

Testimony of Rita Dallago, Executive Director
Pennsylvania Residential Owners' Association
Before the Senate Urban Affairs Committee
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Chairman Pippy, members of the Senate Urban Affairs and Housing Committee, my name is Rita Dallago and I am the executive director of the Pennsylvania Residential Owners' Association (PROA). Thank you for inviting us to share our thoughts on SB 1291, the Neighborhood Blight Reclamation and Revitalization Act.

On behalf of PROA, I would like to commend Senator Rhoades and his staff for taking on the very difficult challenge of blight. We share the Senator's goal. Blight affects our communities, our livelihoods and our tenants' quality of life. Having said that, however, PROA believes SB 1291 should be amended because of the potential of harmful – albeit unintentional – consequences it poses.

PROA believes that SB 1291's scope has a far reaching impact on the rights of property owners – small business, large businesses, homeowners, and landlords. We believe that enforcement of current laws and utilization of the tools that local governments already possess are a more appropriate method to address blight.

The bill proposes three mechanisms that impact owners of property. The first creates a right of action against property and owners; the second allows third parties to take “conservatorship” of an owner's property; and the third allows for the denial of all state licenses and permits to property owners for any housing code violations.

The first segment of the bill creates “actions against owners of blighted property”. It would allow any neighbor or tenant, of any residential, commercial, or industrial property, to bring a civil action against a property owner to correct alleged code violations before a district justice. The violations permitting the lawsuit against a property owner would be any violation, without regard to the nature or significance of the alleged violation.

The concept of allowing private citizens to enforce public housing codes would institute a new theory into the law. Municipalities across the state are presently equipped with significant enforcement tools against properties that are truly blighted or dangerous. Creating a new cause of action for tenants of rental property, or a disgruntled neighbor of any property, to sue for correction of the most minor code violations has the potential to create lawsuit abuses.

Frivolous and retaliatory lawsuits brought by tenants or feuding neighbors could explode. The time and legal costs of defending such actions will create a significant burden upon owner and tenant occupied properties. Businesses will be constantly at the mercy of area residents complaining about perceived code violations.

PROA recommends this Section 6111(a) be amended to limit those parties in interest that can bring a lawsuit to a municipality or other governmental body.

SB 1291 would provide that any uncorrected code violation will result not only in a lien against the property, but personal liability against the owner and all of the owner's other assets. This change represents a fundamental shift in jurisprudence tradition. Matters involving property have always been in rem actions, not in personum. PROA recommends that Section 6112(1) and Section 6113 be changed to in rem actions and the lien be placed against the property.

We are concerned about requiring corporate owners to provide their drivers' licenses as part of a public record. PROA believes that it is not only unfair but dangerous. We are concerned about personal safety, identity theft and privacy.

We also believe that there would be an impact on economic development as well. Can you imagine asking Bill Gates and the board of directors of Microsoft or Intel for their drivers' license as a condition to open a factory in Pennsylvania? Here, again, we believe that there is already an appropriate remedy in place. It is our understanding that all corporations doing business in Pennsylvania must register with the Department of State and foreign corporations must have a point of contact for service of process.

PROA recommends that the Section 6114 be deleted from the bill.

The Conservatorship section of the bill would allow any "party in interest" to sue for "conservatorship" of property they do not own and take possession. In SB 1291, a right to bring an action would be given to anyone who lives within 500 feet of the property, and any "nonprofit corporation". Notwithstanding the fact that some may consider conservatorship as an unlawful taking, we would recommend the approach taken in HB 843.

In HB 843, the grounds for the appointment of a conservator are more limited than SB 1291. There are only three clearly spelled out grounds for filing a conservatorship petition. We would, however, make the following recommendations.

The grounds for filing a petition must be for multiple serious violations, not for minor violations. Examples of minor violations that have resulted in citations being issued to landlords have included a dirty oven and a cracked window.

Also, we would ask that the parties in interest be limited. We would be concerned about giving tenants the ability to file a conservator petition. In both HB 843 and SB 1291 a disgruntled tenant could file a petition and take possession of the property. The cost to defend against conservator petitions filed by disgruntled tenants could be astronomical.

Chief among the issues can be found on page 27, Section 6142, Municipal Permit Denial. This section seems to create the proverbial "Catch 22". If one has a property in

disrepair, and has received a code violation, how does one obtain the necessary permits to do repairs? This seems to run counter to the overall goal of getting the property owner into compliance.

There is a more fundamental issue here. There may be legitimate disputes in question and this section does not afford one the opportunity to resolve those issues. For instance, if a landlord is disputing a tax assessment or water bill, the municipality would have the authority to deny the issuing of a permit. The authority to deny a permit, when legitimate issues are being disputed, could potentially create the situation where the exercise of one's due process is simply abandoned.

PROA is concerned that Section 6142 could be used as a hammer to beat landlords into submission when genuine disputes exist. Further, PROA is concerned that when there is a legitimate issue and repairs are necessary, one would be forced into the untenable situation to do work without the necessary permits in hand or face further sanctions. PROA would like to see Section 6142 eliminated from the legislation. In the alternative, PROA would like Section 6142 amended to reflect these concerns. PROA believes these issues hold true for Section 6141(a)(1), State Permit Denials, as well.

Again, I would like to commend Senator Rhoades for his efforts to combat this very serious issue. On behalf of PROA, I would like to thank you for inviting me here today.