

By Chris Gulotta

REMEDIATING THE PROBLEM

Tools for developing an effective blight prevention and remediation strategy

A number of state laws, some of them relatively new, give municipalities substantial powers to address the problem of blighted properties. These laws encourage municipalities to be more proactive in dealing with blighted properties and blighted property owners with the goal of tackling blight at an early stage. In addition, there are some legislative remedies available to municipalities that could prevent the spread of blighted properties by giving municipalities the authority to challenge certain property owners from acquiring more properties at a tax sale. When a community develops and implements a blight prevention and remediation strategy that incorporates the many provisions authorized in state law, clearly the whole community wins. Neighborhood quality of life remains high, the tax base remains stable and demand for essential services such as police, fire services and code enforcement should not increase.

Abandoned and Blighted and Property Conservatorship Act

A 2008 law gives municipalities and other specified persons and entities the power to petition the local court in their jurisdiction to take control of a blighted property when the owner of the property dies or refuses to act to resolve the blighted conditions described in the municipal code. Under the terms of the state law, the property must not be legally occupied for a year, must not be marketed for 60 days and must not be involved in a foreclosure proceeding. The act defines “actively marketed” as the placement of a for sale sign with accurate contact information. In addition, the property owner must market the property in at least one of the following ways: 1) contract with a realtor to place the property in a Multiple Listing Service or otherwise



NEW LAW Act 90 provides municipalities the power to deny building permits to property owners that are delinquent in their taxes, water or sewer bill, or refuse bill

market the property; 2) place weekly or more frequent advertisements in print or electronic media; or 3) distribute printed advertisements.

Another provision of the law specifies that the current owner of the property must have owned the property for at least six months. After giving due process to the owner and lienholders, including giving the senior lienholder the first opportunity to serve as the conservator, a conservator may be appointed by the court. The conservator will be responsible for bringing the property up to

code, including carrying out a court-approved rehabilitation plan and demolish the property if rehabilitation is not feasible. If financing is needed for the conservator to carry out the plan, the court may allow the conservator to borrow funds and place a mortgage against the property to secure the borrowing by the lender who is financing the rehabilitation improvements. Under the terms of the law, a lien, usually a mortgage, secures the borrowing of funds needed by the conservator and may take priority over other liens, except



AT THE GATEWAY The dilapidated hotel was razed, and the site is the future location for a local fire company

for municipal or other government liens.

It is possible for the owner to regain possession of the property after reimbursing the conservator for its costs. However, if the owner does not do this, the conservator may petition the court to approve the sale of the property. The sales proceeds are applied in the following order:

- 1) to pay outstanding court costs,
- 2) municipal and other government liens,
- 3) pay costs and expenses of the sale,
- 4) retire debt and other costs incurred by the conservator in undertaking the remediation of the property,
- 5) pay other valid liens, and
- 6) pay other costs incurred by the conservator.

The property owner may receive any proceeds remaining

after covering the costs described above are satisfied.

The criteria that the property must meet to be considered abandoned or blighted is specified in the law. This criteria includes but is not limited to 1) the building is unfit for human habitation, 2) the property is an attractive nuisance to children, and (3) the building

or physical structure is a public nuisance. (For a complete list of criteria please see 68 P.S. subsection 1105).

Neighborhood Blight Reclamation and Revitalization Act

Senate Bill 900 of the current legislative session was signed into law by the Governor on October 27 as Act 90. This new law gives municipalities the power to deny building permits to property owners that are delinquent in their taxes, water or sewer bill, or refuse bill. This would effectively prevent someone who has acted irresponsibly in the present or past from expanding their inventory or properties.

The bill also allows municipalities to place a lien against the personal assets of the owner of real property that is in serious violation of a code or is regarded as a public nuisance after judgment, decree or court order is entered.

Redevelopment Authority Powers Under State Law

Under the state Urban Redevelopment Law, certain government bodies (counties, cities and boroughs with populations in excess of 10,000) may form a redevelopment authority. Since some of the legislation on the books specifically empowers redevelopment authorities, municipalities should look to redevelopment authorities for assistance in remediating blighted properties.

Redevelopment authorities in Pennsylvania have eminent domain powers which, admittedly, should be used sparingly and with great care. Redevelopment authorities may address spot blight by acquiring vacant, blighted properties. Entities which are authorized by state law to form redevelopment authorities may approve by resolution a Blighted Property Review Board pursuant to the Pennsylvania

Expand Your Knowledge

Chris Gulotta will instruct two courses for municipal officials through different regions of Pennsylvania in the upcoming months. In January, he will be speaking about some practical approaches for redeveloping blighted properties based on the experiences of the Redevelopment Authority of Cumberland County. These approaches have included, but have not been limited to the acquisition of vacant, blighted properties pursuant to the Urban

Redevelopment Law and the reuse of properties acquired for commercial and residential purposes. In February and March, he will provide attendees a detailed review of public financing programs including federal and state tax credit programs designed to leverage private investment. More information about the redeveloping blighted properties and financing blighted projects classes can be found on page 54. **(B)**

Urban Redevelopment Law. The board must include at least one member of the redevelopment authority board, a representative of the planning commission and a representative designated by the governing body appointing the board. In addition to the requirement that the property be vacant, it must also meet the definitions of blight under state law.

The redevelopment authority is required to request a recommendation from the planning commission concerning the appropriate reuse of the property and said use must be in conformance with a comprehensive plan of the municipality. However, prior to reaching this step the redevelopment authority is required to give the owner of the property notice that the property is blighted and give the owner a sufficient amount of time to make corrective repairs. In the same notice the redevelopment authority is required to state that the owner's failure to take corrective steps may result in the redevelopment authority pursuing a condemnation action. The owner has the right to appeal the redevelopment authority under state law.

The Redevelopment Authority of Cumberland County has had a Blighted Property Review Board for

over ten years. During that time it has received over 100 referrals from municipalities in the county. In the vast majority of cases the property owners completed the repairs required to eliminate the blighting conditions; in a handful of cases the redevelopment authority moved ahead with acquiring the property through eminent domain. Properties acquired by the Cumberland County Redevelopment Authority through this process have been rehabilitated for first time homebuyer housing, demolished for new construction single family housing, or demolished and conveyed to the municipality for open space uses.

A redevelopment authority may also use its eminent domain powers in circumstances when it needs to acquire more than one parcel to undertake a more involved redevelopment project. This is more commonly known as the "redevelopment area" process. As a general rule, a majority of the properties to be acquired through this approach must meet the definition of blight and represent a majority of the redevelopment area land mass. If a majority of the properties are not blighted, the majority of the area must meet the definition of blight and at least one-third of the properties must meet

two or more definitions of blight as defined in the law.

The first step in this process is for the redevelopment authority to prepare a redevelopment proposal for review and approval by the planning commission in the jurisdiction where the redevelopment authority is operating. The planning commission certifies the area using the criteria for blight in the Eminent Domain Code. The proposal also includes a description of how the properties will be used consistent with the municipality's comprehensive plan. Following action by the planning commission, the municipality holds a public hearing on the redevelopment proposal. If the municipality approves the proposal, the redevelopment authority may proceed with condemnation.

The Redevelopment Authority of Cumberland County recently deployed its powers under the state Urban Redevelopment Law to acquire a number of parcels in

Shippensburg Borough at one of the gateway entrances into the borough from the interstate highway. One of the parcels included a dilapidated motel property in an extremely blighted condition which has been recently demolished and sold to a local fire company for their new fire house.

Miscellaneous State Laws

A number of other state laws relate to helping municipalities stem blight. Several of these laws prevent owners of blighted properties from acquiring more properties. For example, a provision of state law may prohibit a landlord whose rental license has been revoked by a municipality within a county from purchasing property at a tax sale within the same county. Another state law may prohibit anyone who is delinquent in paying local taxes or who is more than a year behind in their municipal utility bills from purchasing at a tax sale. The transfer of a property in a tax sale situation to a purchaser

who has housing codes violations on other properties owned is potentially thwarted by another provision of state law.

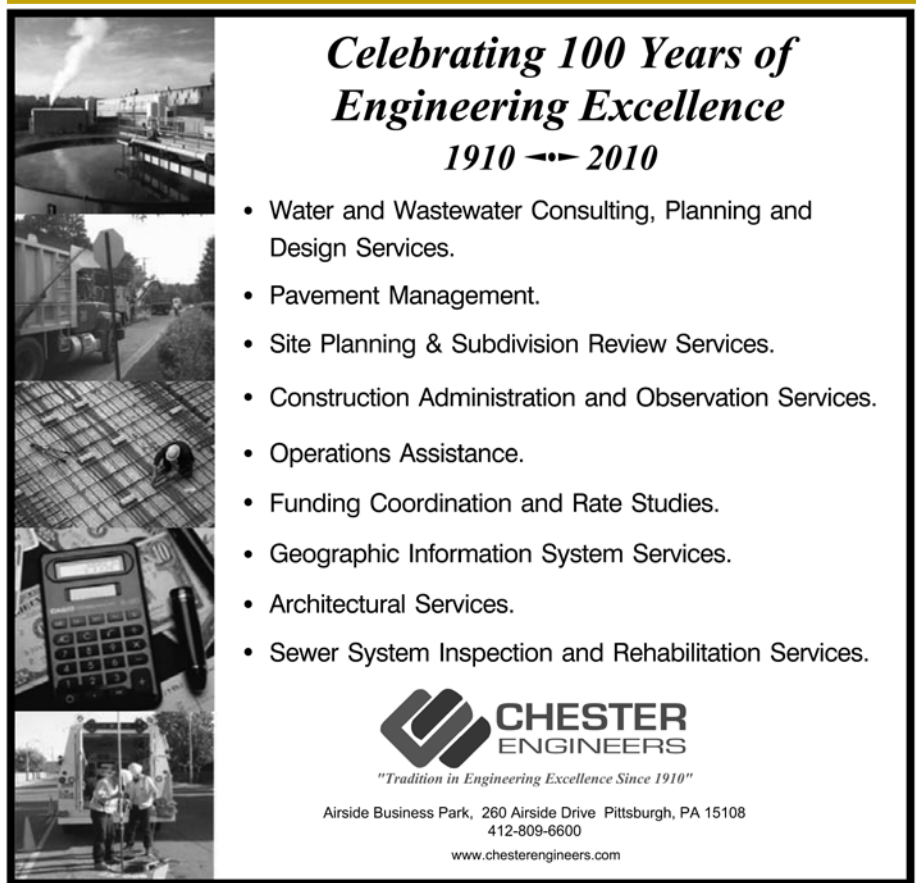
A 1998 state law created a crime for municipal housing code avoidance. This law permits criminal prosecution of owners that chronically violate housing codes. The Property Enforcement-Municipal Code Compliance Act of 2000 requires that owners who purchase properties with known code violations must take corrective actions to deal with the code violations within 18 months after purchase in accordance with the Property Enforcement-Municipal Code Compliance Act of 2000. In order to be operable, however, this law requires the adoption of a local ordinance to require a mandatory code inspection at the time of the sale of the property.

Summary

This article has discussed some tools available to municipalities in Pennsylvania law to address blighted properties. How to redevelop blighted properties from a developer and financing standpoint are equally important but first municipalities must be aware of and effectively deploy strategies for preventing blighted properties, pressuring owners to address blighted property conditions, and if that fails, pursuing the purchase of the properties through voluntary sale or, as a last resort, eminent domain. **(B)**

About the Author

Chris Gulotta served as Executive Director of the Cumberland County Redevelopment and Housing Authorities for thirty years and will shortly begin a second career, teaching at Penn State Harrisburg. He will also be forming an LLC in the near future to be known as The Gulotta Group LLC, which will provide capacity building training throughout the Commonwealth.



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