



Housing Alliance
of Pennsylvania

Reclaiming Abandoned Pennsylvania NEW TOOLS FOR OLD PROBLEMS Taking Blighted, Vacant Properties from Liability to Viability

Introduction

Revitalization of blighted and vacant property is a local concern, but state law provides the tools – or impediments – for that process. This outline provides an overview of the recent advances in the state’s regulatory framework for addressing abandonment, as well as proposals to further streamline and modernize the system.

I. Code Enforcement

A. **Municipal Code and Ordinance Compliance Act**

Act 99 of 2000; 68 P.S. §1081 et seq.

Any purchaser of a building with known code violations has 18 months (longer by agreement with the municipality) to correct the violations or demolish the building. Any purchaser of a lot with known violations of municipal nuisance ordinances has 12 months to rectify the violations. The act is enforceable by the local municipality with fines from \$1,000 to \$10,000.

B. **Fines and Imprisonment**

1. **Municipal Housing Code Avoidance (Crimes Code)**

Act 70 of 1998; 18 P.S. §7510

The crime of “housing code avoidance” is created for owners convicted for the fourth or subsequent time for the same code violation for the same property. For the fourth violation it is a misdemeanor of the second degree. For the fifth or subsequent conviction it is a misdemeanor of the first degree.

2. **Third Class Cities Code**

Act 135 of 1998; 53 P.S. §39131.1

For code violations which pose a threat to the public’s health, safety, or property, the owner may be cited once every five days, and fined or imprisoned for up to 90 days. Fines are between \$500 and \$1,000 for the first two offenses and \$1,000 to \$10,000 for the third and subsequent violation.

C. **Smart Rehabilitation Code**

35 P.S. §7210.101 et seq.; 34 Pa. Code §403

When Pennsylvania adopted its Uniform Construction Code (UCC), it incorporated the 1999 BOCA code. The International Existing Building Code (IEBC) had not yet been adopted. However, the UCC requires municipalities to adopt new codes by December 31 of the year they are issued by the International Building code. In its 2003 version, the IBC included the Existing Building Code, which is now a part of Pa.’s UCC. The IEBC recognizes the difference between new construction and work on

existing buildings, and is designed to facilitate rehabs in a safe and economical manner.

What we still need

A. **Conservatorship**

Conservatorship is the appointment of a third party to take possession and control of a property in order to make repairs and return the property to productive use. The conservator is appointed by the court after a formal process and hearing, including notice to the owner and lien holders. It allows a property to be salvaged when no party in interest is willing to step forward to make the necessary repairs.

II. Acquisition of Blighted Properties

A. **Eminent Domain**

Pa. Const. Art. 1 §10; 26 P.S. §101 et seq.

Amended by Act 34 of 2006

Act 34 reorders and renumbers the Eminent Domain Code. It also increases the amount paid by the condemning agency for appraisals, attorneys fees, engineering fees, compensation for business losses, and replacement housing. The replacement housing costs are now higher than the federal Uniform Relocation Act.

Amended by Act 35 of 2006

Act 35 creates chapter 2 in the reorganized Eminent Domain Code. The amendment prohibits the transfer of condemned property to a private enterprise, with major exceptions:

1. where the condemnee has consented
2. public utilities, common carriers, and railroads
3. incidental private use
4. removal of a nuisance
5. abandoned property
6. blight remediation
7. areas in Philadelphia, Pittsburgh, and Allegheny, Montgomery, Bucks, and Delaware Counties and municipalities therein declared blighted prior to the enactment of the new law, excepted until December 31, 2012
8. properties taken per §12.1 of the Urban Redevelopment Law (53 P.S. §1712.1)
9. low income or mixed income housing developments funded in part with funds from enumerated state and federal programs

Public charities are *not* private enterprises, and so can receive property taken through eminent domain.

The definition of blight essentially mimics §1712.1 of the URL, and includes properties with unmarketable title and environmental problems.

In order to declare an area blighted, 51% of the properties must meet the definition of blight and must constitute at least 51% of the geographic area. In such blighted areas, the condemnor may take multiple properties, implicitly including non-blighted properties.

Urban Redevelopment Law

53 P.S. 1712.1; Act 113 of 2002

Act 113 of 2002 added the category of abandoned properties to those that can be certified as blighted.

An abandoned property is one which has been declared abandoned by its owner or is vacant and (1) a lien for demolition costs remains unpaid after six months, or (2) the municipal liens and claims exceed 150% of the fair market value as established by the board of revision of taxes. "Vacant" property is also defined by the Act. Additionally, the project value for a bond requirement for construction contractors is increased from \$500 to \$10,000.



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B. Tax Sale

1. Administrative reforms

Joint petitions for tax sale

53 P.S. §7283a; Act 163 of 2004

72 P.S. §5860.612-2; Act 161 of 2004

Where a municipality has multiple properties to take to tax sale, it may file one petition for the court which includes all of the properties.

Elimination of redemption period

53 P. S. §7293; Act 83 of 2004

72 P. S. §5860.501(c); Act 5 of 1998

Under the Municipal Claims and Tax Lien Law, there is no right of redemption for vacant properties. The right of redemption period is now nine months for occupied properties.

Under the Real Estate Tax Sale Law there is no right of redemption.

Expedited process for Allegheny County

53 P.S. §§7106, 7143, 7147, 7193.2, 7283; Act 20 of 2003

2. Acquisition by the municipality or redevelopment authority

Right of first refusal

72 P.S. §5860.501; Act 82 of 2000

A county may grant to a municipality or redevelopment authority the right of first refusal to discharge tax claims. **BUT**, as written, this power is granted prior to the tax sale, when the purchaser is undetermined and the owner still has the right to pay the taxes and stop the sale. Some lawyers have determined that the provision is not useful as it is written. To be workable, the right of first refusal should be granted in the first 30 to 90 days after the sale.

3. Acquisition by private parties

Prohibited purchasers

72 P.S. §5860.601; Act 5 of 1998

A landlord whose license has been revoked by a municipality within the county where the sale is being held may not purchase a property at tax sale.

72 P.S. §5860.619a; Act 133 of 1998

A person who is tax delinquent with a taxing authority where the subject property is located, or who is more than one year delinquent with a municipal utility bill, may not purchase a property at tax sale.

72 P.S. §5860.619; Act 5 of 1998

Within 15 days of a tax sale, a municipality may petition the court to prohibit the transfer of property to a purchaser who has housing code violations on other properties owned. The section does not specify whether the other property owned must be in the same municipality. The definition of "housing code violation" refers to "the local code" rather than the "municipality's code." Does it mean the code of the municipality that is petitioning or of the municipality where the property in violation is located?

53 P.S. §7283(b); Act 6 of 1998

Within 30 days of a tax sale, the City of Philadelphia may petition the court to prohibit the transfer of property to a purchaser who has housing code violations on other properties owned, presumably within Philadelphia. The definition of "housing code violation" refers to "the" codes, implying the codes of Philadelphia, but not explicitly stating such.

C. **Donation**

72 P.S. §§5860.303, 5860.309; Act 12 of 2006

53 P.S. §§7108.1, 7143; Act 18 of 2006

While municipalities have the power to accept donated property under the general power clauses of the various municipal codes, Acts 12 and 16 of 2006 establish a procedure for coordination among taxing authorities to waive tax claims in exchange for the donation of a tax delinquent property. Acceptance of the property by a municipality or other taxing body is optional. The new laws also require tax claim bureaus to maintain lists of delinquent property owners including their last known addresses, so that credit reporting bureaus can access the information and report property tax delinquencies on credit reports.

What we still need

Special Tax Sale

Pennsylvania's tax sale laws are designed to produce revenue for the taxing authorities, and so properties must be sold to the highest bidder. But selling to the highest bidder is not always in the best interest of the municipality, not if the purchaser neglects the property so it continues to be a blight on the community.

We propose a new system similar to that recently put in place in New Jersey - special tax sales for abandoned properties. Properties which meet a statutory definition of abandoned would, at the request of the municipality, go to a special tax sale where only pre-qualified bidders could bid. The new purchaser must agree to take the steps necessary to put the property back into productive reuse.

III. Disposition of Blighted Properties

A. **Municipal Owned Properties**

Waiver of Bidding Requirements

53 P.S. §§36919, 37561 (Third Class City Code); Act 44 of 1998

53 P.S. §46201 (Borough Code); Act 54 of 1998

53 P.S. §56501 (First Class Township Code); Act 64 of 1997

53 P.S. §66503 (Second Class Township Code); Act 12 of 2002:

City owned land can be sold to a non-profit community development corporation involved in affordable housing or commercial or industrial redevelopment without requiring advertising or bidding.

16 P.S. §2306(b) (County Code); Act 73 of 2000

Fair market requirements are waived when selling county-owned property to non-profit organizations engaged in the construction of affordable housing, or for community, industrial or commercial development.



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B. Estate Owned Properties

Letters of Administration to RDAs

20 Pa.C.S.A. §§3155, 3311; Act 171 of 2006

Redevelopment Authorities have been added to the list of person who may be granted letters of administration. This will enable an RDA to step in where a property is left vacant due to the death of the owner and no one has stepped forward to administer the estate.

What we still need

Land Banks

Land Banks are places where properties acquired by the local government through tax sale or other means can be packaged with other parcels to create attractive sites for developers. Land banks may hold properties while adjacent sites are acquired, and will often clear title and clear the site.

In Pennsylvania, while municipalities can hold properties, most are reluctant to do so. Legislation specifically authorizing the creation of local land banks as separate non-profit or quasi-governmental agencies will encourage municipalities to take this important step.

IV. Incentives for Investment

Tax Abatements - Improvement of Deteriorating Real Property or Areas Tax Exemption Act

72 P.S. §§4711-203, 4711-303; Acts 83 of 2000 and 235 of 2002

Under this Act, a local taxing authority may by ordinance or resolution exempt from real property taxes the assessed valuation of improvements to deteriorated properties in a designated "deteriorated neighborhood." The amendments allow a graduated ten year abatement, permit a taxing body to devise its own schedule for abatements, and set a ten-year limit on the length of the abatements.

Neighborhood Improvement Districts

73 P.S. §831; Act 130 of 2000

Neighborhood Improvement Districts (NIDs) may be established by local municipalities, residents, or municipal businesses to enable property owners to provide services to their neighborhoods that supplement municipal services provided. The legislation provides for the assessment of property owners within the NID to pay for those additional services. Once a NID is established, the municipality should designate a NID management association to administer programs, improvements, and services.

Downtown Location Law

73 P.S. §821; Act 32 of 2000

This law requires the Department of General Services to establish guidelines to encourage state agencies to consider locating or rehabilitating facilities in downtown areas whenever agencies consider building or leasing new office space.

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