

## Abington Township Vacant Property Review Board

Thursday, April 7, 2016  
Commencing at 4:03 PM  
Township Building Board Room

### A. Welcome and introductions:

In Attendance: John Spiegelman, Jerry Nugent, Shaun Littlefield, Bob Greaves, Jim Salanik, Mike Narcowich, Cathy Gauthier, Toby True, Lorena Trujillo, Larry Matteo, Benjamin Sanchez, Anne Letizia, David Foster, John Carne, James Castor

B. Minutes of the March 3, 2016 were approved as amended.

### C. Guest Speaker:

John Spiegelman opened the meeting and welcomed everyone. Mr. Spiegelman introduced Dave Foster, (Bastogne Development Partners who presented to the Committee Act 135 Conservatorship.

Dave Foster, Bastogne Development Partnership, Act 135 Conservatorship, this law was amended in 2014.

He explained the Conservatorship and the Act – works for residential and commercial properties. (Copy enclosed)

Provides a legal process to address vacancy and blight for parties with standing near neighbors, businesses, municipalities and community development corporations.

Questions from the committee to Dave Foster.

D. The Committee is still looking into with the Solicitors office for the following:

- What is the mechanism by which our Code Enforcement Department will gain access to the interior of a vacant property? Per our previous e-mail exchange, it seems that this will likely involve a warrant from the District Judge, so what is the most efficient and expedited means of obtaining such?
- Same question as above, but pertaining to the Fire Marshal.
- Can a code and fire inspection be covered by the same warrant?
- We would like to ensure that a representative of the VPRB can accompany Code Enforcement and the Fire Marshal on their inspection(s). How do we make this happen?
- On a slightly different, but related, note, what is the mechanism by which Code Enforcement and/or the Fire Marshal and/or the VPRB can find out from the various utility companies whether utility services have been shut off to a vacant building? Is this information that the utility companies will provide as a municipal

professional courtesy, or does it require some sort of subpoena? If the latter, then how do we go about obtaining such?

- E. Jim Salanik went to the Fire Marshal and they are backed up at this time due to legal issues.

The committee went on a Road Trip, exterior site visit to Easton Road in Roslyn Properties currently on the vacant list.

**Next meeting will be May 5, 2016 at 4:00 PM**

**Meeting Adjourned at 4:41 PM**

# Act 135 Conservatorship: An Economic Development Tool for PA Municipalities

March 30, 2016

PROPRIETARY – NOT FOR DISTRIBUTION





# Company Overview

Bastogne Development Partners is a real estate, economic development and advisory firm with a focus on revitalizing underinvested communities. The company has twelve conservatorship projects in process and is also developing residential and mixed-use projects in several communities across the Delaware Valley, Brooklyn and Hartford.

**Dave Foster** is BDP's CEO. Prior to this role he was the president of Cooper's Ferry Partnership in Camden (2008-2014) where he led the organization through a significant period of growth and helped to coordinate more than \$350M in investment, including the relocation of the Philadelphia 76ers headquarters and the purchase/re-positioning of a 525,000 s.f. office and manufacturing building. He previously worked as an attorney in the real estate department of Ballard Spahr and as a foreign-direct investment specialist in the Shanghai office of Hutchison Whampoa Properties. He is a 2005 graduate of the University of Pennsylvania Law School and a 1998 graduate of Washington & Lee University. David is a veteran of the US Army. He served multiple tours overseas including a combat deployment to Afghanistan.

# Pennsylvania Conservatorship Statute Overview

## **Act 135 - Pennsylvania Abandoned and Blighted Property Conservatorship Act**

- Provides a legal process to address vacancy and blight for parties with standing (near neighbors, businesses, municipalities and community development corporations)
- Upon the filing of a successful petition, the Court appoints a 'conservator' that is given all powers of the true owner including rehabilitation/demolition of the property - petition must establish vacancy and blight (photos, affidavits, code violations).
- Owner has right of redemption until conservatorship is terminated
  - Must pay off governmental liens
  - Must reimburse conservator costs (hard and soft)
  - In order to address code violations, owner must post bond for the construction
- Conservator has superlien status over all lien holders except government
- Statute contemplates waterfall distribution of disposition proceeds with conservator's costs (including cost of capital) superseding all but government liens
- Developer may recover a fee of up to 20% of sales price (in addition to costs)



# Property Qualification Criteria

- Must meet the statutory definition of blight and abandonment (see Section 3(d)5 of the statute), examples include:
  - Public nuisance
  - Not listed on MLS
  - No rehabilitation within the past 12 months
  - Unfit for human habitation
  - Health/safety/fire risk
  - Impacts the economic well-being of the community
- Resale of property after blight mitigation will yield sufficient proceeds to cover costs of redevelopment / blight remediation and conservatorship

The statute requires only that the blight be remediated, not that the property be fully redeveloped; in some cases the right approach could be demolition or stabilization with a subsequent resale to a developer

*Note: a municipality could choose to move forward with a project that does not meet this requirement if it believed that subsidizing the project could further other municipal interests*

# How Conservatorship Can Help

- Allows municipalities to advance the redevelopment of properties that are not otherwise available for eminent domain
- Permits a capital-efficient public/private approach to economic redevelopment that requires no financial resources on the part of the municipality; all fees and costs are paid from the proceeds of the sale
- Provides a powerful tool for eliminating blight/nuisance properties and creating new development opportunities in the municipality
- Depending on the municipality's level of involvement in the conservatorship, the process can be a source of revenue
- Can serve as a tool for large-parcel assembly



# Process Overview

1. Initial property identification
2. Title, lien and judgment research
3. Review of remediation/redevelopment strategy and budget
4. Filing of petition
5. Initial hearing—conservatorship awarded, initial budget approved, right of entry for further investigation
6. Second hearing (if required) to approve construction plan and timeline
7. Conservator performs work
8. Final hearing; once work is complete and the property is under contract for sale, the conservator petitions the court to terminate the conservatorship and permit the sale. The court must approve the HUD-1 and the distribution of proceeds in accordance with the statutory distribution provision



# Bastogne Development Partners' Role

BDP can assist Abington Township by serving in any or all of the following roles:

- Advising on the integration of conservatorship acquisitions into the municipality's economic development strategy
- Managing the conservatorship process on behalf of the municipality
- Serving as conservator or co-conservator (with the municipality):

BDP can provide a full turnkey solution (bringing legal counsel, construction and necessary capital), or it can partner with the municipality if the municipality desires to provide some or all of these services itself

# Thank You

**David Foster**  
**Bastogne Development Partners**  
**[dfoster@bastognevp.com](mailto:dfoster@bastognevp.com)**  
**(484) 995-8783**  
**[www.bastognedp.com](http://www.bastognedp.com)**

## Response or Action Taken for Vacant Properties - Updated 4/6/16

	Property Address	Property Owner	Registered?	Response?
1	490 Tyson (Beer Distributor)	MARY R. MASSINO	NO	Response from attorney sent to Mark Penecale
2	2602 Jenkintown (Bar)	MARY R. MASSINO	NO	Waiting on letter from attorney stating property is >60% occupied
3	878 Township Line	BOBBIE KIESER	NO	1/7/16 Notice sent. Wrong address, letter sent 3/7/16, follow up 4/11
4	1933 Old York	ISABELLA BRACCIA	YES	1/21/16 Registered, paid \$500.00 registration fee. Follow up 7/21/16
5	1170-1180 Easton	PATANE ELIZABETH LIVING T	YES	1/28/16 Received registration (no fee rec'd). Notice sent 3/28/16 for fee req'd.
6	1356 Easton	NICHOLAS DELLAGUARDIA	NO	1/21/16 MAP spoke to DellaGuardia, waiting on U&O for storage
7	1376 Easton	AJILE 1376 LLC	NO	3/30/16 letter sent for failing to register property and paying reg fee
8	1129 Old York	OLD YORK ROAD PARTNERSHIP	NO	sent letter to new address 3/7/16 (follow up 4/18)
9	1352 Easton (bar)	NICHOLAS DELLAGUARDIA	NO	In legal process between tenant and owner
10	1124 Old York (bike shop)	KIM WHI GON & KYONG SUK	YES	Registration rec'd 3/23/16; follow up 5/11/16



# VACANT PROPERTY REGISTRATION: *How It All Happens*



Code Enforcement observes a building that appears to be vacant.



Code Enforcement verifies status with Tax Office.



Code Enforcement sends **vacancy letter** telling owner to register.  
NOTE: The clock starts ticking from the *date the vacancy letter is mailed*.



## IF OWNER HAS REGISTERED:

Owner must **pay \$500** or request a waiver.\*



Owner must **pay \$1,000** or request a waiver.\*



Owner must **pay \$1,500** or request a waiver.\*



Owner must **pay \$500** or request a waiver.\*

## IF OWNER HAS NOT REGISTERED:

Owner must **pay \$500 + \$100-\$500 penalty.\*\***



Owner must **pay \$1,000 + \$100-\$500 penalty.\*\***



Owner must **pay \$1,500 + \$100-\$500 penalty.\*\***



Owner must **pay \$500 + \$100-\$500 penalty.\*\***

## IF OWNER WANTS TO APPEAL:

If the owner contends that the building is actually occupied, then the owner has thirty (30) days from the date of the vacancy letter to file an appeal and pay a non-refundable \$50 fee.

~~+ 45 days~~

45 days after vacancy letter is mailed:

~~+ 45 days & 6 months~~

45 days + 6 months after vacancy letter is mailed:

~~+ 45 days & 1 year~~

45 days + 1 year after vacancy letter is mailed:

Every 6 months after that:

\*WAIVER NOTES: An owner may request a waiver on the grounds that the building is about to be occupied or renovated. The owner must submit the initial waiver request in writing to the Township Manager, who will review it and make a recommendation to the VPRB. If the initial waiver is granted, the retroactive effective date of the waiver is the date of the vacancy letter, NOT the date of the first waiver request. The VPRB must consider and render a decision on any waiver within sixty (60) days of receipt of the written waiver request. A maximum of four (4) waivers may be granted for one property. A waiver is good for thirty (30) days.

\*\*In addition to the normal registration fees owed, a penalty of \$100-\$500 may be levied on any unregistered property forty-five (45) days after the date of the vacancy letter and then every six (6) months after that, per §126-10 of Ordinance 2097.