

CONSERVATORSHIP HANDBOOK

How to Use Conservatorship to Address Blighted and Abandoned Property
for Pennsylvania Community Leaders

1004

Contributing Authors

Rachel Blake

John Caddell

Cynthia Witman Daley

John Kromer

Irene McLaughlin

Catherine L. Meehan

Published by the Housing Alliance of Pennsylvania

Spring 2013

This publication is intended to be used as a resource for anyone who is interested in learning about the Blighted and Abandoned Property Conservatorship law, Pennsylvania's Act 135. But it is designed especially for generalists – for people who want to know more about conservatorship but have little or no background in real estate development or real estate law.

An earlier publication, the *Conservatorship Implementation and Best Practices Manual* by Regional Housing Legal Services (RHLS), available at http://rhls.org/wp-content/uploads/ConservatorshipManual_Final_05102011.pdf, provides more detailed information that can be particularly useful to legal counsel or others who are more familiar with real estate practices and associated legislation and regulations.

In preparing the *Handbook*, the Housing Alliance used the RHLS *Conservatorship Implementation and Best Practices Manual* on an ongoing basis, and we very much appreciate having had the opportunity to consult the *Manual* frequently during the preparation of this Housing Alliance publication. For any reader who reads this publication first and wants to consider pursuing a conservatorship action, we strongly recommend having your team review the RHLS *Manual* as a next step.

Elizabeth G. Hersh
Executive Director
Housing Alliance of Pennsylvania



Introduction

Purpose of This Handbook

The purpose of *The Conservatorship Handbook* is to help community leaders throughout Pennsylvania make use of a new tool for restoring neglected properties to productive use and increase their potential to become valued assets in neighborhood real estate markets. This tool, created by Pennsylvania Act 135 of 2008, authorizes the use of a new anti-blight strategy known as conservatorship. (Note: “Act 135” and “conservatorship” are used interchangeably throughout this handbook.)

The concept of conservatorship is easy to understand: In response to a request from a petitioner, a judge may designate a conservator—a responsible private or nonprofit entity—to bring a blighted property into compliance with property maintenance and building codes. The process leading to a conservatorship action can be complicated, however, and, because the legislation is relatively new, not many examples of successful conservatorship actions exist. With those considerations in mind, the *Handbook* is designed to help community leaders gain a better understanding of the conservatorship process so that they can take full advantage of the powers available through Act 135.

As community leaders become more knowledgeable about the use of conservatorship as a blight elimination strategy, we believe that this tool has the potential to become more widely used in Pennsylvania and elsewhere, producing beneficial outcomes for everyone concerned about eliminating blight and revitalizing communities.

Table of Contents

	PAGE
This Conservatorship Handbook consists of six chapters:	
Chapter One: What Is Conservatorship? Includes a description of the legislation and an explanation of its uses.	3
Chapter Two: Is Conservatorship the Right Tool? Provides criteria that can be used to determine whether a conservatorship action is the most effective way of dealing with a particular neglected property, in preference to other options.	5
Chapter Three: Researching Your Case Describes the initial research that needs to be completed in preparation for the filing of a conservatorship petition.	11
Chapter Four: The Conservator and the Improvement Plan Describes the role of the court-appointed conservator and the elements of the improvement plan that must be authorized by the court.	17
Chapter Five: Going to Court Summarizes the four basic steps involved in a legal action leading to the appointment of a conservator.	23
Chapter Six: Getting the Job Done Describes what happens after a conservator is appointed and the opportunity to take action that will improve the property has finally arrived.	27
The Handbook has the following more technical appendices:	
Appendix A: Act 135 at a Glance	29
Appendix B: Sample Petition for Conservatorship in Allegheny County Which includes: <ul style="list-style-type: none">– Sample Petition for the Appointment of a Conservator– Sample Notice of Filing of a Petition for the Appointment of a Conservator– Sample <i>Lis Pendens</i>	32
Appendix C: The Abandoned and Blighted Property Conservatorship Act 68 P.S. §1101, Act 2008-135 (H.B. 2188)	49
Appendix D: Glossary	59
Appendix E: Contributing Authors' Bios	61

We hope that this publication will be helpful to community leaders who are concerned about property blight and who want to take action to bring new value to the places they care about.



Chapter One

What Is Conservatorship?

Background

Blighted and abandoned properties can be found in every region of Pennsylvania. Property neglect is no longer an “inner-city” issue; deteriorating or vacant properties can now be found in many rural and suburban communities, as well as in cities. Some residential blocks that had been fully occupied and well maintained not long ago are now experiencing “incipient blight,” as property conditions worsen and vacancy increases.

All Pennsylvania counties are experiencing problems with blighted properties, from dilapidated and vandalized row houses on city streets to boarded-up, detached homes on suburban lots. Neglected properties destabilize residential communities; when they appear, nearby property owners start thinking about moving out. Because such properties have the potential to become centers of criminal activity, their presence makes a community less safe and increases the cost of police and fire services. A deteriorated or vacant property is a symptom of declining or failing real estate—and when no one takes action to improve its condition or status, market conditions begin to worsen and threats to community well-being increase.

Purpose of Act 135, Blighted and Abandoned Property Conservatorship

Growing public concern about blighted properties influenced the General Assembly to approve Act 135, the introductory section of which states: “If these buildings are not rehabilitated, they are likely to remain abandoned and further deteriorate, resulting in increased costs to the Commonwealth, municipality and taxpayers to secure and ultimately demolish them.”¹

Property owners are responsible for complying with health and safety code standards associated with the real estate they own. When owners cannot or will not comply with those standards, their properties fall into disrepair and become community problems. Unfortunately, the problems cannot be resolved quickly, even in cases of extreme negligence. Because property rights have fundamental importance in the United States, the process by which government may take control of neglected properties or threaten their owners with code enforcement are cumbersome. Until Act 135 was approved, options for neighbors and other concerned parties to act were few.

The Blighted and Abandoned Property Conservatorship Act, enacted in 2008, creates a new opportunity for citizens and organizations, as well as local governments, to take constructive action in order to deal with serious cases of property neglect. Under the act, a neighbor, nonprofit organization, municipality, school district, or redevelopment authority can ask a judge to appoint a responsible party to take charge of a neglected property and bring it into compliance with code standards. The party appointed for this purpose, known as a conservator, is given the responsibility to stabilize, rehabilitate or demolish the structure in order to address seriously blighting conditions that the owner has been unwilling or unable to deal with.

A judge’s decision to appoint a conservator is based on hearing evidence that a property owner is unwilling or unable to comply with codes and that the property in its dilapidated condition presents a serious threat to the community where it is located. The conservatorship process provides a legal, court-supervised way to enter onto someone else’s property and complete the improvements needed to make it safe.

Although conservatorship is new to Pennsylvania, similar laws have existed in other states for many years. (In some places, the court action is referred to as “receivership” rather than conservatorship.) States with existing conservatorship or receivership laws include Louisiana, Maryland, Massachusetts, Missouri, New Jersey, Ohio and Oregon. Some of the Pennsylvania legislators who supported the approval of Act 135 did so after becoming aware of the positive results that have been achieved elsewhere.

Because conservatorship is a judicial intervention that is different from routine code enforcement, interested parties have to spend a lot of time and pay for legal expertise in order to organize and fully document a presentation to the court. For these reasons, conservatorship is not a blight-prevention strategy that can readily be used to bring hundreds of properties into compliance at once. Instead, conservatorship is a specialized action designed to be used in a worst-case situation, in which no reasonable alternative course of action appears to be available to community members—a situation in which a favorable court decision will have been worth the time, money and paperwork involved in preparing a strong presentation to a judge.

The following chapter provides information that can help you determine whether conservatorship is the best way to address a blighted-property problem about which you are concerned and summarizes other strategies that you can use to acquire the property or alleviate the problem.

¹ Act 135 § 2(4); 68 P.S. § 1102(4).

Chapter Two

Is Conservatorship the Right Tool?

Threshold Issues

The Act 135 process requires a lot of research and some expert legal advice before a decision can be made as to whether a particular property is a good candidate for conservatorship. The property must meet certain criteria laid out in the law and should be financially feasible for rehabilitation or demolition and reuse of the site. You will need a team of professionals to use the law successfully.

The Team

A conservatorship action is a team endeavor. To prepare a credible case, you will need to recruit the following team members.

- 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

The team will have to gather the evidence showing that the property meets the requirements for conservatorship, develop a realistic plan for the improvement of the property, and identify the sources of funding that the court-appointed conservator will need to repair and maintain the property.

Finding a Lawyer

As described in Chapter Three, some of the initial research and preparation for a conservatorship action can be completed without an attorney. Just bear in mind that this handbook is a source of information and advice but is not a substitute for legal counsel.

You will need to engage and maintain ongoing communication with an attorney during the period leading up to the filing of a conservatorship petition. State law requires that any corporation filing a conservatorship petition—nonprofit or other—must be represented by an attorney. Although individuals have the option of representing themselves, the engagement of an attorney is strongly recommended.

If you are seeking legal advice, call your county's bar association to find out whether it offers a lawyer referral service that can direct you to a real estate lawyer. If there is a law school in the area where the property is located, it may have law students seeking credit through clinical experience or independent study who may be available to assist with a conservatorship action. Call the law school and ask for contact information of professors who supervise legal clinics or independent studies. Additionally, the staff at the Housing Alliance may be aware of lawyers in your area who are familiar with Act 135:

Housing Alliance of Pennsylvania
(215) 576-7044
info@housingalliancepa.org

Budget

Along with budgeting for the services of an attorney and architect (if those services are not provided on a volunteer basis), you should be aware of the expenses associated with the filing of a conservatorship petition and proceeding with the case. It would be worthwhile for you to be aware of the costs in advance. See the “What It Might Cost” subsection of Chapter Five for more information.

Ineligible Properties

Before starting, you should determine whether the property for which you want to prepare a conservatorship petition is eligible for conservatorship.

A property is *not* eligible for conservatorship if it:

- 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

You will need to complete a little research in order to determine whether a property meets any of those criteria, and you will need to assemble some documentation on the above items and other issues to prove that the property qualifies for conservatorship. Detailed information and advice are provided in the next chapter.

Properties with Complications

A property that does not fall into the ineligible categories listed above may still have characteristics that would complicate a conservatorship action. Organizing a conservatorship action for a property with complications will probably need more planning on the front end of the process, and that planning is likely to involve consultation with experts who have specialized knowledge of the issues about which you are concerned. In each of the cases below, consultation with an attorney is a good first step.

The following are seven of the most commonly recognized complications associated with conservatorship:²

1. The property is owned by the Commonwealth of Pennsylvania or by a municipal government.

A property that is owned by the Commonwealth of Pennsylvania, or by any local government, may appear to be eligible for conservatorship, but it is unlikely that you will prevail in seeking the appointment of a third-party conservator on government property.

2. The property is subject to a drug forfeiture taking.

If the property is subject to seizure by the government for drug-related offenses, clearing title to the property can be difficult. If you are unsure about whether a property may be subject to forfeiture, check with your county’s district attorney’s office.

² RHLS Manual at 11-13.

3. The property is a “Brownfield” site.

The designation of a property as a Brownfield means that existing environmental hazards (such as contaminated soil on the site) must be addressed, in compliance with federal and/or state regulations, as part of a development or improvement project. Dealing with Brownfields is likely to make a conservatorship action more complicated and more expensive. The associated time and cost factors need to be evaluated in advance so that the conservator can make an accurate assessment of the feasibility of moving ahead with such a project.

4. The property is historically certified.

A property being considered for conservatorship may be historically certified. Some historically certified properties are located within designated historic districts, while others may be located on blocks where no nearby properties are historically certified. To determine whether a property is historically certified, check with planning or community development department staff in the municipality or county where the property is located. The National Register of Historic Places web site at <http://www.nps.gov/nr/> is a useful source of information and guidance.

The upgrading of a historically certified property is subject to standards that may significantly add to the cost of rehabilitation. In some instances, demolishing a historically certified property is not permitted.

5. The property is located in a floodplain.

The first complication is the need for flood insurance, an added expense. You should also seriously consider whether it is worthwhile investing in a property that is subject to flooding, unless your goal is to restore wetlands.

6. The property is not zoned for the use you want to achieve.

Contact the municipal zoning officer or the county planning department to determine the zoning classification for a specific property. If the existing zoning is not compatible with the end use you have in mind, you may be able to obtain a variance. If you are unable to obtain a variance for your intended use, you will need to consider other possible uses for the property. Conservatorship makes sense only if the property is useful for the allowed purposes or if the court will be able to authorize transferring the title to someone who can use it.

7. The property has government liens on its title.

A conservatorship action does not remove federal, state and local government liens from the title to the property. Obtain a title report to learn whether government liens need to be satisfied before clear title can be obtained. If you discover a government lien, you and your attorney should find out whether the governmental entity that filed the lien could be persuaded to remove it, possibly in exchange for the payment of an amount less than the total owed.

Under some circumstances, government officials may be willing to consider reducing or forgiving the debt associated with a property proposed for conservatorship. For example, a school board or a county or municipal government might agree to compromise all or part of the taxes owed on a property that has remained vacant for a long time and has become a public nuisance, with no likelihood that the accumulated debt will be paid while the property is vacant. A successful conservatorship action would return such a property to the tax rolls and eliminate the nuisance. From this perspective, government officials might view conservatorship as being in their best interest and might support a conservatorship action by compromising public debt.

Insurable Title

Act 135 says, under certain circumstances, “the court may authorize the conservator to sell the building free and clear of all liens, claims and encumbrances” (see Termination of Conservatorship subsection in Chapter Six). In addition to this authorization, free and clear title or insurable title, depends on whether the holder of the property interest—lien, claim, encumbrance—was provided adequate notice that his or her property interest would be cleared. Act 135 sets out notification requirements, but long-standing federal constitutional notice standards apply to the divesting of property interests, and Pennsylvania Rules of Civil Procedure set out methods and procedures for giving notice to parties that have an interest in real estate. The First Judicial District (Philadelphia) adopted General Court Regulations for implementation of Act 135 that require adherence to civil procedural rules.

In the early stages of preparing a conservatorship action, it is crucial to thoroughly research who gets notice and how to give notice to each identified party and to do so with eye toward the possibility of a conservator’s sale of the property. A title examination or title report will identify the property owner and the holder of any liens, claims and encumbrances on the property. Most likely, your lawyer will obtain a title report and review it with you. For the title to be insurable to a buyer who purchases from a court-approved conservator sale, it will be helpful for your lawyer to review the title report with the title underwriter, because a conservatorship sale is a novel real estate transaction and the title underwriter may have his or her own requirements for notifying those with a property interest.

A title report and service in accordance with Pennsylvania Rules of Procedure are some of the primary expenses that may be related to a conservatorship action. See the “What It Might Cost” subsection in Chapter Five: Going to Court.

Exploring Other Possibilities

Pennsylvania's conservatorship legislation was drafted in part because few options are available to residents who want to ensure that long-neglected properties are brought into compliance with health and safety code standards and made suitable for occupancy. However, conservatorship is just one of several tools available to address problem properties. While conservatorship is a flexible legal tool that can be used by a variety of petitioners, including neighbors, municipalities, school districts, nonprofit organizations and other entities, it may not be the most appropriate tool for your problem property.

Although a local government's capability to bring neglected properties into compliance is limited, some options are available, and you should consider them before pursuing a conservatorship action. Information about tools for dealing with blighted properties in your neighborhood can be found in the *Quick Guide: New Tools to Address Blight and Abandonment* from the Housing Alliance of Pennsylvania (home page at www.housingalliancepa.org). Work with your municipal officials and make sure they are aware of the *Quick Guide* and are taking all possible steps within their power to address the blighted-property problem about which you are concerned.

Actions that you should consider before pursuing conservatorship include the following:

Negotiated purchase

You may be able to buy the property from the owner. We recommend, however, that you consult with an attorney before contacting the owner directly. If tipped off that you intend to pursue conservatorship, the owner may take certain very minimal steps to make conservatorship impossible—by listing the property for sale, for instance. For that reason, it may be advisable to file the conservatorship petition before attempting to negotiate with the owner. Many deteriorated properties fall into one of the following three categories.

1. Owner happy to sell

An offer to purchase may be welcomed by an owner who has been looking for a way to get out from under the burdens of ownership. In many communities blighted properties simply have no buyers. The owner may have inherited the property. Or the owner may have bought the property to rehab it but it was too expensive. When rehab becomes economically prohibitive, the owner may be happy to get out.

Note: You should determine whether it is economically feasible for you to rehab the property before acquiring it. But with funding available to nonprofit organizations that is not available to private individuals, your organization may be able to handle a property that the current owner cannot.

2. Mortgage lender or servicer

Because so many properties having gone through foreclosure in recent years, lending institutions may be eager to negotiate with you for properties they own. Such properties, known as Real Estate Owned or REOs, are costly to the banks. Because of the glut of REOs, you may be able to get a donation or very favorable sale terms. Even when the real estate market rebounds, lenders are a good source for properties.

In 2008, the National Community Stabilization Trust was created to help nonprofits acquire REOs. For more information, go to <http://www.stabilizationtrust.com>.

3. Speculator

If the property is owned by someone who is simply waiting for market values to appreciate to the point where a profitable sale can be achieved, acquisition through negotiated purchase may be difficult—or infeasible. Working with your local codes department, filing notices of code violations, and initiating court actions if there is no abatement can help put pressure on the owner. Further code escalation and enforcement actions may make the owner more receptive to your offer.

Property donation

In some cases the owner of a neglected property may be willing to give the property away rather than finance a rehabilitation project or face code enforcement actions. A willing owner could donate his property to a 501(c) (3) organization and take a charitable contribution deduction on his taxes. Under certain circumstances a Pennsylvania business could receive a state tax credit for donating property. (See the Neighborhood Assistance Program at the Department of Community and Economic Development.) But be careful about accepting a donated property with liens, mortgages or other claims against it. By working with your municipality, county and school district, you may be able to get tax claims removed.

Some municipalities will agree to accept a donated property and clear the liens, after which the property may be conveyed to a party that agrees to restore it to productive use. The municipality should refer to the donation provisions in the Municipal Claims and Tax Lien Law (53 P.S. secs. 7108.1, 7143; Act 18 of 2006) and the Real Estate Tax Lien Law (72 P.S. secs. 5860.303, 5860.309; Act 12 of 2006).

File a code complaint

Neighbors and other interested parties can file a building code or property maintenance code complaint with the municipal code enforcement department that serves the property location. The results achieved by filing a complaint with building code officials can vary. In response to a complaint, a code enforcement officer typically will inspect the property and, if a code violation is found, issue a violation notice that includes a deadline for bringing the property into compliance. When an owner does not abate the violation or respond to the violation notice, the code official may pursue municipal code prosecution, which begins as a court filing with the appropriate magisterial district judge. Make sure your code department has a copy of the *Quick Guide: New Tools to Address Blight and Abandonment* for laws that allow code enforcement to escalate to criminal misdemeanor charges and that allow the municipality to recover the cost of abatement and fines.

Taking matters into your own hands is not recommended.

As an immediate response to conditions at nuisance properties, neighbors sometimes start taking care of neglected properties on their own initiative, without seeking permission from the owner or anyone else. They cut weeds and remove litter from a vacant lot, for example, or secure windows and doors in a vacant house.

These actions are short term and are usually limited in effectiveness. At best, they help to maintain the stability of the surrounding neighborhood. At worst, they expose community members to charges of trespassing. Entering onto a property without the owner's permission or court sanction is *not recommended*.

If you still are unsure whether conservatorship is the right tool, discuss your situation with an attorney who is experienced in real estate and knowledgeable about the Commonwealth's conservatorship legislation. In some instances, a property that initially appears unsuitable for conservatorship may prove to be a good candidate for this approach—or vice versa.

Chapter Three

Researching Your Case

Once you have determined that a property appears to be a good candidate for conservatorship, you will need to research the eligibility criteria described in the preceding chapter so that you can prepare to file a petition and get scheduled for a court hearing.

This chapter describes four defining characteristics that a property must possess in order to be considered eligible for conservatorship, as well as nine indicators that would qualify the property as “blighted,” consistent with the legislative definition of this term.

Suggestions about how you might document eligibility for conservatorship or a property’s status as blighted are provided after each item.

In many instances, we recommend obtaining affidavits from neighbors and others attesting that the property meets one of the conservatorship eligibility or blighted-status qualifications. Be sure to prepare the affidavits in consultation with your attorney to make sure that they will be effective when presented to the court.

Defining Characteristics of a Property Eligible for Conservatorship

Act 135 mandates that a property must meet four conditions to qualify for conservatorship.³ If any one of these four conditions is not met, conservatorship is not an option.

Four Conditions Necessary to Qualify for Conservatorship

1. The property must not have been legally occupied for at least the previous 12 months.⁴

If the property appears to be vacant, neighbors may be able to provide information about when it was last occupied and sign an affidavit to that effect.*If utility shutoff dates are available as a matter of public record, that information may be helpful as well.*

A squatter-occupied property is not considered “legally occupied.”

2. The property must not have been actively marketed for sale during the 60 days before the date of the petition.⁵

A property is considered “actively marketed” when a “For Sale” sign has been placed on the property with accurate contact information *and* when the owner has done at least one—but not necessarily all—of the following.

- Engaged the services of a real estate agent to place the property in a Multiple Listing Service, or taken other action to market the property
- Advertised the property for sale on a weekly or more frequent basis by means of print or electronic media
- Distributed printed advertisements.⁶

An asterisk () follows any sentence that describes suitable documentation for inclusion as an attachment to a conservatorship petition.*

³ Act 135 § 5(d); 68 P.S. § 1105(d).

⁴ Act 135 § 5(d)(1); 68 P.S. § 1105(d)(1).

⁵ Act 135 § 5(d)(2); 68 P.S. § 1105(d)(2).

⁶ Act 135 § 3; 68 P.S. § 1103 definition, “Actively marketed.”

Below are some suggestions on how to research and document this issue.

*If no “For Sale” sign is posted, photographs of the property should be taken to illustrate that fact. The photographs should display the time and date they were taken.**

*If a “For Sale” sign is posted, check to see whether the contact information is inaccurate or outdated. Call the phone number provided on the sign and, if someone answers, ask whether the property is for sale and request information about the current status of the property.**

Don't be discouraged if you see a “For Sale” sign posted on the property. You may be able to provide evidence that the property was not “actively marketed” in the past 60 days and is therefore eligible for conservatorship.

*If the property is residential, check the Multiple Listing Service (MLS) at <http://www.realtor.com> to determine whether the property has been listed on the MLS. Print out the results of the MLS search.**

*If the property is commercial, contact local commercial real estate brokers to determine whether it is being actively marketed. Make a list of the brokers who were contacted, along with summaries of the information they provided.**

*For any property, you should check local papers, real estate magazines, craigslist.com, and any other publication or web site that may contain real estate listings in the area so that you can find out whether the property has been advertised for sale. Keep a detailed record of the search.**

Neighbors and local community group leaders may have information about whether the property has been advertised in the past 60 days. See whether those community members are willing to sign an affidavit stating that, to their knowledge, the property has not been marketed within the past 60 days.*

3. The property must not be subject to an existing foreclosure action.⁷

To find out whether the property is subject to a foreclosure action, check with your county's Prothonotary, which is the keeper of civil court records. Do not rely solely on a title report to determine the status of the property title.

The Act does not provide detailed guidance about the filing of a conservatorship action in connection with a property that is subject to a pending tax sale or similar action. If the property in question appears to be subject to a foreclosure proceeding, consult with your attorney to get advice about how to address that issue. Be sure to document whatever steps you take to determine whether a foreclosure action is pending.*

4. The property has been owned by the current owner for at least six months.⁸

This condition does not apply if the new owner is an immediate family member of the prior owner (unless the transfer results from the death of the prior owner), or where either party is a business in which the other party has an ownership interest of more than five percent. In other words, the owner cannot avoid the conservatorship by selling the property to a family member or a business owned by that individual and continuing the transfers every few months. In this context, “immediate family” is defined as “a parent, spouse, child, brother or sister.”

In determining whether six months or more have passed since the current owner acquired the property, be sure to check with your county's recorder of deeds for the exact date on which title was transferred. Also, be sure to check with the recorder of deeds to determine whether there has been a recent transfer of ownership. This is important to do repeatedly during your preparation, and certainly just before filing the petition. Obtain a printout or some kind of documentation of the research you have conducted or the county staff has conducted for you.*

An asterisk () follows any sentence that describes suitable documentation for inclusion as an attachment to a conservatorship petition.*

⁷ Act 135 § 5(d)(3); 68 P.S. § 1105(d)(3).

⁸ Act 135 § 5(d)(4); 68 P.S. § 1105(d)(4).

Defining Characteristics of a Property in Blighted Condition

In addition to providing evidence that the property has *all four* of the characteristics described above, you will need to show that the condition of the property can be characterized as blighted, based on evidence that the property meets *at least three* of the nine defining characteristics of blight described in the act.⁹ The property may have more than three of the characteristics, and you are free to present evidence related to as many characteristics as are applicable, although you are not required to do so.

Nine Indicators of a Blighted Property Condition

1. The property is a public nuisance.¹⁰

If the property has been declared a public nuisance by your municipality's code official, you should obtain a copy of the citation and copies of any code violation notices issued by the local code enforcement department.*

If the building has not been declared a public nuisance, provide photographs and affidavits from neighbors who live near the property to show the judge that there is sufficient cause for ruling the building a public nuisance. The affidavits, which should be prepared and notarized in consultation with your attorney, should describe the condition of the property.*

2. The property is in need of substantial rehabilitation, and no rehabilitation activity has taken place during the previous 12 months.¹¹

"Substantial rehabilitation" has taken place when:

- a. The cost of the repair, replacement and improvement activity exceeds 15% of the property's value after rehabilitation; or
- b. When one of the following is being replaced: roof structures, ceilings, wall or floor structures, foundations, plumbing systems, heating or air conditioning systems or electrical systems.

If some rehabilitation activity appears to have taken place within the past 12 months, get in touch with neighbors and a contractor to prepare a description of the activity, along with an estimate of the fair market value of the property after rehabilitation. Take photographs of the property without entering the premises (and collect before-rehabilitation photos of the property, if available), and, in consultation with your attorney, obtain affidavits from neighbors and from the contractor whom you have asked to examine the property.

If the property owner has applied for a building permit at any time, the property may still be eligible for conservatorship if no work has been done within the past 12 months.

An asterisk () follows any sentence that describes suitable documentation for inclusion as an attachment to a conservatorship petition.*

⁹ Act 135 § 5(d)(5); 68 P.S. § 1105(d)(5).

¹⁰ Act 135 § 5(d)(5)(i); 68 P.S. § 1105(d)(5)(i) and § 3; 68 P.S. § 1103 definition, "Public Nuisance".

¹¹ Act 135 § 5(d)(5)(ii); 68 P.S. § 1105(d)(5)(ii) and § 3; 68 P.S. § 1103 definition, "Substantial Rehabilitation".

3. The property is unfit for human habitation, occupancy or use.¹²

Violation notices issued by the code enforcement agency can be used as evidence that this condition exists.* Photographs of the property and affidavits from neighbors attesting to property conditions are also recommended.* As described later, the preparation of a “preliminary plan” for upgrading the property is an integral part of the conservatorship process, and documentation of existing conditions and of the actions that need to be undertaken to address them would be helpful as evidence of an existing blighted condition and as documentation for inclusion in the preliminary plan.

4. The condition and vacancy of the building materially increase the risk of fire to the building and to adjacent properties.¹³

Documentation of previous fires on the property may be obtained from the fire department. Neighbors may be willing to provide photographs and sign affidavits attesting to previous fires.

Past code violations, including violations associated with the presence of excessive trash or flammable materials in or near the building, may be used as evidence of a “risk of fire,” even if no previous fires have taken place at the property.

5. The building is subject to unauthorized entry leading to potential health and safety hazards and one of the following applies:

- (a) the owner has failed to take reasonable and necessary measures to secure the building or
- (b) the municipality has secured the building to prevent such hazards after the owner has failed to do so.¹⁴

Photographs of the property and affidavits from neighbors can be used to provide evidence that the owner has not taken sufficient steps to secure the building.*

Police reports may be used to prove that the building has been entered illegally.*

If the building has been sealed by the municipality, contact the code enforcement agency to obtain documentation of the action.*

6. The building is considered an “attractive nuisance” to children.

“Attractive nuisance” describes a property that is an unsafe structure or that includes abandoned basements, excavations, shafts or wells.¹⁵

The condition can be documented by photographs illustrating the above characteristics, affidavits from neighbors regarding the actual entry of children onto the property, a detailed description of any injuries that children have received as a result of entering onto the property, and code violation notices issued by the code enforcement agency.* Remember that an abandoned building in and of itself has the potential to attract the interest of children in a residential community.

An asterisk () follows any sentence that describes suitable documentation for inclusion as an attachment to a conservatorship petition.*

¹²Act 135 § 5(d)(5)(iii); 68 P.S. § 1105(d)(5)(iii).

¹³Act 135 § 5(d)(5)(iv); 68 P.S. § 1105(d)(5)(iv).

¹⁴Act 135 § 5(d)(5)(v); 68 P.S. § 1105(d)(5)(v).

¹⁵Act 135 § 5(d)(5)(vi); 68 P.S. § 1105(d)(5)(vi).

7. The presence of vermin or the accumulation of debris, uncut vegetation, or the physical deterioration of the structure or grounds has created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards.¹⁶

This condition can also be documented through photographs of the vermin, uncut vegetation, debris, or deterioration of the property, along with any relevant notices of code enforcement violations.*

8. The dilapidated appearance or other condition of the building negatively affects the economic well-being of residents and businesses near the building.¹⁷

Evidence that the property “negatively affects the economic well-being of residents and businesses” may include information about declining property values and loss of business in the immediate area, as well as related photographs and affidavits from property owners, business owners and operators, and real estate professionals attesting to the negative impact of the property on the neighborhood economy.*

The RHLS Manual cautions against relying on this indicator of blight, because it might be abused by unscrupulous developers as a means of forcing out low-income residents.¹⁸ Most abandoned and blighted properties will satisfy three or more of the other criteria, so referring to declining property values should be unnecessary.

9. The property is an attractive nuisance for illicit purposes.¹⁹

“Illicit purposes” includes prostitution, drug use and vagrancy. It can be documented by police reports detailing the illegal activity, as well as affidavits from neighbors confirming that the activities occur on the property.*

As indicated on pages 11–15, items in the preceding sections that have been tagged with an asterisk (*) may be included as attachments to a conservatorship petition. Although most of the items are not required, it would be advantageous to include as many of them as possible in order to strengthen your case. Reminder: Be sure to consult an attorney before preparing any affidavit to present in court, and make sure the affidavit is signed by the person making the statement in the presence of a notary public.

An asterisk () follows any sentence that describes suitable documentation for inclusion as an attachment to a conservatorship petition.*

¹⁶Act 135 § 5(d)(5)(vii); 68 P.S. § 1105(d)(5)(vii).

¹⁷Act 135 § 5(d)(5)(viii); 68 P.S. § 1105(d)(5)(viii).

¹⁸RHLS Manual at 19.

¹⁹Act 135 § 5(d)(5)(ix); 68 P.S. § 1105(d)(5)(ix).

Chapter Four

The Conservator and the Improvement Plan

The conservator is the party appointed by the court to enter the property and address the conditions of blight. This chapter describes what the law mandates a conservator to do and the powers conferred to a conservator, and the legal and practical considerations involved in selecting a party to be recommended to the court for selection as conservator of the property. The remainder of the chapter describes the elements of the improvement plan for the property and important issues that you should consider in preparing the plan.

Conservator Mandates

Act 135 requires that a conservator take possession immediately upon appointment and maintain, safeguard and insure the property.²⁰

Powers of the Conservator

Act 135 specifies that the appointment of a conservator by the court authorizes the conservator to undertake any of the following actions:²¹

Conservator Powers

1. Take possession and control of the building, associated land, and any personal property of the owner used with respect to the building, including any bank or operating accounts for the building.

2. Collect outstanding accounts receivable.

3. Pursue all claims or causes of action of the owner with respect to the building and all other property subject to the conservator.

Action 3 may provide the conservator with a source of additional funds to help pay for the rehabilitation of the property.

4. Contract for the repair and maintenance of the building.

The contracts must be fully documented, and the documentation must be included in the reports and accounting that the conservator is required to submit. For contracts valued at more than \$25,000, the conservator is required to make a reasonable effort to solicit three competitive bids.

Although the act requires only three bids for contracts that are expected to exceed \$25,000, it is recommended that conservators obtain three bids for all work, except work that needs to be done in response to an emergency.²²

5. Borrow money and obtain credit for the rehabilitation of the property.

6. Contract and pay for the maintenance and restoration of utilities to the building.

If the property has past-due bills, they may need to be paid before the utilities can be reconnected so that the property can be fully rehabilitated and sold.

²⁰Act 135 § 5(h); 68 P.S. § 1105(h) and § 6(b)(1); 68 P.S. § 1106(b)(1).

²¹Act 135 § 6; 68 P.S. § 1106.

²²RHLS Manual at 37.

7. Purchase materials, goods and supplies to accomplish repairs and operate the building.

The conservator should keep detailed records (with the assistance of a certified public accountant if needed) of all costs incurred, to ensure that a full reimbursement of expenses is received at the end of the conservatorship.

8. With the court's approval, enter into new rental contracts and leases for a period not to exceed one year.

Some buildings may be rehabilitated in phases, with the first phase being rented while the next phase is completed, and so on. The lease may not exceed one year, because it is anticipated that when the rehabilitation is complete, the property will be sold.

9. Affirm, renew or enter into contracts providing for insurance coverage on the building.

The conservator is authorized to purchase any and all required insurance, including coverage for the property, the equipment and liability.

10. Engage and pay legal, accounting, appraisal and other professionals to aid the conservator in the conduct of the conservatorship.

This provision includes the engagement of professional services associated with all aspects of the development, design, and construction, budgeting, bidding, financing and out-sale process.

11. In cases where the building has been designated a historic property or is located in a designated historic district, consult with the appropriate local or state historical commission to determine what requirements apply to the renovation to preserve the building's historic character, or to determine whether demolition will be allowed.²³

12. Apply for and receive public grants or loans.

13. Sell the building.²⁴

14. Exercise all authority that an owner of the building would have to improve, maintain and otherwise manage the building.

This is a catch-all provision that allows the conservator to handle any unanticipated problems that may arise as improvement plans are being implemented.

²³See the "Difficult Considerations for Conservatorship" section of this handbook for more information on historic properties.

²⁴See the "Termination of Conservatorship" section of this handbook for more information on the selling of property.

Choosing a Conservator

The conservatorship petition that you file in court is to identify a party that you are recommending be appointed by the court as conservator.²⁵ The court will make the final decision about whether to appoint the recommended conservator or to appoint some other party instead.

In thinking about a prospective conservator to recommend to the court, you should consider both the legal and practical considerations associated with conservatorship.

Legal Considerations

Act 135 requires that the petitioner first approach the senior lien holder to determine that party's interest in being appointed conservator.²⁶ The senior lien holder is the party that has filed a lien (a claim or security against the property) in "first position"—meaning that this claim is to be paid first, right after government liens are paid but before any other private liens are paid, in the event that the property is sold or foreclosed upon. The first lien holder is often, but not always, the mortgage lender. A review of the title report will enable you to identify the first lien holder.

The reasoning behind this requirement is that the costs incurred by the conservator, when secured by a lien, supersede existing liens other than federal, state and local government liens—creating a "super lien" status. As a result of the conservatorship, funds may not be available to repay the existing lien holders. The non-government liens will be wiped out when the property is sold at the end of the conservatorship process. Offering the senior lien holder an opportunity to become the conservator offers this party an opportunity to control the process and mitigate their potential losses.

If the title report shows that there is no lien holder, or if the senior lien holder declines the appointment, or if the court determines that the lien holder would be an inappropriate candidate for appointment as conservator, the petitioner may consider other parties to recommend. The act states that the court must consider any other recommendations from the petitioner and give preference to a nonprofit corporation or governmental unit rather an individual.²⁷

Practical Considerations

Act 135 does not provide detailed rules or guidelines to be used in choosing a conservator, but the law does say the conservator must be "competent." A "competent entity" has "experience in the rehabilitation of residential, commercial or industrial buildings and the ability to provide or obtain the necessary financing for such rehabilitation." It is important that you and other members of your team consider all of the responsibilities that a conservator will need to assume for the property about which you are concerned and that you select a prospective conservator with the skills and experience that would make him or her particularly well qualified to take on the challenge of implementing an improvement plan for the property.²⁸

Here are some of the most important conservator responsibilities:

- 1. Taking possession immediately upon appointment and maintaining, safeguarding and insuring the property.**
- 2. Preparing and submitting proposals for blight remediation to the court for approval.**

This responsibility includes all aspects of the development, design, construction, budgeting, bidding, financing, and selling or leasing process.
- 3. Advertising for bids from contractors, subcontractors and professional services, and selecting and supervising the work of architects, engineers, contractors and other design and construction professionals.**

²⁵ Act 135 § 4(b)(2); 68 P.S. § 1104(b)(2).

²⁶ Act 135 § 5(e)(2); 68 P.S. § 1105(e)(2).

²⁷ Act 135 § 5(e)(3); 68 P.S. § 1105(e)(3).

²⁸ Act 135 §3; 68 P.S. §1103

4. **Ensuring that approvals are obtained for the necessary permits, zoning variances, insurance, environmental assessments, historic restoration plans, storm water management plans, financing, and title insurance.**
5. **Working with legal counsel and your team to make regular reports to the court and secure court approvals for each step of the process, as required by the court.**
6. **Maintaining financial records and working with financial professionals to complete the final accounting required by the court.**
7. **Working closely with legal counsel and a title insurance agent during the process to make sure that the court will approve the conservator’s lien and the public or private sale process.**

If the identified Conservator has most, but not all, of the above qualifications necessary, you and your team may want to consider recommending the appointment of a “co-conservator,” a party with the capability to manage responsibilities that the primary conservator is not able to fully address. Bringing a “co-conservator” on board should be considered only when absolutely necessary, when feasible, and when both parties meet all legal requirements. It may be better for the conservator to hire professionals to provide expertise that the conservator is lacking.

When considering the selection of a party to recommend for court appointment as conservator, make sure that you compile a written description of the process, to document in detail the steps that led to your decision about the recommendation of a conservator. Your description should include information about the individuals who, along with the conservator, will have important roles in implementing the conservatorship plan.

Documentation about the prospective conservator should include contact information and summaries of past projects, including brief project descriptions, cost information, completion dates, and information about the role of the prospective conservator in completing each project summarized. Any other information that seems relevant to the prospective conservator’s suitability for appointment as conservator should be included as well.²⁹

The Plan for the Property; Threshold Issues

Before filing a conservatorship petition, you and your team should decide whether rehabilitation or demolition is the most feasible course of action. Four issues should be given particular consideration.

1. Condition of the building
2. Cost of rehabilitation
3. Anticipated final use of the property
4. Availability of financing to complete the activities proposed

Before filing the petition, your team—including the architect and anyone the architect may recommend as a source of information about construction techniques and costs—should inspect the exterior of the building, including the structure, foundation, roof, windows and doors, to establish a preliminary estimate of rehabilitation costs. Later, the court will allow the team to enter the property in order to prepare a cost estimate for the interior as well. Obtaining as precise an estimate of rehabilitation costs as possible is important; in the event that costs rise above the level of funding available to support the implementation of the conservatorship plan, the conservator may choose to terminate the conservatorship altogether.

²⁹ RHLS Manual at 29.

The Preliminary Plan

A conservatorship action must be supported by a preliminary plan that includes information about the current condition of the property and about the approach proposed for improving the property to a standard that complies with municipal codes. The preliminary plan must be submitted as an attachment to the petition for conservatorship.³⁰

Preliminary Plan Contents

The preliminary plan should include the following information. The list is not intended to be exhaustive; other information that you consider relevant should also be included.³¹

1. A brief description of the petitioner

2. A site plan illustrating property dimensions, as well as a map showing the location of the property within the municipality

3. Photographs of the property

Although it may be impossible to obtain photographs of the interior of the property, be sure to provide exterior photographs that show the condition of the property and its relationship to the surrounding neighborhood.

4. An inspection report, feasibility study and cost estimate for the rehabilitation or demolition of the property

If possible, the inspection should be completed and the feasibility study and cost estimate prepared by a contractor with experience and qualifications similar to those required to rehabilitate or demolish the property (depending on the course of action that your team has decided to pursue). A preliminary cost estimate based on an inspection of the exterior of the property is sufficient for documentation of the preliminary plan.

5. A structural assessment obtained through a visual examination of the exterior

6. If the property is historically certified or located in a historic district, a historic preservation assessment that includes an estimate of the costs of complying with historic preservation requirements associated with the property

7. Anticipated sources of financing for rehabilitation or demolition as well as the estimated total project cost

8. Information about the process for conveying the property after the blighting conditions have been addressed and the conservatorship is terminated³²

³⁰ Act 135 § 4(b)(3); 68 P.S. § 1104(b)(3).

³¹ See RHLS Manual at 30-31.

³² RHLS Manual at 20-22, 29.

Chapter Five

Going to Court

Although the conservatorship process—including research on the property, preparation to go to court, and completing the conservator’s plan—can be long and complicated, the legal action resulting in the appointment of a conservator consists of just four steps. This chapter describes how the court process works and includes some guidance about how to prepare for court after filing a conservatorship petition. Check the Glossary in Appendix D for definitions of any terms that may be unfamiliar to you.

Keep in mind that this handbook is designed to serve as an information resource, not as a substitute for legal advice. To gain a full understanding of how the conservatorship law and process apply to your circumstances, be sure to consult with an attorney.

Step One: File a petition for conservatorship

A “party in interest” files a petition for the appointment of a conservator in the Court of Common Pleas in the county where the property is located.

If you do not meet the criteria defining a “party in interest,” you will need to locate a person or entity that does meet the criteria and is willing to take on the role of petitioner.

Any one of the following may be considered a party in interest:³³

- A lien holder or other secured creditor³⁴ of the owner
- A resident or business owner within 500 feet of the building
- A nonprofit corporation, including a redevelopment authority, located in the municipality where the building is located.
- The municipality or school district in which the building is located

Petitions for Act 135 conservatorship are filed in your county’s Court of Common Pleas as a civil filing unless the property owner is deceased. In that instance, the filing may be with a Court of Common Pleas Orphan’s Court judge. Your attorney will recommend which option to pursue.

The assignment of a judge is made by the court, not the petitioner.

The petition includes four items.

1. A sworn statement by the petitioner that the property meets the statutory conditions for Conservatorship

2. Documentation supporting the claim

Before filing, you and your attorney should review all research previously completed on the property, as described in the preceding chapters, and make sure that all of the statutory requirements associated with the filing of an action have been met.

3. A recommendation identifying a possible conservator

4. A preliminary plan The preceding chapter contains detailed information about items 3 and 4.

³³ Act 135 § 3; 68 P.S. § 1103.

³⁴ A “secured creditor” is a creditor that holds a security interest over some or all of the assets of the debtor. In many instances, this includes a home owned by the debtor. This classification of creditor is especially important to title insurance companies and must be examined closely.

Step Two: File notification of pending court action

File a *lis pendens* with the recorder of deeds or prothonotary to notify anyone reviewing public records related to the property about the pending litigation. A *lis pendens* will prevent the owner from trying to sell his way out of the conservatorship, or at least ensure that anyone buying the property knows that they are buying it subject to an existing conservatorship action.³⁵

Step Three: Serve the petition

Serve the petition on all parties whose interest in the property makes them “necessary defendants,” based on guidance provided by your legal counsel. Serving the petition involves the following actions:

- Sending notice by registered or certified mail and posting the notice
- If the certified mail is refused, sending the notice by ordinary mail
- If the certified letter is unclaimed, attempting personal service³⁶

If you are unable to locate the owner, the court may accept as valid a notice by publication, such as a legal notice in a newspaper.

Step Four: Participate in the court hearing

The act requires that a hearing be held within 120 days of receipt of the petition and that a decision be rendered no later than 30 days after the hearing.³⁷

If no objections to the petition arise at the hearing, the court may appoint a conservator immediately and authorize the conservator to take physical possession of the property at once. Such action enables the conservator to begin drafting a “final plan” for the property.

If the property owner appears in court and states that the “violations or nuisance or emergency condition will be abated in a reasonable period,” the court may decide to grant the owner “conditional relief” and prevent the conservatorship from proceeding. If that happens, the owner will be required to post bond, and if the property is not rehabilitated within a reasonable period, the court will order the conservator to proceed, in which case the owner will forfeit the bond money.³⁸

³⁵ Act 135 § 9(a); 68 P.S. § 1109(a).

³⁶ General Court Regulation 2009-01 (as amended), §§ 11-12.

³⁷ Act § 5(a); 68 P.S. § 1105(a)

³⁸ Act 135 § 5(f)(1); 68 P.S. § 1105(f)(1)

What It Might Cost

In preparing to file a conservatorship petition, your team should be aware of the costs associated with a conservatorship action and the process leading to the appointment of a conservator. The following are some examples of the costs you should expect to incur. The list is not exhaustive, and not every filing will incur the same costs.

1. Purchase of a Full Title Report

You should budget about \$300 for this expense. The full title report will identify the recorded owner of the property and any lien holders or secured creditors that may hold an interest in the property.³⁹

If some time has elapsed between the purchase of a title report and the filing of the conservatorship petition, you may need to order an update (also called a “Bring Down”) to ensure that the information is up to date at the time of the filing.

2. Filing Fees⁴⁰

The county’s Court of Common Pleas charges fees for the filing of court papers associated with a conservatorship action, such as the filing of a Petition for the Appointment of a Conservator and the filing of a *Lis Pendens*. Check with your county’s Prothonotary for filing fees that may apply to the Act 135 court action.

3. Service of Process

In any civil action involving real property, the plaintiff or petitioner who brings the action must notify anyone with any interest in the property. In accordance with Act 135, the political subdivisions in which the property is located also receive service of process. The title report will identify the parties with an interest in the property, including the owner and any lien holders.

Your attorney will recommend how service of process will be made on each party. If personal service is required, there are associated fees. If personal service has to be made by your county’s sheriff, you can check with the sheriff’s office for the fees the sheriff charges for the service of a complaint and other documents. If your lawyer, following Pennsylvania’s Rules of Summary Process, is able to give notice by publication, there is a cost for the legal notice in a local newspaper of general circulation or a local legal journal.

³⁹RHLS Manual p. 9.

⁴⁰These specific costs will be incurred by the petitioner only.

Chapter Six

Getting the Job Done

This chapter describes how a conservatorship action is implemented from the time of the court decision to the time when the conservator's responsibilities have been completed and the property is no longer in blighted condition.

Appointment

After reviewing the conservatorship filing and making a determination that the property meets the four basic requirements and at least three of the nine criteria for blight, the court may rule that the property meets the requirements of Act 135 and appoint a conservator. As previously indicated, the court may decide to appoint the conservator that you and your team recommend or to appoint another party instead.

Right of Entry

Conservatorship gives the conservator immediate possession of the property. A "Right of Entry Order" issued by the court authorizes the conservator to enter the property and develop the "final plan," as discussed below. After the court approves the final plan, the conservator may begin obtaining construction permits and undertaking property improvements.

With possession of the property come several important responsibilities that the conservator must fulfill, including the following.⁴¹

- Obtain property insurance and liability insurance
- Seal the building and take other measures to safeguard the public from known dangers on the property
- Make emergency repairs that may be necessary before approval of the final plan.

Final Plan

Act 135 requires the conservator to submit a "final plan" to the court and requires the court to hold a hearing on the plan.⁴² When the conservator is appointed, the court must set a hearing date, which is to be no more than 120 days later. The plan must be submitted to the court at least 30 days before the hearing date. If the court denies the final plan, the court will hold a supplemental hearing within 60 days to give the conservator an opportunity to amend the plan.

The final plan should document the way in which the conservator will complete the following activities:

- Abate the blighting conditions that caused the petition to be granted; or, if the conservator finds that approach to be infeasible, develop alternatives such as closing, sealing or demolishing part or all of the building.
- If the building has been designated a historic property, rehabilitate architectural features that define the property's historic character, consistent with historic preservation requirements.
- If the property is located in a historic district and is to be demolished, design any replacement construction on the site in compliance with codes and historic-preservation standards.⁴³
- Finance the activities described in the plan and identify sources of funding.

⁴¹ See RHLS Manual at 35-36 for more description.

⁴² Act 135 § 6(c); 68 P.S. § 1106(c).

⁴³ Act 135 § 6(b)(3); 68 P.S. § 1106(b)(3) and see RHLS Manual at 37.

Permission to Begin Work

Before entering the property and starting work, the conservator must obtain a court order for the property's plan. *To obtain approval for subsequent actions, the conservator must obtain court approval before starting any work on the property and be aware of any requirements to return to the court.*

If the conservator is an corporation governed by a board of directors, board approval, as well as court orders, must be obtained for action to be undertaken.⁴⁴

Termination of the Conservatorship

Once the activities described in the final plan have been completed, or if it becomes infeasible to complete the final plan, the conservator must file a detailed final report with the court.⁴⁵ The conservator may then petition the court for authorization to terminate the conservatorship through either a public or a private sale. Notice of the petition to sell the property must be provided to the property owner and to lien holders, so that they have an opportunity to object. If a sale is proposed, the terms and conditions of the sale are subject to court approval, and the court must be satisfied that the buyer is likely to maintain the property.

On selling the property, the conservator petitions the court to terminate the conservatorship and provides a final accounting to show that the proceeds of the sale were distributed in the manner specified in Act 135. The conservator then relinquishes possession of the property, and the conservatorship is complete.

⁴⁴RHLS Manual at 35, "E. Taking Possession and Developing a final plan".

⁴⁵Act 135 § 6(d); 68 P.S. § 1106(d).

Appendix A

Act 135 at a Glance

Act 135 has many provisions. The material shown in the following tables is paraphrased from the act and intended to serve as a shorthand reference. Be sure to read the language of the law itself in Appendix C.

Table 1

ACT 135 FOUR PRIMARY PARTIES The following are the primary roles set out by Act 135 (see tables 3 through 5 for more details).

The BUILDING	The PETITIONER	The CONSERVATOR	The JUDGE
A vacant residential, commercial or industrial structure that meets certain conditions (see table 3)	The “party in interest” who initiates the action (see table 4)	A court approved, third party appointed to take possession and control of the building (see table 5)	A Court of Common Pleas judge who decides whether to appoint a conservator and oversees the conservatorship (see table 6)

Are you thinking ‘what about the OWNER?’ If so, see table 7.

Table 2

ACT 135 SUPPORTING PARTIES

These professional services and their associated costs may be involved

ATTORNEY

A lawyer will need to represent the Petitioner, file the court action, and terminate the conservatorship.

CONTRACTOR

Provides stabilization or demolition work write up and estimated costs; complete the rehab or demolition.

ENGINEER

Provides specification for necessary structural work and estimated costs.

REALTOR

Markets the property for sale.

DESIGNER

Provides design options related to property rehabilitation or property reuse and estimated costs. For instance, a landscape designer might offer designs to manage storm water runoff.

ARCHITECT

Provides specification for necessary or desired rehabilitation work and estimated costs.

DEVELOPER

Oversees the project. May be the conservator or may be hired by the conservator. A developer may be unnecessary for a demolition project.

Table 3

Act 135 Required Building Conditions

ALL must apply:

- Not legally occupied for 12 months
- Not marketed for 60 days
- No foreclosure action
- Current owner longer than 6 months

PLUS three (3):

- A public nuisance
- Needs substantial rehab
- Unfit for occupancy
- Increases risk of fire
- Subject to entry
- Not secured by owner
- Attractive nuisance
- Hazards
- Decreases property values
- Illicit activity

Table 4

ACT 135 PETITIONERS

“Party in interest” has a direct and immediate interest in the blighted building, and can include:

Owner	Lien holder	Resident or business owner within 500 feet	Nonprofit, including a redevelopment authority, in the municipality where the property is located	The municipality or school district
-------	-------------	--	---	-------------------------------------

Table 5

ACT 135 CONSERVATORS

The law states an order of preference for who is appointed Conservator:

- Senior lien holder
- Non Profit Corporation
- Governmental Unit
- Individual

The Conservator must have the competency to:

- Develop a preliminary plan for the building
- Take possession immediately upon appointment
- Maintain, safeguard and insure the building
- Develop a final plan for court approval
- Implement the final plan
- Submit status reports to the court

Table 6

ACT 135 COURT OF COMMON PLEAS JUDGE

- Oversees the cases from initial petition to termination of the conservatorship
- Appoints conservator
- Approves conservator plan
- May “grant a lien or security interest with priority over all other liens *with the exception of municipal or other governmental liens*”
- May “authorize the conservator to sell the building *free and clear* of all liens, claims and encumbrances...”
- Authorized to approve distribution of proceeds of sale, if any in accordance with Act 135 distribution priority

Table 7

WHAT ABOUT THE OWNER?

- An owner may petition for conservatorship, as when there is a co-owner who is absent or refuses to act and the “good” owner cannot repair or sell the property without the co-owner’s consent
- If owner responds to the court petition to appoint a conservator, the Judge may set a deadline for the owner to abate the conditions
- Conservatorship does not relieve owner of any liability or responsibilities
- Owner may petition to terminate the conservatorship but owner is required to make conservator whole
- Owner is last on list of distribution of proceeds

Table 8

ACT 135 STEP BY STEP

- Identify and research property
- Prepare court action
- Initiate court action by filing petition and notifying all that have an interest in the property
- Court hearing on petition takes place within 120 days of filing
- Court approves or denies appointment of conservator within 30 days of hearing
- Appointed conservator takes possession and control of building
- Court approves final plan, may approve super priority lien, if requested
- Implement plan, submit status reports
- Terminate conservatorship by fulfilling conservatorship plan, owner redemption, or free and clear sale

Appendix B

Sample Petition for Conservatorship

The attached petition from Allegheny County is meant to serve as a sample that can be adapted for use in other counties.

Note: This petition includes multiple attachments. Not all attachments, however, are vital to the success of the petition. It is best to check the act, attached hereto as Appendix C, for strict requirements.

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]

CIVIL DIVISION

Petitioner,

GD No.

v.

Issue No.

**[Owner(s) of Subject Property, Political
Subdivisions in which subject property is
Located, all lien holders]**

Date on GD Trial List

Respondent(s).

PETITION FOR THE APPOINTMENT OF A CONSERVATOR

“Code ”

Real Estate Involved:

[Address]

[Ward]

[Lot & Block]

Filed on behalf of Petitioner, [JOHN DOE]

Counsel of Record for this Party:

[Attorney]

[Bar No.]

[Firm]

[Firm ID]

[Firm Address]

[Firm Information]

**IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA**

ACTION HOUSING	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Subject Property, Political Subdivisions in which Subject Property is located, all lien holders]	:	Date on GD Trial List
	:	
Respondent(s).	:	PETITION FOR THE APPOINTMENT OF A CONSERVATOR
	:	
	:	"Code "

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER
OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND
OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
ALLEGHENY COUNTY BAR ASSOCIATION
920 CITY-COUNTY BUILDING
414 GRANT STREET
PITTSBURGH, PA 15219

(412) 261-0518

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Subject Property, Political Subdivisions in which Subject Property is located, all lien holders]	:	Date on GD Trial List
Respondent(s).	:	
	:	NOTICE OF FILING OF A
	:	PETITION FOR THE
	:	APPOINTMENT OF A
	:	CONSERVATOR

PETITION FOR THE APPOINTMENT OF A CONSERVATOR

Petitioner, **[petitioner name]**, by and through **[its/his/her]** counsel, **[attorney name]** respectfully petitions this Court to appoint a conservator to take possession of and to undertake the rehabilitation of a certain property, and in support thereof avers as follows:

JURISDICTION AND VENUE

This Court has jurisdiction pursuant to the Abandoned and Blighted Property Conservatorship Act, P.L. 1672, No. 135, 68 P.S. § 1101 et seq. (2008) (the “Act”).

The Property is located in the **[Municipality]** and County of Allegheny, Pennsylvania and venue is pursuant to Section 1104(a) of the Act because the Property is located in the City of **[Municipality]** and County of Allegheny, Pennsylvania.

PROPERTY

The Property subject to this Petition is a **[Residential/commercial/industrial]** building located at:

[address of property], Block & Lot No. [- -] (the “Property”). A copy of the last recorded vesting Deed is attached as Exhibit “A;” a Title Report is attached as Exhibit “B;” and the Legal Description is attached as Exhibit “C.”

PETITIONER

Petitioner is a party in interest as defined by Section 1103 of the Act, specifically, **[the owner(s) of property at issue] OR [a lien holder or other secured creditor of the owner] OR [a resident or business owner within 500 feet of the building] OR [a nonprofit corporation located in the [Municipality] with a mailing address of within the municipality where the Property is located, having as one of its purposes to create and stimulate community economic development activities, including economic development, historic preservation or the promotion or enhancement of affordable housing opportunities], OR [municipality] [school district] in which the building is located].**

RESPONDENTS

Defendants are the owner or owners, mortgage holders, assignees, lien holders or other persons identified in the Title Report as having or possibly having some right, title, or interest in, or claim against, the Property. A copy of the Title Report is attached hereto and made a part hereof as **Exhibit B**.

Defendant, _____, is the Grantee on the vesting deed on the Property which is the subject of this Petition for the Appointment of Conservatorship, with a last known address of _____.

Defendant, _____, is a former owner of the Property which is the subject of this Petition for the Appointment of Conservatorship, with a last known address of _____.

Defendant, the Estate of _____, deceased, filed at the Allegheny County Department of Court Records Wills/Orphans Division Est. # _____, includes the Property which is the subject this Petition for the Appointment of a Conservator. The copy of the vesting deed is attached hereto and made a part hereof as Exhibit A. A copy of the death certificate for _____ is attached hereto and made a part hereof as Exhibit D.

Defendant, the Estate of _____, deceased, no estate filed includes the Property which is the subject of this Petition for the Appointment of a Conservator. The copy of the vesting deed is attached hereto and made a part hereof as Exhibit A. A copy of the death certificate for _____ is attached hereto and made a part hereof as Exhibit D.

Defendant, _____, is an heir of _____ with an address of _____.

Defendant, _____, is a beneficiary of the _____ Estate with an address of _____.

Defendant, _____, is a political subdivision of the County of Allegheny and Commonwealth of Pennsylvania in which the Property is located with an address of _____.

Defendant, _____, is a governmental agency of the Commonwealth of Pennsylvania in which the Property is located with an address of _____.

Defendant, _____, is an independent authority of the _____ [Borough, City of _____,] County of Allegheny and Commonwealth of Pennsylvania in which the property is located, with an address of _____.

Defendant, _____, is a corporation headquartered at _____.

PROPERTY OWNER(S), LIEN HOLDERS ETC.

The Petitioner avers that the property is owned by _____.

[If the owner is deceased, “ _____ died on _____, [intestate/testate], survived by _____ as [his/her] heirs at law, all of whom are named defendants to this petition and all of whom consent to the appointment of a conservator.]

The Owner has not vacated the Property to perform military service in time of war or armed conflict or in order to assist with relief efforts during a declared federal or state emergency as a member of the United States Armed Forces or reserve.

The Property is not held in trust for the federal government and regulated under the United States Housing Act of 1937, 50 Stat. 888, 42 U.S.C. § 1437 et. seq.

After diligent investigation, Petitioner has been unable to ascertain the identity of any other person or persons, corporations, partnerships, associations or governmental agencies having or claiming an interest or right in, or lien or encumbrance on, the Property other than the Defendants identified by name above.

CONDITIONS FOR CONSERVATORSHIP

In accordance with the Act § 1105, the Property has not been legally occupied for at least twelve (12) months before the date of the filing of this Petition. [Add any relevant description.]

The Property has not been actively marketed during the sixty (60) days before the date of the filing of this Petition. **[Describe efforts and attach relevant documents]**

No “For Sale” sign has been placed on or in front of the Property during the sixty (60) days before the date of the filing of this Petition. **[Describe efforts and attach relevant documents]**

The Property has not been advertised as for sale through distributed print advertisements, print or electronic media, or through engagement of a real estate professional **[for residential property add: to place the Property in a Multiple Listing Service or]** to otherwise market the Property. **[Add any relevant description.]**

According to inspection of public records, the Property appears not to be subject to an existing foreclosure action.

According to inspection of public records, **[Owner]** has not acquired the Property within the preceding six (6) months prior to the date of the filing of this Petition.

The Property, because of a physical condition or use, has been declared a public nuisance by **[Indicate whether the property has been declared to be a public nuisance by which appropriate public official within [Municipality] in accordance with the local housing, building, health, fire or related code, or is determined by a court and attach relevant documentation.]** A copy of the citation[s] is/are attached as Exhibit ____.

The Property is in need of substantial rehabilitation (rehabilitation cost exceeding fifteen percent (15%) of the property’s value after completion of all repairs, replacements and improvements; or, more than one major building component is being replaced) and no rehabilitation has taken place during the previous twelve (12) months prior to the date of the filing of this Petition. Photographs of the Property are attached as Exhibit ____.
[Add any relevant description and attach any relevant documents. Please note that Electronic Filing rules require all legal papers (including exhibits) to be filed in a pdf format.]

The Property is unfit for human habitation, occupancy or use because . . . **[Add any relevant description and attach any relevant documents.]**

The conditions and vacancy of the Property materially increase the risk of fire to the Property and adjacent properties because . . . **[Add any relevant description and attach any relevant documents.]**

The Property is subject to unauthorized entry leading to potential health and safety hazards and the Owner has failed to take reasonable and necessary measures to secure the Property. [OR] The Property is subject to unauthorized entry leading to potential health and safety hazards and the **[Municipality]** has secured the Property to prevent such hazards after the Owner failed to do so. **[Add any relevant description and attach any relevant documents.]**

The Property is an attractive nuisance to children, including, but not limited to, the presence of [abandoned wells, shafts, basements, excavations, and unsafe structures]. **[Add any relevant description and attach any relevant documents.]**

The presence of vermin and the accumulation of debris, uncut vegetation or physical deterioration of the structure and grounds have created potential health and safety hazards, and the Owner has failed to take reasonable and necessary measures to remove the hazards. **[Add any relevant description and attach any relevant documents.]**

The dilapidated appearance and condition of the Property negatively affects the economic well-being of residents and businesses in close proximity to the Property, including decreases in property value and loss of business, and the Owner has failed to take reasonable and necessary measures to remedy the appearance and condition. Specifically, **[Add any relevant description and attach any relevant documents.]**

The Property is an attractive nuisance for illicit purposes, including [prostitution, drug use and vagrancy]. **[Add any relevant description and attach any relevant documents.]**

PROPOSED CONSERVATOR

Petitioner recommends that _____ [Name of proposed conservator] be appointed Conservator. The proposed Conservator has the financial resources and experience to properly rehabilitate the Property. **[Explain and provide detail concerning the proposed Conservator’s qualifications to be Conservator, including inter alia financial resources and experience regarding past projects that proposed Conservator handled, including details of specific role, description of each project, total budget, scope of work performed, names of responsible staff members, and the date each development was completed.][If a non-profit Corporation is the proposed Conservator, provide evidence of Qualifications of Non-Profit to serve as a competent entity.] [As per §1105(e), note in detail that Petitioner first inquired whether senior lien holder is interested in being Conservator, followed by non-profit or other “competent entity”]**

Petitioner’s Preliminary Plan with initial cost estimates for rehabilitation of the Property to bring it into compliance with all municipal codes and duly adopted plans for the area in which the Property is located and anticipated funding sources are attached as Exhibit __. **[Briefly describe the preliminary plan. Be sure to specify financial issues, demolition vs. rehabilitation, and maps, photographs, assessments, etc.]**

LIS PENDENS

Petitioner will serve or provide notice of the filing of this Petition as provided by Section 1104(d) of the Act and as otherwise ordered by the Court.

As required by Section 1104 (c), Petitioner shall file a *Lis Pendens*, substantially in the form attached hereto as Exhibit ____, with the County of Allegheny Department of Court Records, Civil/Family Division and shall thereafter file a file-stamped copy with the Prothonotary.

WHEREFORE, Petitioner prays for the following relief:

Issue an Order to Show Cause, *inter alia*, as to why a Conservator should not be appointed to abate the public nuisance and rehabilitate [or demolish], as alleged and ultimately proven, at the Property located at _____;

Appoint a Conservator as authorized by the Abandoned and Blighted Property Conservatorship Act; and Grant such other and additional relief as may be just and appropriate.

Dated:_____

Respectfully submitted,

VERIFICATION OF PETITIONER

I, _____, hereby state:

1. I am **[Title]** for **[Petitioner]**, Petitioner in this action;
2. I verify that the statements contained in the foregoing Petition to Appoint a Conservator are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in the Petition to Appoint a Conservator are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

[Title]
[Petitioner]

Dated: _____, 20____

EXHIBIT A – RESOLUTION

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]

CIVIL DIVISION

Petitioner,

GD No.

v.

Issue No.

[Owner(s) of Property at Issue]

Date on GD Trial List

Respondent(s).

NOTICE OF FILING OF A PETITION FOR THE APPOINTMENT OF A CONSERVATOR

“Code “

Real Estate Involved:

[Address]

[Ward]

[Lot & Block]

Filed on behalf of Petitioner, [JOHN DOE]

Counsel of Record for this Party:

[Attorney]

[Bar No.]

[Firm]

[Firm ID]

[Firm Address]

[Firm Information]

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Property at Issue]	:	Date on GD Trial List
	:	
Respondent(s).	:	NOTICE OF FILING OF A
	:	PETITION FOR THE
	:	APPOINTMENT OF A
	:	CONSERVATOR

**NOTICE OF FILING OF A
PETITION FOR THE APPOINTMENT OF A CONSERVATOR**

A petition has been filed under the Abandoned and Blighted Property Conservatorship Act, 68 P.S. §§ 1101-1111 (2008), for appointment of a Conservator to take possession of and rehabilitate or demolish the property located at:

_____, Block & Lot No. _____.

A hearing on the Petition for the Appointment of a Conservator will be scheduled by the Court. As required by [Refer to Court Rules, Allegheny County Local Rule 400], the Petitioner shall serve or mail a copy of this *Notice*, the *Petition for the Appointment of a Conservator* together with all exhibits, and a copy of the court order scheduling a hearing. A copy of this Notice (without the *Petition for the Appointment of a Conservator*, exhibits or court order) will also be posted at the property.

YOU ARE RECEIVING THIS NOTICE BECAUSE PUBLIC RECORDS REVEAL THAT YOU MAY BE ONE OF THE FOLLOWING:

Owner of Property at issue. If you are the record owner or an owner claiming a right to title to the premises and want to be heard in this matter, you must file an answer as required by the Court order referenced above. **If you do not file an answer, the court may proceed without you and you may lose your rights to the property.** A conservator may be appointed to take possession of the property, incur expenses that will be a lien against the property, and sell the property. You will still be responsible for your obligations as the owner, including expenses incurred by the conservator.

Lien holder/Secured Creditors. If you are a lien holder or other secured creditor and want to be heard in this matter, you must file a petition to intervene as required by the Court order referenced above and may seek to be appointed as Conservator. **If you do not file an answer, the court may proceed without you and you may lose your rights to the property.** A conservator may be appointed to take possession of the property, incur expenses that will be a lien against the property, and sell the property. The conservator lien may have priority over your lien or other rights.

The City of **[Municipality]**. As the political subdivision in which the property is located, the City of **[Municipality]** may file a petition to intervene as required by the Court order referenced above and may seek to be appointed as the conservator.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office below to find out where you can get legal help.

Lawyer Referral Service
Allegheny County Bar Association
11th Floor Koppers Building
Pittsburgh, PA 15219
Telephone: (412) 261-5555

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio, vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

El Servicio de la Referencia del abogado
Asociación de Barra de Condado de Allegheny
11th Floor Koppers Building
Pittsburgh, PA 15219
Teléfono: (412) 261-5555

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITION FOR THE APPOINTMENT OF A CONSERVATOR** has been served upon all other parties at the address(es) below via _____, this _____ day of _____, 20____.

[Name and address of counsel]

[signature]

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Property at Issue]	:	Date on GD Trial List
	:	
Respondent(s).	:	ORDER TO SHOW CAUSE
		“Code ”
		Real Estate Involved:
		[Address]
		[Ward]
		[Lot & Block]
		Filed on behalf of Petitioner, [JOHN DOE]
		Counsel of Record for this Party:
		[Attorney]
		[Bar No.]
		[Firm]
[Firm ID]		[Firm Address]
		[Firm Information]

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Property at Issue]	:	Date on GD Trial List
	:	
Respondent(s).	:	ORDER TO SHOW CAUSE

ORDER TO SHOW CAUSE

AND NOW, this ____ day of _____, 20____, upon consideration of the *Petition for the Appointment of a Conservator* pursuant to the Abandoned and Blighted Property Conservatorship Act, 68 P.S. § 1101 et seq. (P.L. 1672, No. 135), it appearing that a prima facie showing of entitlement to the relief requested concerning the property located at:

_____, Block & Lot No. _____.

may have been made, it is hereby ORDERED and DECREED that:

1. As required by [Refer to local rules], the Petitioner shall promptly:
 - a) Post a copy of the *Notice of Filing of a Petition for the Appointment of a Conservator* at the property;
 - b) Serve a copy of the *Notice, Petition* and all exhibits, and this Order on the owner(s) as required by Allegheny County Local Rule 400 and file a return of service as soon as possible upon service;
 - c) Mail a copy of the *Notice, Petition* and all exhibits, and this Order by registered or certified mail on the City of [Municipality] at [include address] and shall file a return of service as soon as possible upon service. Service may also be accomplished as provided by Allegheny County Local Rule 400;
 - d) Mail a copy of the *Notice, Petition* and exhibits, and this Order to all lien holders and other secured creditors as identified in the *Petition*, by registered or certified mail, to their last known address, and file a return of service as soon as possible upon service. Service may also be accomplished as provided by Allegheny County Local Rule 400. The lien holders and other secured creditors as identified in the *Petition* are:

[List here the name of all lien holders and other secured creditors or as attachment]

2. As required by 68 P.S. § 1104 (c), the Petitioner shall file a Lis Pendens with the Allegheny County Department of Records [**Refer to local rules, Allegheny County Local Rule 205.2**];
3. Unless otherwise provided upon petition, the owner may file an Answer to the Petition on or before _____ [approximately 60 days];
4. Unless otherwise provided upon petition, the [**Municipality of** _____], lien holders, other secured creditors, and any other “party in interest” as defined in 68 P.S. § 1103 may file a Petition to Intervene pursuant to Allegheny County Rule 2326 et seq. on or before _____ [approximately 60 days];
5. Answers and responses to any Petitions to Intervene must be filed on or before _____ [approximately 90 days];
6. As required by the Act, a hearing will be held on _____ [within 120 days of the filing of Petition] at __ o’clock __M __, in Courtroom ____, to determine whether the conditions for conservatorship have been met, whether a conservator should be appointed, who should be appointed as conservator, and/or whether other appropriate relief should be granted; and
7. At any time, the Court may appoint a master to review the pleadings filed, conduct any hearing or status hearing authorized by Act 135 and [**Refer to Local Rules**], and issue orders or recommendations as directed by the Court and as may otherwise be necessary. Court costs necessary for the payment of the master must be deposited with the **Court of Common Pleas** by the Petitioner or Conservator as may be ordered from time to time by the Court.

BY THE COURT

J.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITION FOR THE APPOINTMENT OF A CONSERVATOR** has been served upon all other parties at the address(es) below via _____, this _____ day of _____, 20_____.

[Name and address of counsel]

[signature]

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Property at Issue]	:	Date on GD Trial List
	:	
Respondent(s).	:	LIS PENDENS
	:	
	:	“Code ”
	:	
	:	Real Estate Involved:
	:	[Address]
	:	[Ward]
	:	[Lot & Block]
	:	
	:	Filed on behalf of Petitioner, [JOHN DOE]
	:	Counsel of Record for this Party:
	:	[Attorney]
	:	[Bar No.]
	:	[Firm]
	:	
[Firm ID]	:	[Firm Address]
	:	[Firm Information]

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA

[Petitioner]	:	
	:	CIVIL DIVISION
Petitioner,	:	
	:	GD. No.
	:	
v.	:	Issue No.
	:	
[Owner(s) of Property at Issue]	:	Date on GD Trial List
	:	
Respondent(s).	:	LIS PENDENS

LIS PENDENS

To The Recorder of Deeds:

Kindly enter the above action as a *Lis Pendens* against the property located at:

_____, Block & Lot No. _____.

and meeting the following legal description (the "Property"):

[Include property description in indented paragraph or as attachment.]

I do hereby certify that this action involves title to real estate. It seeks appointment of a conservator to take possession and to undertake the rehabilitation [or demolition] of the Property pursuant to the Abandoned and Blighted Property Conservatorship Act, P.L. 1672, No. 135, 68 P.S. § 1101 *et seq.* (2008).

Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITION FOR THE APPOINTMENT OF A CONSERVATOR** has been served upon all other parties at the address(es) below via _____, this _____ day of _____, 20____.

[Name and address of counsel]

[signature]

Appendix C

The Abandoned and Blighted Property Conservatorship Act {68 P.S. § 1101 (2008)}

Act of Nov. 26, 2008, P.L. 1672, No. 135

§ 1101. Short title

This act shall be known and may be cited as the Abandoned and Blighted Property Conservatorship Act.

§ 1102. Legislative findings and purpose

The General Assembly finds and declares that:

- (1) Pennsylvania's older communities are important to the Commonwealth's economic health by providing a focal point for businesses and services and to this Commonwealth's quality of life with its rich history and diverse communities. However, many older communities suffer from blighted properties that have been abandoned by their owners.
- (2) Many citizens of this Commonwealth are adversely affected by abandoned and blighted residential, commercial and industrial properties, including those citizens who live in proximity to such substandard buildings, as well as those who own property in the vicinity of such buildings.
- (3) Substandard, deteriorating and abandoned residential, commercial and industrial structures are a public safety threat and nuisance and their blighting effect diminishes property values in the communities in which these properties are located.
- (4) If these buildings are not rehabilitated, they are likely to remain abandoned and further deteriorate, resulting in increased costs to the Commonwealth, municipality and taxpayers to secure and ultimately demolish them.
- (5) Providing a mechanism to transform abandoned and blighted buildings into productive reuse is an opportunity for communities to modernize, revitalize grow, and to improve the quality of life for neighbors who are already there.
- (6) If the owner of a residential, commercial or industrial building fails to maintain the property in accordance with applicable municipal codes or standards of public welfare or safety, it is in the best interest of the Commonwealth, the municipality and the community for the court, pursuant to the provisions of this act, to appoint a conservator to make the necessary improvements before the building deteriorates further and necessitates demolition, resulting in the removal of the building from the housing supply or prohibiting future productive economic use.

§ 1103. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Actively marketed." A "for sale" sign has been placed on the property with accurate contact information and the owner has done at least one of the following:

- (1) engaged the services of a licensee under the act of February 19, 1980 (P.L. 15, No. 9), known as the Real Estate Licensing and Registration Act, to place the property in a Multiple Listing Service or otherwise market the property;
- (2) placed weekly or more frequent advertisements in print or electronic media; or
- (3) distributed printed advertisements.

“Building.” A residential, commercial or industrial building or structure and the land appurtenant thereto.

“Code.” A building, housing, property maintenance, fire, health or other public safety ordinance enacted by a municipality.

“Competent entity.” A person or entity, including a governmental unit with experience in the rehabilitation of residential, commercial or industrial buildings and the ability to provide or obtain the necessary financing for such rehabilitation.

“Costs of rehabilitation.” Costs and expenses for construction, stabilization, rehabilitation, maintenance and operation or demolition, including reasonable nonconstruction costs associated with the project, including, but not limited to, environmental remediation, architectural, engineering and legal fees, permits, financing fees and a developer’s fee consistent with the standards for developers’ fees established by the Pennsylvania Housing Finance Agency.

“Court.” The appropriate court of common pleas.

“Historic property.” A property that is listed on the National Register of Historic Places or is a contributing property in a national register historic district or is located in a local government ordinance historic district.

“Immediate family.” A parent, spouse, child, brother or sister.

“Nonprofit corporation.” A nonprofit corporation that has, as one of its purposes, community development activities, including economic development, historic preservation or the promotion or enhancement of affordable housing opportunities.

“Owner.” The holder or holders of title to, or of a legal or equitable interest in, a residential, commercial or industrial building. The term shall include an heir, assignee, trustee, beneficiary and lessee provided the ownership interest is a matter of public record.

“Party in interest.” A person or entity who has a direct and immediate interest in a residential, commercial or industrial building, including:

- (1) The owner.
- (2) A lien holder and other secured creditor of the owner.
- (3) A resident or business owner within 500 feet of the building.
- (4) A nonprofit corporation, including a redevelopment authority, which:
 - (i) except as set forth in subparagraph (ii), is located in the municipality where the building is located; and
 - (ii) for a building located in a city of the first class, is located in the city and has participated in a project within a one-mile radius of the location of the building.
- (5) A municipality or school district in which the building is located.

“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.

“Substantial rehabilitation.” Repairs to the building where:

- (1) the cost of repairs, replacements and improvements exceeds 15% of the property’s value after completion of all repairs, replacements and improvements; or
- (2) more than one major building component is being replaced. Major building components include:
 - (i) roof structures;
 - (ii) ceilings;
 - (iii) wall or floor structures;
 - (iv) foundations;
 - (v) plumbing systems;
 - (vi) heating and air conditioning systems; and
 - (vii) electrical systems.

§ 1104. Initiation of action

- (a) FILING OF PETITION.— A petition for the appointment of a conservator to take possession and to undertake the rehabilitation of a building may be filed by a party in interest in a court in the county in which the building is located. The proceeding on the petition shall constitute an action in rem.
- (b) CONTENTS.— The petition submitted to the court shall include a sworn statement that, to the best of the petitioner’s knowledge, the property meets the conditions for conservatorship set forth in section 5(d) and to the extent available to the petitioner after reasonable efforts to obtain such information:
 - (1) A copy of any citation charging the owner with being in violation of municipal code requirements or declaring the building to be a public nuisance.
 - (2) A recommendation as to which person or entity should be appointed conservator.
 - (3) A preliminary plan with initial cost estimates for rehabilitation of the building to bring it into compliance with all municipal codes and duly adopted plans for the area in which the building is located and anticipated funding sources.
- (c) NOTICE OF LIS PENDENS.— The petitioner shall file a notice of lis pendens in the office of the recorder of deeds for the county in which the property is located.
- (d) NOTIFICATION OF OWNER, POLITICAL SUBDIVISIONS AND LIEN HOLDERS.—
 - (1) Upon filing the petition with the court, the petitioner shall notify the current owner of the property, all political subdivisions in which the property is located and all lien holders of the filing by registered or certified mail to the last known address of each and by posting a copy of the notice on the building.
 - (2) In the event the registered or certified mail is returned with notation by the postal authorities that the recipient refused to accept the mail, the petitioner may mail a copy to the recipient at the same address by ordinary mail with the return address of the petitioner appearing thereon.
 - (3) Service by ordinary mail shall be presumed complete if the mail is not returned to the petitioner within 30 days after mailing.
 - (4) In the event that the registered or certified mail is returned with the notation by the postal authorities that it was unclaimed, the notice shall be personally served.
 - (5) In the event that the personal service is not able to be made after two such attempts, then the petitioner shall mail the petition to the recipient at the same address by ordinary mail with the return address of the petitioner appearing thereon with service by ordinary mail deemed complete if the mail is not returned to the petitioner within 15 days after the mailing.
 - (6) The petitioner shall also notify the owner and each lien holder of the hearing date and provide notice that the owner and lien holders may petition to intervene in the action.

§ 1105. Appointment of conservator

- (a) GENERAL RULE.— The court shall act upon a petition submitted by holding a hearing within 120 days of receipt of the petition and rendering a decision no later than 30 days after completion of the hearing.
- (b) INTERVENTION.— A party in interest may intervene in the proceeding and be heard with respect to the petition, the requested relief or any other matter which may come before the court in connection with the proceeding.
- (c) HEARING.— At the hearing, any party in interest shall be permitted to present evidence to support or contest the petition.
- (d) CONDITIONS FOR CONSERVATORSHIP.— If a petition is filed under section 4, the court may appoint a conservator if all of the following apply:
 - (1) The building has not been legally occupied for at least the previous 12 months.
 - (2) The building has not been actively marketed during the 60 days prior to the date of the petition.
 - (3) The building is not subject to an existing foreclosure action.
 - (4) The current owner fails to present sufficient evidence that he has acquired the property within the preceding six months. The evidence shall not include instances where the prior owner is a member of the immediate family of the current owner, unless the transfer of title results from the death of the prior owner, or where the current or prior owner is a corporation, partnership or other entity in which either owner or the immediate family of either owner has an interest in excess of 5%.
 - (5) The court finds at least three of the following:
 - (i) The building or physical structure is a public nuisance.
 - (ii) The building is in need of substantial rehabilitation and no rehabilitation has taken place during the previous 12 months.
 - (iii) The building is unfit for human habitation, occupancy or use.
 - (iv) The condition and vacancy of the building materially increase the risk of fire to the building and to adjacent properties.
 - (v) The building is subject to unauthorized entry leading to potential health and safety hazards and one of the following applies:
 - (A) The owner has failed to take reasonable and necessary measures to secure the building.
 - (B) The municipality has secured the building in order to prevent such hazards after the owner has failed to do so.
 - (vi) The property is an attractive nuisance to children, including, but not limited to, the presence of abandoned wells, shafts, basements, excavations and unsafe structures.
 - (vii) The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds has created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards.
 - (viii) The dilapidated appearance or other condition of the building negatively affects the economic well-being of residents and businesses in close proximity to the building, including decreases in property value and loss of business, and the owner has failed to take reasonable and necessary measures to remedy appearance or the condition.
 - (ix) The property is an attractive nuisance for illicit purposes, including prostitution, drug use and vagrancy.

(e) APPOINTMENT.—

- (1) If the court determines after a hearing that the property has met the conditions of subsection (d), the court may appoint a conservator and grant such other relief as may be just and appropriate.
- (2) The court shall give first consideration for appointment as conservator to the senior lien holder on the property.
- (3) In the event the senior lien holder is found to be not competent or declines the appointment, the court may appoint a nonprofit corporation or other competent entity. If the property is located in a city of the first class, the nonprofit corporation or entity must be located in the city and must have participated in a project within a one-mile radius of the location of the property. In appointing a conservator, the court shall:
 - (i) consider any recommendations contained in the petition or otherwise presented by a party in interest; and
 - (ii) give preference to the appointment of a nonprofit corporation or governmental unit over an individual.

(f) CONDITIONAL RELIEF.—

- (1) If the court finds after a hearing that the conditions for conservatorship set forth in subsection (d) have been established, but the owner represents that the violations or nuisance or emergency condition will be abated in a reasonable period, the court may allow the owner to proceed to remedy the conditions.
- (2) If the conditions set forth in paragraph (1) have been satisfied, the court shall enter an order providing that, in the event that the violations or nuisance or emergency conditions are not abated by the owner by a specific date or that other specified remedial activities have not occurred by a specific date or dates, an order granting the relief requested in the petition shall be entered.
- (3) The court may also require the owner to post a bond in the amount of the repair costs estimated in the petition as a condition to retaining possession of the building.
 - (g) CONSERVATOR'S LIEN.— The conservator may file a lien against the property in an amount based on the costs incurred during the conservatorship. The lien amount may be adjusted from time to time.
 - (h) IMMEDIATE POSSESSION.— The conservator shall promptly take possession of the building and other property subject to the conservatorship and shall immediately be authorized to exercise all powers of this act.
 - (i) REMOVAL BY COURT.— A conservator may be removed by the court at any time upon the request of the conservator or upon a showing by a party to the action that the conservator is not carrying out its responsibilities under this act.

§ 1106. Powers and duties of conservator

- (a) FULL POWERS AND DUTIES.— The conservator shall have all powers and duties necessary or desirable, from time to time, for the efficient operation, management and improvement of the building in order to bring it into compliance with all municipal building and housing code requirements and to fulfill the conservator's responsibilities under this act. Such powers and duties shall include, but not be limited to, the power to:
- (1) Take possession and control of the building, appurtenant land and any personal property of the owner used with respect to the building, including any bank or operating account for the building.
 - (2) Collect outstanding accounts receivable.
 - (3) Pursue all claims or causes of action of the owner with respect to the building and all other property subject to the conservator.
 - (4) Contract for the repair and maintenance of the building. The contracts shall be appropriately documented and included in the reports and accounting which the conservator is required to submit or file under the provisions of this act. The conservator shall make a reasonable effort to solicit three bids for contracts valued at more than \$ 25,000.
 - (5) Borrow money and incur credit in accordance with section 8.
 - (6) Contract and pay for the maintenance and restoration of utilities to the building.
 - (7) Purchase materials, goods and supplies to accomplish repairs and operate the building.
 - (8) With the court's approval, enter into new rental contracts and leases for a period not to exceed one year.
 - (9) Affirm, renew or enter into contracts providing for insurance coverage on the building.
 - (10) Engage and pay legal, accounting, appraisal and other professionals to aid the conservator in the conduct of the conservatorship.
 - (11) When the building has been designated a historic property, consult with the municipality's historical commission or board of historical and architectural review, a local historic preservation organization or, in the absence thereof, the Pennsylvania Historical and Museum Commission for recommendations on preserving the property's historic character.
 - (12) Apply for and receive public grants or loans.
 - (13) Sell the building in accordance with section 9.
 - (14) Exercise all authority that an owner of the building would have to improve, maintain and otherwise manage the building.
- (b) AFFIRMATIVE DUTY.— While in possession of the building, the conservator shall:
- (1) Maintain, safeguard and insure the building.
 - (2) Apply all revenue generated from the building consistent with the provisions of this act.
 - (3)
 - (i) Develop a final plan for abatement of the conditions which caused the petition to be granted or, if no such feasible final plan can be developed, to develop alternatives, including the closing, sealing or demolition of all or part of the building.
 - (ii) When the building has been designated a historic property, rehabilitate architectural features that define the property's historic character.
 - (iii) When demolition of a property in a historic district is necessary, design any replacement construction on the site to comply with applicable standards under current law.
 - (4) Implement the final plan referred to in paragraph (3) upon approval by the court.

- (5) Submit a status report to the court and parties to the action annually or more frequently as the court may deem appropriate. The status report shall include:
 - (i) A copy of any contract entered into by the conservator regarding the improvement of the building.
 - (ii) An account of the disposition of all revenue generated from the building.
 - (iii) An account of all expenses and improvements.
 - (iv) The status of developing and implementing the final plan pursuant to this subsection.
 - (v) A description of any proposed actions to be taken in the next six months to improve the building.
- (c) HEARING ON CONSERVATOR'S FINAL PLAN FOR ABATEMENT.—
 - (1) At the time the court appoints a conservator, a hearing date on the conservator's final plan for abatement shall be set within 120 days of the appointment.
 - (2) Thirty days prior to the date of the hearing, the conservator shall submit the plan to the court and to all parties to the action.
 - (3) The plan shall include a cost estimate, a financing plan and either a description of the work to be done for the rehabilitation of the building or, if rehabilitation is not feasible, a proposal for the closing, sealing or demolition of the building.
 - (4) The plan shall conform with all existing municipal codes, duly adopted plans for the area and historic preservation requirements.
 - (5) At the time of the hearing, all parties shall be allowed to comment on the plan, and the court shall take all comments into consideration when assessing the feasibility of the plan and the proposed financing.
 - (6) Within 15 days of the hearing, the court shall issue a decision approving the plan or requiring that the plan be amended.
 - (7) If the court decision requires that the plan be amended, a hearing date shall be set within 60 days from the date of the decision.
- (d) ACCOUNTING.— Upon the implementation of the final plan approved by the court, the conservator shall file with the court a full accounting of all income and expenditures during the period of time it took to implement the final plan.

§ 1107. Ownership of property

- (a) OWNERSHIP INTEREST OF CONSERVATOR.— A conservator appointed under section 5 shall be deemed to have an ownership interest in and legal control of the property for the purposes of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals and submitting applications for financing or other assistance to public or private entities.
- (b) LIABILITY OF OWNER.— Notwithstanding the appointment of a conservator under section 5, nothing in this act shall be construed to relieve the owner of any civil or criminal liability or of any obligation to pay taxes, municipal liens and charges, mortgages, private liens or other fees or charges, whether incurred before or after the appointment of the conservator and no such liability shall transfer to the conservator.
- (c) LIMITATION OF CONSERVATOR'S ENVIRONMENTAL LIABILITY.—
 - (1) Notwithstanding any law to the contrary, the conservator shall not be held liable for any environmental damage to the building or the real property upon which the building is located that existed prior to the appointment by the court of the conservator.
 - (2) Paragraph (1) does not apply to the owner or any other person or entity regarding the building and its real property that is subject to an appointed conservator under this act.

§ 1108. Incurring indebtedness

- (a) BORROWING.— From time to time, a conservator may borrow money or incur indebtedness in order to cover the costs of rehabilitation or to otherwise fulfill the conservator's obligations under this act.
- (b) LIENS.— In order to facilitate the borrowing of funds for the costs of rehabilitation, the court may grant a lien or security interest with priority over all other liens with the exception of municipal or other governmental liens, provided, however, that prior to granting a priority lien, the court has found that:
 - (1) The conservator sought to obtain the necessary financing from the senior lien holder, but the lien holder declined to provide financing for reasonable improvements or other costs of rehabilitation on reasonable terms.
 - (2) Lien priority is necessary in order to induce another lender to provide financing on reasonable terms.
- (c) LIEN STATUS OF REHABILITATION EXPENSES.— Should the senior lien holder agree to provide financing for the costs of rehabilitation, any funds lent to cover the costs shall be deemed to be added to the senior lien holder's preexisting first lien.
- (d) APPROVAL OF FINANCING.— The court may approve financing for the costs of rehabilitation, the terms of which may include deferred repayment and use restrictions. The terms of the financing may remain with the property after the conservatorship has ended and be assumed by any of the following:
 - (1) The owner, if the owner regains possession of the property under section 10(2).
 - (2) The buyer who takes title under section 9.

§ 1109. Sale of property

- (a) **SALE BY OWNER OR LIEN HOLDER.**— If a property subject to conservatorship is sold by the owner or foreclosed upon by a lien holder or if any interest therein is transferred, such sale, foreclosure or transfer shall be subject to the conservatorship.
- (b) **SALE BY CONSERVATOR.**— Upon application of the conservator, the court may order the sale of the property if the court finds that:
- (1) Notice and an opportunity to provide comment to the court was given to each record owner of the property and each lien holder.
 - (2) The conservator has been in control of the building for more than six months and the owner has not successfully petitioned to terminate the conservatorship under section 10.
 - (3) The terms and conditions of the sale are acceptable to the court, and the buyer has a reasonable likelihood of maintaining the property.
- (c) **SALE FREE AND CLEAR.**—
- (1) The court may authorize the conservator to sell the building free and clear of all liens, claims and encumbrances, provided that the proceeds of the sale are distributed pursuant to subsection (d) at settlement.
 - (2) In the event that the proceeds of the sale are insufficient to pay all existing liens, claims and encumbrances, the proceeds shall be distributed according to the priorities set forth in subsection (d) and all unpaid liens, claims or encumbrances which have not been assumed under section 8(d) shall be extinguished.
- (d) **DISTRIBUTION.**— The proceeds of the sale shall be applied in accordance with the following priorities to:
- (1) All court costs.
 - (2) Municipal or other governmental liens.
 - (3) Costs and expenses of sale.
 - (4) Principal and interest on any borrowing or incurrence of indebtedness granted priority over existing liens and security interest under section 8(b).
 - (5) Costs of rehabilitation and any fees and expenses incurred by the conservator in connection with the sale or the safeguarding of the property for which the lien authorized under section (5)(g) was filed.
 - (6) Valid liens and security interests in accordance with their priority.
 - (7) Any unpaid obligations of the conservator.
 - (8) Costs incurred by the petitioner in requesting the court to place the property in conservatorship.
 - (9) The owner.
- (e) **OWNER'S PROCEEDS AS UNCLAIMED PROPERTY.**— In the event the owner cannot be located, any proceeds from the sale which belong to the owner shall be presumed to be abandoned and unclaimed and shall be subject to the custody and control of the Commonwealth pursuant to Article XIII.1 of the act of April 9, 1929 (P.L. 343, No. 176), known as The Fiscal Code.

§ 1110. Termination of conservatorship

Upon request of a party in interest or the conservator, the court may order the termination of the conservatorship if it determines:

- (1) the conditions that were the grounds for the petition and all other code violations have been abated or corrected, the obligations, expenses and improvements of the conservatorship, including all fees and expenses of the conservator, have been fully paid or provided for and the purposes of the conservatorship have been fulfilled;
- (2) the owner, mortgagee or lien holder has requested the conservatorship be terminated and has provided adequate assurances to the court that the conditions that constituted grounds for the petition will be promptly abated, all obligations, expenses and improvements of the conservatorship, including all fees and expenses of the conservator, have been fully paid or provided for and the purposes of the conservatorship have been fulfilled;
- (3) the building has been sold by the conservator and the proceeds distributed in accordance with section 9(d); or
- (4) the conservator has been unable, after diligent effort, to present a plan that could be approved under section 6(b)(3) or to implement a previously approved plan or, for any reason, the purposes of the conservatorship cannot be fulfilled.

§ 1111. Applicability

- (a) GENERAL INAPPLICABILITY.— This act shall not apply to commercial and residential buildings, structures or land owned by or held in trust for the Federal Government and regulated under the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) and regulations promulgated under that act.
- (b) INAPPLICABILITY TO SERVICE MEMBERS.— This act shall not apply if the property owner has vacated the property in order to perform military service in time of war, armed conflict or in order to assist with relief efforts during a declared Federal or State emergency as a member of the United States Armed Forces or its reserve component.

Appendix D

Glossary

Abandoned Property – Any property that meets the requirements of “Conditions for Conservatorship” set forth in § 1105(d).

Abatement – The action of eliminating or nullifying a nuisance or a code violation on the property.

Accounting – The action or a system of establishing or settling financial accounts.

Affidavit – A voluntary declaration of facts written down and sworn to by the person making the statement before an officer authorized to administer oaths, such as a notary public.

Appointment – The designation of a person for a job or duty.

Appurtenant Land – Land that belongs or is attached to the property at issue.

Blight – Property that meets at least three of nine categories set out by Act 135; the categories are discussed at length in Chapter 3: Researching Your Case.

Brownfield – An abandoned, idled or underused industrial or commercial site that is difficult to expand or redevelop because of environmental contamination.

Building – A residential, commercial or industrial building or structure and the land appurtenant thereto.

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

Competent Entity – A person or entity, including a governmental unit, with experience in the rehabilitation of residential, commercial or industrial buildings and the ability to provide or obtain the necessary financing for substantial rehabilitation.

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

Court – The appropriate Court of Common Pleas in the county where the property is located.

Due Diligence – To act with a certain standard of care and conduct a reasonable amount of research necessary to ensure that an action is appropriate.

Greyfield – A vacant or underperforming commercial property.

Historic Property – A property that is listed on the National Register of Historic Places or is a contributing property in a National Register historic district or is located in a local government ordinance historic district.

Immediate Family – A parent, spouse, child, brother or sister.

In Rem – Involving or determining the status of a thing, as opposed to a person, and therefore determining the rights of persons generally with respect to that thing.

Intervention – A “party in interest” joining a lawsuit to protect their interest.

Lien – A legal right or interest that a creditor has in another’s property, lasting usually until a debt or duty that it secures is satisfied.

Lis Pendens – A notice, recorded in the chain of title to real property, required or permitted in some jurisdictions to warn all persons that certain property is the subject matter of litigation and that any interests in the property acquired during the pendency of the suit are subject to the outcome of the suit.

Nonprofit Corporation – A nonprofit organization that has, as one of its purposes, community development activities, including economic development, historic preservation or the promotion or enhancement of affordable housing opportunities.

Owner – The holder or holders of title to, or of a legal or equitable interest in, a residential, commercial or industrial building. The term shall include an heir, assignee, trustee, beneficiary and lessee provided that the ownership is a matter of public record.

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.

Possession – The fact of having or holding property in one’s power; the exercise of dominion of property. Possession is not the same as ownership.

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.

Secured Creditor – A creditor that holds a security interest over some or all of the assets of the debtor. In many instances, this includes a home owned by the debtor. This classification of creditor is especially important to title insurance companies and must be examined closely.

Appendix E

Biographies of Contributing Authors

Rachel Blake

Ms. Blake joined Regional Housing Legal Services in May 2007. She spends her time on policy and communications projects, including foreclosure prevention initiatives, increasing energy efficiency in affordable multifamily properties and low-income communities, and accelerating the incorporation of data and technology into housing-policy discussions. Ms. Blake practiced general real estate and affordable housing and community development law in large and mid-sized Pennsylvania firms for more than five years before joining RHLS. She has also worked in a legal-services office in Chicago, representing tenants in foreclosure. Ms. Blake received her JD/MA (urban and regional planning) from the University of Iowa in 2001 and AB in Sociology from the University of Chicago. She earned an MBA in 2007 from the Tepper School of Business at Carnegie Mellon University.

John Caddell

Mr. Caddell is an associate in the legal department of Parkway Corporation, a Philadelphia-based parking management and real estate development company. He previously worked for the City of Philadelphia Department of Licenses & Inspections. As part of L&I's Vacant Property Strategy, Mr. Caddell coordinated with local non-profits and helped them assemble the documentation needed to file conservatorship petitions. He also helped to streamline and expand the City's "Windows and Doors Court," where delinquent property owners are compelled to either remediate their properties or pay substantial fines. He received a B.A. from Tulane University and a J.D. from the University of Pennsylvania Law School.

Cynthia Witman Daley

Ms. Daley is the policy director for the Housing Alliance of Pennsylvania. The Housing Alliance was the prime advocacy organization working to enact conservatorship, and Ms. Daley participated in drafting the legislation that is now Act 135 of 2010. Before joining the Housing Alliance's staff in 2004, Cindy worked with Regional Housing Legal Services for 17 years. At RHLS she represented community development organizations engaged in the construction or rehabilitation of affordable homes. Ms. Daley received a B.A. from George Washington University and a J.D. from Temple University School of Law.

John Kromer

John Kromer is a housing and development consultant who specializes in reinvestment and growth strategies for distressed urban communities. As Philadelphia's Director of Housing from 1992 to 2001, Mr. Kromer supervised the expenditure of more than a billion dollars in public investment to implement housing preservations and development strategies that improved living conditions for thousands of Philadelphia families. Since 2001, he has completed projects in Allentown, Philadelphia, Reading and York. Mr. Kromer maintains an affiliation with the University of Pennsylvania's Fels Institute of Government as a Senior Consultant. His most recent book is *Fixing Broken Cities: The Implementation of Urban Reinvestment Strategies*.

Irene McLaughlin

Ms. McLaughlin is an attorney and a solo practitioner offering blight reduction related legal expertise and mediation services for community development initiatives and charitable legal services for lower-income homeowners living in distressed neighborhoods. Ms. McLaughlin served as a city magistrate with Pittsburgh Magistrates Court from 1993 to 2003, specializing in hearing municipal prosecutions related to property code enforcement. After the Pennsylvania Supreme Court's elimination of the city magistrate positions, she managed a special project to keep owner-occupants in their homes in the wake of local government's sale of property tax liens to private debt collectors, and she provided legal services to a multiyear blight reduction project that acquired, remediated and transferred to new use scattered-site, blighted parcels. Ms. McLaughlin manages a legal clinic for lower-income homeowners based at NeighborWorks Western Pennsylvania, a HUD-approved housing-counseling agency. She received her B.S. from the Wharton School of the University of Pennsylvania, her J.D. from CUNY Law School at Queens College and her M.A. from the McGregor School at Antioch University.

Catherine L. Meehan

Ms. Meehan is currently employed at Steptoe & Johnson, PLLC. She is also a Supervising Attorney for the Duquesne University School of Law Urban Development Clinic 2012-2013. She has her J. D. from the Duquesne University School of Law, 2011 and was admitted to the Pennsylvania Bar in 2011.

The Housing Alliance of Pennsylvania

Elizabeth G. Hersh, Executive Director

Founded in 1985, the Housing Alliance of Pennsylvania is a statewide membership organization that provides leadership and a common voice for policies, practices and resources to ensure that all Pennsylvanians, especially those living on low incomes, have access to safe, decent, accessible and affordable homes. The Housing Alliance works for policy changes to improve communities and has been instrumental in the passage of numerous bills aimed at reclaiming blighted properties.



Housing Alliance
of Pennsylvania

309 Florence Ave. 914 N
Jenkintown, PA 19046

215-576-7044

610 N. Third Street
Harrisburg, PA 17101

717-909-2006

710 Fifth Avenue
Suite 1000
Pittsburgh, PA 15219

412-281-1137

www.housingalliancepa.org

Philadelphia and Allegheny
County are NOT included
in this Handbook! They
each have their own
handbook that is available
through the Housing
Alliance of Pennsylvania,
www.housingalliancepa.org



Housing Alliance
of Pennsylvania

www.housingalliancepa.org