\_\_\_\_) the road thence north fifty-three and one fourth ( $53 \frac{1}{4}$ ) degrees West, one and four tenths (1.4) rods by the church ground to the point of beginning. Containing three acres be the same more or less.

Date: November 7, 1921  
Grantor: A. F. Lushen  
Grantee: Trustees of the Peters Creek United Presbyterian Church  
Consideration: \$25.00  
Recorded at: Deed Book Volume 495, pages 621-622.

Description: Beginning at a point near a post set in concrete along a public road; thence South nine degrees East one hundred eighty five and five hundredths (185.5) feet to a point in the center of road; thence by land of Peters Creek United Presbyterian Church South seventy nine degrees West seventy nine and two hundredths feet (79.02) to a post set in concrete along run; thence by land of A.F. Lushen North fourteen degrees and thirty-five feet East two hundred and six feet (206') to a point of beginning.

Date: April 6, 1955

Grantors: Trustees of the Brush Run Cemetery, Inc.

Grantee: Peters Creek United Presbyterian Church

Consideration: \$1.00

Recorded: Deed Book Volume 924, pages 616-619

Description: Beginning at a pipe near Brush Run Road and on line of lands of the party of the second part Peters Creek Church said pipe being located South 61 degrees 18 minutes West 219.6 feet from an iron pin marking the Southeasterly corner of the larger parcel of which the parcel herein described is a part, which said iron pin is further located as being on the line of land now or formerly of Patterson; thence from the pipe at the place of beginning and along lands of the party of the second part Peters Creek Church South 61 degrees 18 minutes West 9.2 feet to a point; thence along last mentioned lands North 13 degrees 54 minutes West 420.72 feet, more or less, to a point on line of lands of the party of the second part Peters Creek Church; thence along last mentioned lands North 79 degrees 2 minutes East 19.66 feet to a pipe; thence through the larger parcel of which the parcel herein conveyed is a part South 12 degrees 26 minutes East 417.5 feet to the pipe at the place of beginning.

A true and correct copy of each Deed above is incorporated in "Exhibit C".

13. The abstract of title for Parcel 3 is as follows:

Date: January 14, 1981

Grantor: Ralston R. Patterson

Grantee: Peters Creek United Presbyterian Church

Consideration: \$1.00

Recorded at: Deed Book Volume 2017, page 161

Description: Beginning at a point on the westerly right of way line of Legislative Route 62049 (Brookwood Road), which place of beginning is common to the northeastern corner of Lot 109 in the Patterson Plan No. 1, which Plan is of record in the Recorder's Office of the aforesaid County in Plan Book 12, page 27, thence North 74 degrees 25 minutes West a distance of 228.69 feet to a point common to land now or formerly of Lushen and land of the Grantee; thence by line common to land of the Grantee North 70 degrees East a distance of 280 feet, more or less, to a point on the westerly right of way line of the aforesaid Legislative Route; thence by said right of way line South 15 degrees 35 minutes West a distance of 163 feet to the place of beginning

A true and correct copy of this Deed is incorporated in "Exhibit D".

14. The abstract of title for Parcel 4 is as follows:

Date: October 28, 2005  
Grantors: Frank P. Lushen and Bonnie L. Lushen (husband and wife)  
Grantee: Peters Creek United Presbyterian Church  
Consideration: \$405,000.00  
Recorded at: Instrument No. 200536401  
Description: Parcel A in the Lushen Plan, recorded in Plan Book Volume 23, page 75.

A true and correct copy of this Deed is incorporated as "Exhibit E".

15. The Peters Creek Church acquired all of the real property identified herein, titled in its own name, with its own funds, which were donated or raised by the members of the Peters Creek Church.

16. The Peters Creek Church holds clear title to all the Peters Creek Property without any liens or encumbrances on such property, with the exception of the following mortgage which encumbers Parcels 1-4:

Date: October 28, 2005  
Mortgagor: Peters Creek United Presbyterian Church by Trustees  
Mortgagee: Washington Federal Savings Bank  
Face Amount: \$400,000.00  
Recorded at: Instrument No. 200536402  
Description: 8 Parcels  
1. DBV U1, page 712  
2. DBV 5X, page 284  
3. DBV 191, page 385  
4. DBV 241, page 72  
5. DBV 495, page 621  
6. DBV 924, page 616  
7. DBV 2017, page 161  
8. Instrument No. 200536401

A true and correct copy of this Mortgage is incorporated as "Exhibit F".

17. With the exception of the above Mortgage which continues to be repaid, the Peters Creek Church paid off all mortgages on the Peters Creek Property, also with its own funds, which were donated or raised by the members of the Peters Creek Church.

18. In 1832, the original brick church was built on the Peters Creek Property, which served as the primary place of worship for 130 years. The construction and maintenance of the original church building was paid for entirely with funds donated by or otherwise raised by the congregation.

19. In the mid 1900s, a recreation hall, including classrooms, a dining room and an all-purpose facility, and a Christian education building were constructed by Peters Creek Church. The construction of the recreation hall and the Christian education building was paid for entirely with funds donated by or otherwise raised by the congregation.

20. In 1962 a new church building was constructed on the Peters Creek Property. The construction of the new church building was paid for entirely with funds donated by or otherwise raised by the congregation.

21. The Peters Creek Church has at all times, and with its own funds, paid for the maintenance and upkeep of the buildings and grounds on the Peters Creek Property, including the costs of all utilities, insurance and taxes assessed against the Peters Creek Property.

22. The Peters Creek Church has been self-sustaining financially from any national Presbyterian denomination with which it has been affiliated throughout its 200+ year history. To the extent that it has given money to any national organization, such money has been in the form of a gift, and has been *de minimus* in amount.

23. In 2002, the Peters Creek Church embarked upon an aggressive capital campaign to complete significant renovations to the church and related structures, during which donors and possible lenders have raised questions concerning the unfettered ownership of real and personal property by Peters Creek Church.

24. The Peters Creek Church maintains cash and other assets in its possession or control or deposited with financial institutions used in its operations, missions and fundraising funded solely through the efforts of the Peters Creek Church and its members and donors.

25. The Peters Creek Church has been independent doctrinally from any national organization. It designs its own worship services and uses a hymnal not endorsed by the PCUSA. It has not, in the main, participated in denomination-sponsored offerings and fundraising. Its missions program is primarily non-denominational. It does not use denomination-published Christian education materials.

26. The Peters Creek Church has repeatedly disagreed with practices and actions of the PCUSA and has communicated its disagreement to the PCUSA when appropriate.

### **COUNT I - DECLARATORY JUDGMENT**

27. The Peters Creek Church incorporates all preceding paragraphs of this complaint.

28. Upon information and belief, the Presbytery has expressed the intention to assert denominational ownership of the Peters Creek Property based upon language contained within one of the governing documents of the PCUSA, The Book of Order.

29. Peters Creek Church believes and therefore avers that the Peters Creek Church is the owner of the Peters Creek Property and that the Presbytery has no interest in that property creating an actual controversy between the parties.

30. The Peters Creek Church has sought the assurance of the Washington Presbytery that it will not advance any claim against the real property owned by the Peters Creek Church and that it release any and all claims it may allege against the Peters Creek Property, however, the Presbytery has refused to give such assurance.

31. Having duly paid all expenses of securing the land, building their church and related buildings, maintaining the structures and grounds, the members of the Peters Creek Church should not be deprived of the use and benefit of the Peters Creek Property, and any claim the Presbytery may assert against such property should be extinguished.

32. Peters Creek Church believes, and therefore avers that, its documents of title, other governing documents of the PCUSA, actions of the Peters Creek Church and

historic principles of church governance confirm ownership by the local Church, Peters Creek Church.

33. Peters Creek Church believes, and therefore avers that, as a matter of Pennsylvania law, application of neutral principles of law confirms ownership by the local Church, Peters Creek Church.

WHEREFORE, the Peters Creek Church prays this Honorable Court enter an order in favor of Peters Creek Church as follows:

1. Declaring that the Peters Creek Church owns all the real and personal property titled in its own name as described herein;
2. Declaring that Peters Creek Church is entitled to the quiet, exclusive, uninterrupted and peaceful possession of the Peters Creek Property without any interference of the defendant;
3. Declaring that Peters Creek Church is entitled to sole possession and control over any of its personal property, including all cash and other assets in its possession or control or deposited with any financial institution, as described herein; and
4. Awarding to the Peters Creek Church its attorney's fees, costs of suit and such other relief which the Court deems just and proper.

#### **COUNT II – QUIET TITLE**

34. The Peters Creek Church incorporates all preceding paragraphs of this complaint.

35. Peters Creek Church wishes to eliminate any cloud upon, or doubt as to the true holder of title to its real property.

WHEREFORE, the Peters Creek Church prays this Honorable Court enter an order in favor of Peters Creek Church as follows:

1. Quieting title to the Peters Creek Property as described herein, in the Peters Creek Church solely;
2. Declaring that Peters Creek Church is entitled to the quiet, exclusive, uninterrupted and peaceful possession of the Peters Creek Property;

3. Declaring that neither the Washington Presbytery nor the PCUSA holds any property interest in the Peters Creek Property, whether in trust or otherwise; and
4. Awarding to the Peters Creek Church its attorney's fees, costs of suit and such other relief which the Court deems just and proper.

Respectfully submitted,

---

Date

---

Frank Kosir, Jr., Esquire  
PA ID # 87329

Andrea Geraghty, Esquire  
PA ID # 38525

June F. Swanson, Esquire  
PA ID # 41012

GERAGHTY + ASSOCIATES, P.C.  
Two Gateway Center, Suite 2050  
603 Stanwix Street  
Pittsburgh, PA 15222

(412) 232-7070  
(412) 232-7071 – Fax

Firm No. 320

Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

PETERS CREEK UNITED PRESBYTERIAN CHURCH,	)	CIVIL DIVISION
	)	
	)	No.:
Plaintiff,	)	
	)	
v.	)	
	)	
WASHINGTON PRESBYTERY OF PENNSYLVANIA,	)	
	)	
Defendant.	)	

**VERIFICATION**

I, Robert J. Elmes, Clerk of Sessions for the Peters Creek United Presbyterian Church have read the foregoing Complaint in Equity for Declaratory Judgment and to Quiet Title. The statements therein are correct to the best of my personal knowledge or information and belief. This statement and verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false statements, I may be subject to criminal penalties.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert J. Elmes, Clerk of Sessions for the  
Peters Creek United Presbyterian Church