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Pennsylvania Association of REALTORS® (PAR)

Testimony on Urban Renewal

Presented by: Kimberly Skumanick, CRS, GRI

Good Morning Chairman Pippy and members of the Senate Urban Affairs and Housing Committee. My name is Kimberly Skumanick and I have been a real estate licensee since 1994. I am currently the Vice-Chair of the Pennsylvania Association of REALTORS® (PAR) Legislative Committee.

On behalf of the 34,500 members of PAR, thank you for giving us this opportunity to present our views on the issue of urban renewal and how to make our communities a vital place to live and work.

In January 2008, PAR President Bob Hay established an Urban Renewal Task Force to examine legislation aimed at helping municipalities prevent blight and to remediate abandoned properties. The task force was comprised not only of REALTORS®, but of representatives of the Pennsylvania Builders Association, the Pennsylvania Apartment Association, and the Pennsylvania Residential Owners Association. While we invited these groups to join us in reviewing SB 1291, the Neighborhood Blight Reclamation and Revitalization Act, the comments that we submit today are not on behalf of the task force and represent the views of our organization only.

In determining our position on SB 1291, PAR considered all facets of the legislation, including the practical nature of implementation, current laws and municipal codes on the subject, and how effective the bill will be to eliminate blight and rehabilitate abandoned properties. We are generally supportive of the intent of SB 1291, but believe that neighborhood revitalization can be solved through enforcement of municipal code programs and state laws already on the books. We believe

that many components of SB 1291 are redundant and unnecessary, and submit the following concerns for your consideration.

DEFINITIONS

SB 1291 includes a definition of “residential building” as “a building or structure containing one or more dwelling units and the land appurtenant to it.” We believe this definition is overbroad as it could include apartment buildings and other residential structures that are considered commercial properties. We suggest the legislation be revised to mirror the Residential Real Estate Transfers Law which defines “residential building” as “real property that consists of not less than one nor more than four residential dwelling units.”

CONSERVATORSHIP

In general, PAR believes that appointing an individual who is not the legal owner of a property as the party responsible for the rehabilitation of a property without providing just compensation to the legal owner could be considered an unlawful “taking.” As SB 1291 is structured so that the owner remains the holder of title until the property is sold and is provided compensation after the sale of the property, we do not oppose the concept of conservatorship as written. However, if SB 1291 were amended to revise this provision, we would undoubtedly need to revisit our support of the concept.

SB 1291 allows for the appointment of a conservator if the property has not been “actively marketed” during the last 60 days, but provides no definition of the term. We recommend that “actively marketed” be defined as “An owner has placed a ‘for sale’ sign on the property with accurate contact information and has done at least one of the following: (a) engaged the services of a real estate licensee to place the property in the Multiple Listing Service (MLS); (b) placed weekly advertisements in print or electronic media; or (c) distributed printed advertisements. This definition would encompass both owners who engage the services of a real estate licensee and those who decide to sell the property as a for-sale-by-owner.

Some of the property conditions that trigger conservatorship are not clearly linked to an imminent threat to public health, safety or welfare. Michigan law only permits the appointment of a conservator if the property “poses an imminent danger to the health and safety of the occupants of

the premises, or if there are no occupants and the violation creates an imminent danger to the health and safety of the public.” New York statute requires that conditions be “dangerous to life, health or safety” to prompt the appointment of a conservator. For purposes of SB 1291, we suggest that “blighted property” be defined as “an unoccupied premises that creates an imminent danger to the health and safety of the public.” This definition would help to protect property owners from frivolous petitions and allow for specific targeting of abandoned and vacant properties that pose real risks to public health and welfare.

SB 1291 does not impose the same evidentiary requirements on a party in interest who files a petition as it does when a court must decide whether to appoint a conservator. The petition must only “include a concise statement of the reasons a conservator should be appointed” and only requires additional information to “the extent available to the petitioner.” This more lenient standard appears to allow a party in interest to file a petition even though the evidence presented may be insufficient to require the appointment of a conservator. We believe that revising the evidentiary requirements in Section 6131 to match the more stringent requirements in the section on appointment of a conservator would help to alleviate the filing of frivolous petitions that have little or no chance of resulting in the appointment of a conservator. Revising the requirements would help ensure that property targeted for conservatorship is sufficiently deteriorated and requires being placed in a conservatorship so that limited municipal and state resources are not expended on less deteriorated properties.

SB 1291 does not specifically address what would happen if a court received multiple petitions to appoint a conservator for the same property or how it would decide between several nominated conservators. It also does not provide that the preliminary plan with cost estimates need come from a professional in the area of rehab. We believe that the court should be required to consider certain information about each conservator, such as expertise in the area of rehab, and should require that each potential conservator propose a plan of abatement to be considered at the time of their appointment.

STATE AND LOCAL PERMIT DENIALS

SB 1291 would allow for the state or a municipality to deny an applicant a permit, certification, license or approval for contemplated action if the applicant owns any property which is tax

delinquent or in violation of codes. We oppose the use of tax delinquency as a basis for denial of permits or licenses. Individuals who make deliberate decisions not to comply with state law face fines, liens, public disclosure or criminal investigations that could lead to prosecution. Denying an individuals' attempt to practice a profession only leads to further delinquency and inability to comply with prescribed law. Real estate salespersons must be attached to a broker at all times and would be unable to renew their license and continue to work if their broker does not receive tax clearance.

Further, Commonwealth v Hoffman, decided in December 2007 by the Commonwealth Court, determined that local taxing authorities lack the express, implied and necessary power to enact the provisions of an ordinance to withhold licenses and permits as a means of collecting real estate taxes and municipal debt. For these reasons, we encourage the complete removal of Subchapter E from the legislation.

STATE BLIGHT DATA COLLECTION SYSTEM

SB 1291 would implement a property maintenance code violations registry. We believe that a statewide central registry would be cost prohibitive, an administrative burden to municipalities for timely reporting, and may be a hindrance in the purchase of property. Again, we encourage the complete removal of Subchapter F from the legislation.

CONCLUSION

Legislation to combat the issue of urban blight has been primarily directed towards increasing affordable housing opportunities and preventing code violators from expanding their ownership of blighted property. It has not been the intent to harm any person who purchases and owns real property and maintains such property in compliance with municipal building, housing, and fire codes. PAR recognizes that absentee owners and landlords who allow their properties to fall into disrepair contribute to the deterioration of our communities, and will continue to support legislation designed to make our communities safe and vital. But we also believe that this ideal can be achieved through enforcement of municipal code programs and state laws already on the books, and consider many components of SB 1291 to be redundant and unnecessary.

On behalf of PAR, thank you for inviting me today to speak about this issue and share our concerns. I would be happy to entertain any questions you may have.