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Township Mulls Repealing Sexual Predator Ordinance Following Supreme Court Decision

The Board of Commissioners must decide whether to repeal a 2007 ordinance restricting the residence of sex offenders.

By [Kyle Bagenstose](#) [Email the author](#) October 13, 2011

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The Upper Dublin Board of Commissioners must decide whether or not they want to repeal a "Sexual Predator Residency Restriction" ordinance passed in April 2007, after a recent Supreme Court verdict struck down a similar ordinance in Allegheny County.

As the code currently reads, any person who is registered with the state as a sexual predator cannot take up residence within 2,000 feet of any school attended by children in grades kindergarten through twelfth grade.

The ordinance brought before the Supreme Court was slightly more restrictive at 2,500 feet, and was struck down.

"There was a question of [whether or not] limiting the availability of residences would be constitutional. The Supreme Court has now said it is not," said Gilbert High, township solicitor. "[The court ruled] that the entire process of limiting the availability of housing is not something which a local government can regulate, it's something which the state regulates through the parole office."

Still, commissioners were hesitant to repeal the ordinance.

"We went through a lot of analysis when we passed that ordinance, and to be blunt, I think this stinks," said board president Bob Pesavento.

Commissioner Chet Derr said that he agreed with Pesavento, but wondered whether or not the township could keep the restriction on the books.

"I appreciate that there's been a challenge and it was upheld, however, this specific ordinance has not been challenged, and until such time as it is challenged, I'm of the mindset that it remains," said Derr. "Call it selfish, but I have kids. We all have kids... and my duty is to protect the township and its residents."

Pesavento and Derr both stated that the ordinance was passed after research showed a high reoccurrence of sexual crime by offenders.

However, High warned that the township could open itself to liability should they keep the ordinance.

"A challenge here would come under the Civil Rights Act, where we would be sued in federal court for the deprivation of a property right to an individual," said High. "If found to have violated the Civil Rights Act, the township becomes liable for the attorney's fees and any damages that the individual would want to put forth."

High also told the board the matter was originally presented by the township's insurance company, which said that it was inappropriate for any such ordinance to be in the code.

The commissioners also asked whether or not leaving the ordinance on the books, but not enforcing it, would still leave the township liable. High said that it would.

The commissioners ultimately decided to table the resolution until they personally review the communications about the ruling and potential liabilities.

[Doylestown repealed a similar ordinance](#) in August under the same circumstances. A Doylestown Patch article highlights the state's efforts to register sexual offenders under Megan's Law.

"Under Megan's Law, people convicted of certain offenses - including kidnapping, indecent assault, sexual abuse of children - must register with local law enforcement agencies for 10 years following their release on probation or parole," the article said.

"People convicted of multiple offenses or of any more serious offenses - including rape and involuntary deviate sexual intercourse - and offenders designated as "sexually violent predators" must register for life."

To search in our community, visit the [Megan's Law section of the Pennsylvania State Police website](#).

Also from Tuesday's meeting:

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What do you think of the Supreme Court's ruling and potential repeal of the ordinance? Tell us in the comments.

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