

## Conservatorship

### Definition

Conservatorship is a tool to mitigate blighted properties and stabilize neighborhoods. A conservator is a private or nonprofit entity designated by a judge to bring a blighted property into compliance with property maintenance and building codes in response to a petitioner<sup>1</sup>.

### Description/Summary

There are about 300,000 vacant properties in neighborhoods across Pennsylvania<sup>2</sup>. Homes that remain vacant for extended periods of time often fall into a state of disrepair, causing blight. Vacant properties are not only an eyesore in these communities, but they reduce property values and threaten the stability of neighborhoods in the surrounding area. Blighted neighborhoods are often linked to crime, and residents of a blighted neighborhood may be less likely to feel connected to their community, compounding the problem. Thus, every community has a strong incentive to eliminate blighted property, and conservatorship is one tool that can be used to fight blight in neighborhoods and revitalize dilapidated properties.

Upon hearing significant evidence that a property owner is either unable or unwilling to maintain his or her property, a judge can designate a conservator to rehabilitate the property even while ownership still belongs to the neglectful owner. This makes conservatorship an appealing tool for residents to use against blight. However, because obtaining conservatorship involves a legal process, it is a very costly tool with regards to time and money. Thus, there are important restrictions and guidelines regarding the process that should be acknowledged.

A property is not eligible for conservatorship if it<sup>3</sup>:

- Has been listed for sale within the past 60 days
- Is owned and/or regulated under the Public Housing Act
- Is occupied by someone other than a squatter or has not been vacant for at least 12 months
- Has been owned by the current owner for less than 6 months
- Is in foreclosure
- Is owned by someone who is absent from the property on active military duty in time of war

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<sup>1</sup> <http://www.housingalliancepa.org/node/1001>

<sup>2</sup> [http://articles.philly.com/2010-11-04/news/24953207\\_1\\_wiener-conservator-community-groups](http://articles.philly.com/2010-11-04/news/24953207_1_wiener-conservator-community-groups)

<sup>3</sup> [http://www.housingalliancepa.org/sites/default/files/resources/ConservatorshipManual\\_General-final.pdf#overlay-context=node/1001](http://www.housingalliancepa.org/sites/default/files/resources/ConservatorshipManual_General-final.pdf#overlay-context=node/1001)

Conservatorship should only be used if there are no other plausible options for rehabilitation of the property. Sufficient evidence must be provided that this is the case as conservatorship is intended to be a last-resort measure.

## **Strategies**

The first step in addressing neglected properties is to assess all options available. There is always a chance that the owner of the property would be willing to sell the property, in which case conservatorship would be unnecessary. The property may also be owned by a mortgage lender or other institution that would be interested in relinquishing ownership of the land. Purchasing the neglected property through the market would be a much easier way to achieve community goals. If the owner is not interested in selling the property, code complaints should be filed with local authorities. Adding this pressure on the owner may make him or her more willing to sell. If other options are exhausted, it is time to plan a petition for conservatorship.

The Housing Alliance of Pennsylvania suggests assembling the following to prepare for a conservatorship case<sup>4</sup>:

- A real estate lawyer who is knowledgeable about Act 135 and the outcomes of recent conservatorship actions in Pennsylvania
- An architect who has experience in developing or upgrading the type of property that will be the subject of the conservatorship action
- A project manager whose role is to serve as the team's primary contact person and to keep things moving. By starting the process and recruiting the other team members, you may have already self-selected yourself for this role!
- A potential conservator – someone who is capable of taking possession immediately upon court appointment, of maintaining, safeguarding and insuring the building, and of completing the rehab or demolition of the property

## **Case Studies**

Conservatorships law is new to Pennsylvania; the success of the program in other states has led to the development of the act. Louisiana, Maryland, Massachusetts, Missouri, New Jersey, Ohio, and Oregon have existing conservatorship laws. Pennsylvania legislators supported Act 135 after seeing the successful programs in other states<sup>5</sup>.

Baltimore, Maryland has adopted strategies for improving blight in 2010. Owners have 12 months to improve their property before the process begins. Many times, owners will fix what is necessary before legal action takes place. Their goal is to get owners to take action themselves. Legal action costs about

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<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

\$2,000 per case. Since adopting the program, about 1,000 homes have gone through the process<sup>6</sup>. It appears that the conservatorships in Baltimore have made improvements to the city.

The Housing and Redevelopment Authority of Butler County, Pennsylvania made a presentation on their efforts to improve blight. In their experiences, they were able improve the property, demolish the building, or convince the owner to make necessary improvements. In three of the six cases presented, property was demolished and the lot was sold to neighbors. In another case, property was purchased with planned demolition and housing development. What they learned from this process was: lack of code enforcement is a significant problem, it is important to look at all costs, efforts must be coordinated with municipalities, and the process can have a major impact on smaller isolated communities<sup>7</sup>. Butler County is an example of how the law is supposed to work. Blighted properties were improved by either the owner or conservator. Necessary renovations were made and property was put to good use.

The advantages of a conservatorship are that they can improve the value and appearance of vacant or blighted areas of a neighborhood. Improving the appearance of blighted property can help a neighborhood by improving real estate value. A conservatorship will also bring property up to correct building code, so it is safe for residence. There are some disadvantages to a conservatorship. The legal process of assigning a conservator can be a long and costly process. Legal fees cost an estimated \$2,700; this is for assigning a conservator. It is also about \$600 for lead based paint and asbestos testing, and demolition costs about \$10,000<sup>8</sup>. As seen in Baltimore, homeowners are given an opportunity to improve their property before legal action. Homeowners taking action will save time and money.

There is a large opportunity to improve the appearance and value of neighborhoods. As more properties are improved, results should show the success of the program. Since Act 135 is fairly new, there are few cases of its success. The program has an opportunity to grow and make large improvements on cities and towns. However, poor economic conditions could increase blight in communities. The legal process takes time, and there are a lot of blighted properties to improve.

## Legislation

In October 2012, Governor Tom Corbett signed PA Act 153. This act is referred to as the Land Bank Act. The bill intends to eliminate blight in communities to help protect property value. The bill removes barriers while creating tools<sup>9</sup>. The law allows for communities with over 10,000 residents to create a land bank. These banks have the power to repurpose vacant property and make necessary improvements. Property owned by land banks is exempt from state and local taxes; however they must follow all laws and codes<sup>10</sup>. The goal of this act is to make it easier for communities to improve their neighborhoods by protecting property value. It gives residents more power and flexibility to do what is

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<sup>6</sup>[http://www.fredericknewspost.com/news/economy\\_and\\_business/business\\_topics/real\\_estate/article\\_f7b0142f-9b68-5635-903b-318fa9fea8ae.html](http://www.fredericknewspost.com/news/economy_and_business/business_topics/real_estate/article_f7b0142f-9b68-5635-903b-318fa9fea8ae.html)

<sup>7</sup>[http://www.housingauthority.com/Slideshow\\_Presentations.html](http://www.housingauthority.com/Slideshow_Presentations.html)

<sup>8</sup> Ibid.

<sup>9</sup><http://progress.communityprogress.net/features/05212013plba.aspx>

<sup>10</sup><http://www.housingalliancepa.org/node/1270>

necessary to fix blighted property. This is a step in the right direction to improve blight; the more powers communities have, the more they can make necessary improvements.

### **Definitions of Frequently Used Terms<sup>11</sup>**

**Blight** – Property that meets at least three of nine categories set out by Act 135.

**Code** – An ordinance pertaining to buildings, housing, property maintenance, fire, health or other public-safety matter, enacted by a municipality.

**Conservator** – A person or entity determined to be competent and appointed by the court for the protection, rehabilitation or demolition of a property.

**Petition** – A formal written request presented to a court or other official body.

**Petitioner** – A party who presents a petition to a court or other official body.

**Public Nuisance** – A property that, because of physical condition or use, has been declared by the appropriate official a public nuisance in accordance with the local housing, building, health, fire or related code or is determined to be a public nuisance by the court.

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<sup>11</sup> [http://www.housingalliancepa.org/sites/default/files/resources/ConservatorshipManual\\_General-final.pdf#overlay-context=node/1001](http://www.housingalliancepa.org/sites/default/files/resources/ConservatorshipManual_General-final.pdf#overlay-context=node/1001)