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**THIS IS NOT AN ARBITRATION
MATTER. AN ASSESSMENT OF
DAMAGES HEARING IS NOT
REQUIRED.**

Ogontz Avenue Revitalization Corporation :
: COURT OF COMMON PLEAS
Petitioner, :
: PHILADELPHIA COUNTY
v. :
: CIVIL TRIAL DIVISION
Leon Kalemkerian and Mary O. Kalemkerian : _____ TERM, 2010
:
Respondents. : No.: _____

PETITION FOR THE APPOINTMENT OF A CONSERVATOR

Petitioner, Ogontz Avenue Revitalization Corporation (“OARC”), by and through counsel, respectfully petitions this Court to appoint a conservator to take possession and to undertake the rehabilitation of certain property, and in support thereof avers as follows:

JURISDICTION AND VENUE

1. 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”).

2. The Property is located in Philadelphia County, Pennsylvania and venue is proper pursuant to Section 1104(a) of the Act because the Property is located in Philadelphia County, Pennsylvania.

PROPERTY

3. The Property subject to this Petition is a commercial building, zone category C-2, located at:

7452-54 Ogontz Avenue, Philadelphia, PA, BRT No. 882924855 (the "Property"). A Copy of the Deed is attached as Exhibit "A;" the Title Report with Legal Description is attached as Exhibit "B." Adjacent to the Property, at 7456 Ogontz Avenue (BRT No. 501300500), is a vacant lot under the same ownership that is also included in the deed and legal description that identifies the Property. Photographs of the Property and the adjacent lot are attached as Exhibits "C" (July 2009); "D" (Sept. 20, 2009); and "E" (Jan. 24, 2010).

PETITIONER

4. Petitioner OARC is a nonprofit corporation within the City and County of Philadelphia that has as one of its purposes to create and stimulate economic development while improving the quality of life for residents within the West Oak Lane and Northwest Philadelphia community, where the Property is located. OARC is a party in interest, as defined by Section 1103 of the Act.

5. A list of projects in which OARC has participated within a one-mile radius of the Property is attached as Exhibit "F."

RESPONDENT

6. The Petitioner avers that the Property is owned by Mary O. Kalemkerian and her son Leon Kalemkerian (the “Owner(s)”). The name of the record owner on the last recorded deed is: Mary O. Kalemkerian and Leon Kalemkerian. *See* Deed, Ex. A.

7. According to a search through the Department of Defense Manpower Data Center, the Owners have 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.

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

LIENHOLDERS AND OTHER SECURED CREDITORS

9. A judgment and lien search performed by Prestige Abstract Corporation, attached as Exhibit “G,” shows that there are no lienholders or other secured creditors with a potential interest in the Property or the adjacent lot. *See also* Title Report, Ex. B.

CONDITIONS FOR CONSERVATORSHIP

10. The Property has been vacant and abandoned for at least twelve (12) months before the date of the filing of this Petition. Based upon inquiries with the Philadelphia Department of Licenses and Inspections, the property has been in a similar condition since at least 2006. The adjacent vacant lot has also been abandoned for at least twelve (12) months before the date of the filing of this Petition.

11. Petitioner avers that, based upon its significant knowledge of and activities in the neighborhood surrounding the Property, and based upon a reasonable examination of publicly-

available real estate listings, the Property and the adjacent lot have not been actively marketed during the sixty (60) days before the date of the filing of this Petition.

12. No "For Sale" sign has been placed on or in front of the Property or the adjacent lot during the sixty (60) days before the date of the filing of this Petition. *See* Photographs, Exs. C, D, & E.

13. According to inspection of public records, including the Court of Common Pleas Civil Docket for the First Judicial District, the Property and the adjacent lot appear not to be subject to an existing foreclosure action.

14. According to inspection of public records, the Owners have not acquired the Property and the adjacent lot within the preceding six (6) months prior to the date of the filing of this Petition. Indeed, the Property and the adjacent lot was acquired by Mary Kalemkerian in 1944 and transferred to Mary Kalemkerian and her son, Leon Kalemkerian, as joint tenants in 1971. *See* Exs. A & B.

15. The Property and the adjacent lot are in need of substantial rehabilitation and no visible rehabilitation has taken place during the previous twelve (12) months prior to the date of the filing of this Petition. For example, an inspection of the Property shows that the building's exterior walls are covered with graffiti, the Property is littered with broken glass and trash, piping connected to the building is rusted, bent and broken, paint on the building's street-front exterior wall is peeling, the brick and mortar comprising the exterior walls are damaged and in need of repair, the roof of the building is unsound and the wooden supports under the front roof marquee are rotted. The blacktop on the lot is crumbling and covered with glass. *See* Photographs, Exs. C, D, & E.

16. Based on an exterior examination of the building on the Property, Petitioner believes the Property is unfit for human habitation, occupancy or use. The roof of the building is structurally unsound, and the building's windows and doors are boarded up. The adjacent vacant lot needs resurfacing, as the gravel blacktop is uneven and crumbling. Given the appearance of the outside of the building, it is presumed that there is no working heating or ventilation system in the building and that the building would fail applicable building codes.

17. The Owners or the City of Philadelphia have secured the Property to prevent unauthorized entry to the building. Despite this, the broken glass and bottles surrounding the building and the adjacent vacant lot suggest that the Property may be a frequent gathering spot for illicit activity.

18. The accumulation of debris, specifically broken glass and trash covering the Property, have created potential health and safety hazards, and the Owner has failed to take reasonable and necessary measures to remove the hazards.

19. The dilapidated appearance of the building on 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 or condition. As shown in the attached photographs, the Property is adjacent to a well-kept, attractive residential neighborhood on one side, and an active, valuable commercial district on the other side. *See Exs. C, D, & E.*

20. The broken glass and litter covering the Property and the adjacent vacant lot suggest that it may be an attractive nuisance to youth gathered for illicit purposes, including public drunkenness, drug use and vagrancy. *See Exs. C, D, & E.*

PROPOSED CONSERVATOR

21. Petitioner recommends that it be appointed Conservator. OARC has the financial resources and experience to properly rehabilitate the Property. OARC's Certification to Serve as Conservator and Resolution to accept its assignment as Conservator of the Property are attached as Exhibits "H" and "I," respectively.

22. 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 "J." As set forth in the Preliminary Plan, OARC has a preliminary budget of \$45,000 to rehabilitate the exterior of the building to satisfy applicable building codes. In addition, OARC has ample funds from its general operating budget to bring the inside of the building into compliance with applicable municipal code requirements.

23. OARC plans to ready the Property for a commercial or retail fit-out. Once OARC is granted entry to the building, it will examine and repair or replace the building's electrical system, plumbing system, HVAC system and doors, windows and floors, as necessary to meet applicable municipal codes. The cost of these repairs will be determined as needed.

24. Because the adjacent vacant lot is under the same ownership as the Property, is listed on the same Deed and Legal Description of the Property, and is in the same state of abandonment and disrepair, OARC petitions that this Court include the vacant lot in the requested Conservatorship. Access to this lot, which has also been abandoned by the Owners, will greatly improve the commercial viability of the Property.

LIS PENDENS

25. Petitioner will serve or provide notice of the filing of this Petition as provided in General Court Regulation No. 2009-01 and as otherwise ordered by the Court.

26. As required by 68 P.S. § 1104 (c), Petitioner shall file a *Lis Pendens*, substantially in the form attached hereto as Exhibit “K,” with the City of Philadelphia Department of Records and shall thereafter file a file-stamped copy with the Prothonotary.

WHEREFORE, Petitioner prays for the following relief:

1. Issue an Order to Show Cause, *inter alia*, as to why a Conservator should not be appointed to abate the public nuisance and rehabilitate, as alleged and ultimately proven, at the Property located at 7452-54 Ogontz Avenue.

2. Issue an Order to Show Cause, *inter alia*, as to why a Conservator should not be appointed to abate the public nuisance and rehabilitate, as alleged and ultimately proven, at the vacant lot adjacent to the Property located at 7456 Ogontz Avenue.

3. Appoint OARC Conservator of the Property as authorized by the Abandoned and Blighted Property Conservatorship Act;

4. Appoint OARC Conservator of the vacant lot adjacent to the Property as authorized by the Abandoned and Blighted Property Conservatorship Act.

5. Grant such other and additional relief as may be just and appropriate.

Dated: January 27, 2010

Respectfully submitted,

/s/ Ezra Dodd Church
Kristofor T. Henning
Gayle G. Gowen
Ezra Dodd Church
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-6993
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ATTORNEYS FOR OGONTZ AVENUE
REVITALIZATION CORPORATION

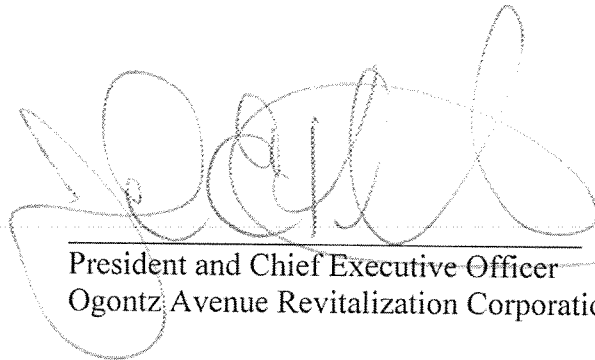
VERIFICATION OF PETITIONER

I, John E. Kitchen, hereby state:

1. I am President and Chief Executive Officer of Ogontz Avenue Revitalization Corporation ("OARC"), 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.



President and Chief Executive Officer
Ogontz Avenue Revitalization Corporation

Dated: January 27, 2010

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

Ogontz Avenue Revitalization Corporation :
Petitioner, : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Leon Kalemkerian and Mary O. Kalemkerian : CIVIL TRIAL DIVISION
Respondents. : _____ TERM, 2010
No.: _____

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:

7452-54 Ogontz Avenue, Philadelphia, PA, BRT No. 882924855 and
7456 Ogontz Avenue, Philadelphia, PA, BRT No. 501300500.

A hearing on the Petition for the Appointment of a Conservator will be scheduled by the Court. As required by General Court Regulation No. 2009-01, 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.

Lienholder/Secured Creditors. If you are a lienholder 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 Philadelphia. As the political subdivision in which the property is located, the City of Philadelphia 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.

*Philadelphia Bar Association
Lawyer Referral and Information Service
1101 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107
(215) 238-6333 TTY (215) 451-6197*

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.

*Asociacion de Licenciados de Filadelfia
Servicio de Referencia e Informacion
Legal
1101 Market Street, 11th Floor
Filadelfia, Pennsylvania 19107
(215) 238-6333 TTY (215) 451-6197*

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

Ogontz Avenue Revitalization Corporation :
Petitioner, : COURT OF COMMON PLEAS
v. : PHILADELPHIA COUNTY
Leon Kalemkerian and Mary O. Kalemkerian : CIVIL TRIAL DIVISION
Respondents. : TERM, 20__
No.: _____

ORDER TO SHOW CAUSE

AND NOW, this ___ day of _____, 2010, 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:

7452-54 Ogontz Avenue, Philadelphia, PA, BRT No. 882924855 &

7456 Ogontz Avenue, Philadelphia, PA, BRT No. 501300500

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

- 1. As required by General Court Regulation No. 2009-01, 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 Pa. R.C.P. No. 400.1 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 Philadelphia at City Solicitor, 1515 Arch Street, Philadelphia, PA and shall file a return of service as soon as possible upon service. Service may also be accomplished as provided by Pa. R.C.P. No. 400.1;
d) Mail a copy of the Notice, Petition and exhibits, and this Order to all lienholders 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 Pa. R.C.P. No. 400.1.

1. As required by 68 P.S. § 1104 (c), the Petitioner shall file a *Lis Pendens* with the City of Philadelphia Department of Records and a copy with the Prothonotary;

2. Unless otherwise provided upon petition, the owner may file an Answer to the Petition on or before _____ [approximately 60 days];

3. Unless otherwise provided upon petition, the City of Philadelphia, lienholders, other secured creditors, and any other “party in interest” as defined in 68 P.S. § 1103 may file a Petition to Intervene pursuant to Pa. R.C.P. 2236 et seq. on or before _____ [approximately 60 days];

4. Answers and responses to any Petitions to Intervene must be filed on or before _____ [approximately 90 days];

5. 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 ___, City Hall, 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

6. At any time, the Court may appoint a master-judge *pro tem* to review the pleadings filed, conduct any hearing or status hearing authorized by Act 135 and this General Court Regulation, 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-judge *pro tem* must be deposited with the Prothonotary by the Petitioner or Conservator as may be ordered from time to time by the Court.

BY THE COURT

J.