

**In Witness before the Pennsylvania State Senate Urban Affairs & Housing Committee**  
**Micah J. Gursky, President, Tamaqua Borough Council**  
**Senate Bill 1291**  
**Neighborhood Blight Reclamation and Revitalization Act**  
**July 22, 2008**

Good Morning and Welcome to Schuylkill County. I am Micah Gursky, President of Tamaqua Borough Council. I feel a great weight of responsibility today as I have twenty minutes to offer testimony and answer questions on this issue that so dramatically impacts Tamaqua and other boroughs throughout Schuylkill County and Pennsylvania.

Since 1911, the Pennsylvania State Association of Boroughs has represented the interests of Pennsylvania's 960 boroughs by shaping the laws that empower them. Through our 960 boroughs we represent over 9,100 borough officials who in turn serve more than 2.1 million borough citizens across this Commonwealth. These borough officials strive to deliver quality leadership and service to borough citizens across the Commonwealth.

I am pleased you want to hear Tamaqua's experience and input because, quite frankly, we have been fighting urban blight for many decades—one of my earliest memories growing up in Tamaqua is the demolition of an entire block of historic but blighted buildings in the first block of our main street. I am pleased that our plight is being heard by the "Urban Affairs" committee and often laugh when Tamaqua is considered "rural"—there's nothing rural about row homes, doubles and downtown walk up apartments.

When I say "we" I am referring to a strategic team of elected officials, municipal employees and non-profits who have been throwing everything but the kitchen sink at the blight problem in Tamaqua. There are many but, in the interest of time, I will only submit these names into the record without reading them:

1. Kevin Steigerwalt, Tamaqua Borough Manager
2. Ken Smulligan, Tamaqua Councilman, Past Council President, President Tamaqua "Save Our Station"
3. John Trudich, Tamaqua Councilman, Past Council President
4. Allen Breiner, Jr., Zoning Officer, Assistant Code Enforcement Officer
5. Jim Barron, Code Enforcement Officer
6. Margaret Marino, Housing Rehabilitation Department
7. Richard Skasko, Housing Rehabilitation Department
8. Linda Yulanavage, Tamaqua Downtown ("Main Street") Manager
9. Kathy Kunkle, Tamaqua South Ward ("Elm Street") Manager
10. Michael Greek, Tamaqua Borough Solicitor

I shutter when I hear—either first hand testimony or second hand whispers—that local communities have enough “tools” to deal with blight and that the current laws are “strict enough.” To be perfectly clear, we do not and they are not.

Local elected officials in Tamaqua, our code officers, rehab officers and police officers who deal with the negative impact of blight certainly do not think so. More importantly, our responsible, law-abiding property owners don’t think so. And, in my experience in dealing directly with negligent property owners for the past 13 years I am convinced that *they* not only know that current laws are easily circumvented—they know exactly how to do it.

I can also tell you that the neighboring resident who bags a dead rat and drops it on the desk of our borough manager certainly does not think the laws are tough enough. Nor does the elderly woman whose neighbor’s unheated home, bursting pipes and leaky roof causes damage to her home while her heating bill rises, her property value plummets and we use her taxes to tear down her neighbor’s building. It is a very hollow feeling when I have to tell a Tamaquan who takes pride in their community that the building falling apart next door to them will continue to deteriorate because “We’re doing all we can.”

Of course many elected officials can and say “We are doing all we can.” Why should anyone—including the General Assembly (a justifiably skeptical group) believe us when we say it in Tamaqua? Maybe we’re just not using everything we have at our disposal? Perhaps we’re not smart enough to use the existing laws effectively—or maybe we just lack the political will to enforce existing anti-blight measures in our community. Hogwash! You and your colleagues may rely on this testimony as evidence to know that even when a community takes the fight seriously and uses every anti-blight measure at its disposal, there are still gaps and we really do need the anti-blight measures in SB 1291. In our community, we’ve done everything from cite our own council people for violations to using the politically-unpopular KOZ tax-free program to actually address blight. We have spent our good-taxpayers’ dollars purchasing blighted buildings, rehabbing or demolishing them. Our District Judge has sentenced people to jail for ignoring code violations—and they have served time. We have been creative and we have used the tools currently available and Tamaqua has only made a dent in the problem.

I’m going to give you some examples of how Tamaqua has used existing laws successfully followed by how the SB 1291 will fill some of the gaps in those laws.

In Tamaqua we have:

1. Used everything from Transportation to Heritage Park funding to restore our blighted train station, which now houses an upscale restaurant and shoppes.
2. Used Main Street and Conservation & Natural Resources funding to construct Depot Square Park--a park & garden where a gasoline station was being abandoned and would have become blighted

3. Cited property owners under a Local Historic District Ordinance which prohibits “demolition by neglect”
4. Used private funds and preservation funding to acquire and restore blighted properties like the Shepp House Mansion
5. Acquired 50 Mauch Chunk Street at municipal tax sale and sold it to highest bidder who now runs a successful pub and restaurant
6. Placed 12-16 Mauch Chunk Street into KOZ program—the property then went thorough Sheriff’s sale where the bank purchased it and sold it to a developer who ran an unsuccessful pub & restaurant
7. Created a partnership with the John Morgan Trust, Lehigh Carbon Community College and Tamaqua School District to construct a new community college campus where a Junior High School was being abandoned
8. Implemented an aggressive demolition program to eliminate blight. In the past 10 years Tamaqua has spent more than \$373,000 demolishing 30 blighted properties. This is just the demolition cost and does include legal fees, countless hours of enforcement officer and borough employee time, unpaid taxes, unpaid water, sewer or refuse bills. In addition, dozens of properties were taken to the point of demolition but the property owners either abated their violations or demolished the structure themselves to avoid the demolition lien filing. Up until this year, Schuylkill County contributed 50% toward demolition costs and the Tamaqua School District contributed 12.5%. Tamaqua had always been proud of our enlighten school board for understanding that eliminating blight is a good investment.
9. Restored a blighted factory—the former boot and shoe factory—which lay vacant for many many years by partnering with the Alliance for Building Communities to use historic tax credits, Federal Home Loan Bank of Pittsburgh Affordable Housing Funding, PA Housing and Finance Agency Housing Tax Credits and PennHomes financing.
10. Used negotiated Consent Orders to allow property owners to address code and blight issues. One property owner—who purchased two Tamaqua Properties sight-unseen at the same Sheriff’s s Sale was given time to address code issues and agreed to allow the Borough to hold the deed in escrow until those issues were addressed. The owner, of course, did not address the property and Tamaqua executed the deed and took ownership. Unfortunately, the home burned down before we could rehab it. Tamaqua also had to demolish the second property as well—and, to this day, I don’t think the man ever set foot in Tamaqua to see what he purchased. Tamaqua has routinely used and enforced consent orders as a way to address blight.
11. Run a substantial housing rehabilitation program helping hundreds of property owners.
12. Operated a Residential Rental Property Registration Program with inspections once every 4-years—our fire chief once found an electrical circuit box in the shower of a basement apartment—fortunately the shower was not in use at the time.

13. Worked closely with our Water & Sewer Authorities to strictly enforce and routinely shut off water service to delinquent payers to try to keep a property from falling into the spiral of delinquency and blight.
14. Monitored Sheriff & Judicial Sales to try to acquire blighted property for demolition or rehabilitation and also to ensure that purchasers are aware of their obligations to address code violations.
15. Cut untold amounts of grass on abandoned and neglected properties, knowing that we are unlikely to recoup these costs simply by filing a lien. We file the liens anyway.
16. Placed more than 18 vacant and blighted properties in the KOZ and KOEZ program (not a politically easy thing to do). Many of these sites are now quality, highly-desired apartments and locations for successful small businesses.
17. Launched and sustained a full-fledged Main Street committee and program that includes dedicated annual funding from the Borough to sustain the program now that the state funding is no longer available.
18. Launched an Elm Street committee and program in our South Ward to address blight in our residential neighborhood.
19. Organized volunteers from the New Life Assembly of God Church who repaired the roof of one of our neighborhood residents to prevent it from becoming blighted.
20. Worked with Schuylkill Community Action to construct a new single-family detached home where we demolished a blighted double home.
21. Raised \$1.3 million (all private) to construct a community center where our Victoria Theater collapsed and a vacant lot sat for many years.
22. Routinely perform fire inspections in commercial properties.
23. Completed a \$2.6 million streetscape improvement project.
24. Maintained a staff that includes a code enforcement officer, assistant code enforcement officer and two housing rehab officers.
25. Offered low interest housing rehab financing, sidewalk financing and commercial property financing to address code violations.
26. Sought the maximum penalties including jail time for repeat violators.

We have used every tool available to us because the problem is so vast. Despite these and other efforts, there are still blighted properties that cannot be addressed without the measures of SB 1291.

An excellent example is the former Mitchell Furniture Building at 205 West Broad Street in Tamaqua. The property owner has failed to maintain, heat or address code violations since purchasing the building in 1996. The large front store windows are broken, the upper floor concrete window sills had to be propped because they came crashing to the sidewalk. The property owner actually fought us when we tried to include his property in the streetscape improvement project despite having been cited for his own deteriorating sidewalk. The building

is a contributing structure in our historic district and he has been cited, found guilty, fined more than \$10,000 and sentenced to jail for his violations. Apparently that's not enough to motivate this negligent property owner—and our goal is to get this blighted building addressed, not to put the owner in jail. At this point we have literally “done all we can.”

However, if we had the permit denial, asset attachment and state-wide data base measures of SB 1291 in place today, Tamaqua would be using those tools to have the property owner address the violations. We have no doubt he would, too, because just a short three blocks away, this same property owner owns and runs a bar with a liquor license. By making the future of his bar, license and other assets tied to the blighted asset three blocks away, the property owner would not be so willing to ignore the violations. This property owner should be listed in a state-wide data base so other communities can see that he has a history of destroying properties by neglecting them. Moreover, this data base can be used to demonstrate a history of violations where now the only way for a municipality to show that an owner has a history of not correcting violations is to wait until it happens in that particular community. Currently he knows that, like so many other properties owners have done in Tamaqua, he can just let it crumble and the municipality will end up demolishing the building property after a Sheriff's sale. He can do this knowing that his other assets—just a few blocks away—are safe. The new recording requirements of SB 1291 are also necessary so property owners such as this cannot hide behind an incorporated name and a Post Office box.

What happens if this property owner skips town or stays in New Jersey where he resides? Senate Bill 1291 will allow Tamaqua to bring him back to Pennsylvania to face the citations. In a way, we are fortunate that this particular absentee property owner does own a bar in Tamaqua—at least he is around for our police and constable to serve warrants. This would not be the case for other out-of-state owners who may choose to hide behind the state line and the lengthy court process needed to bring them to justice.

The other pieces of SB 1291 would also allow us to address properties we cannot address currently.

**Asset Attachment** – there have been several instances where purchasers buy blighted properties at tax sale—often sight-unseen. These purchasers will think twice about ignoring their responsibilities as property owners if their Florida, New York or Tamaqua assets are going to be at risk.

**State Data Base & Registry**– This will be a simple but powerful tool. It will allow communities to assess a property owner's record. In addition to assisting in permit, variance and special use determinations, this will also help communities make better decisions when negotiating with utility-delinquent owners, for example, because we will have a better idea of

whether the delinquency is a pattern or a one-time occurrence. The tool will also be useful to counties wishing to avoid selling properties at Sheriff's Sale to repeat violators. Such a registry will also help a community seek maximum fines and penalties for repeat violators.

**Owner Recording Requirements** – Part of the time-consuming back and forth of Due Process is the notification requirements. Negligent property owners are good at pushing time limits and finding loopholes. Having good names and addresses for property owners will shorten the time a negligent owner can hide behind a corporate name or a PO Box.

**Return Out of State Property owners to PA to face Criminal Prosecution** – The fact that this is not currently state law indicates that Pennsylvania still does not consider code violations as a serious criminal matter. Since repeated code violations are a criminal offense, offenders should be treated as criminals.

**Receivership/Conservatorship** – This aspect of SB 1291 would have limited applicability in small communities since we often do not have the non-profits or community resources necessary to properly deal with a marginal property. We do, however, often become “receivers” of the property because after a property has deteriorated and its value is gone, taxes and utilities are ignored and the owners dump their property on the municipality by virtue of it becoming a health and safety hazard that must be addressed. The Receivership/Conservatorship provisions should include a mechanism for municipal and tax liens to be removed or paid over time by the receiver.

**Mortgage Lenders Responsibility** – In my experience, the most uncaring property owner is the “Special Assets” department of a bank. I understand it's their job, but they do not consider themselves to be property owners with property owner responsibilities. When a property is in this position, there is no “owner” and a community often must sit idly by as the foreclosed owner ignores violations and the lender looks to unload the property to cut its losses. Holding a lender responsible is a good idea, but do not let the original property owner off the hook. Increased Lender Responsibility needs to be linked with the Private Asset provision so the original property owner stays “on the hook” to address the blighted property. In addition, lenders need to be encouraged to protect their assets by using the proposed Private Right of Action mechanism prior to and throughout the foreclosure process. By using Lender Responsibility, Private Right of Action and Private Asset Attachment together, banks and municipalities will be a powerful team to prevent and remediate blight. Banks and communities could and should work together instead of as adversaries in this struggle.

**Private Right of Action** – The neighboring property owners are most impacted when a property is left to deteriorate. Allowing Private Right of Action will bring those specific owners into the process directly whereas municipalities tend to use general health and safety arguments when enforcing our codes. Municipalities are often brought into neighbor disputes under the guise of

code violations and property maintenance issues. The Private Right of Action provision will allow municipalities to avoid being inappropriately used by allowing citizens the ability to file their own action. Municipalities can then use the precious time of our code officers and attorneys more efficiently.

### **Additional recommendations**

In addition to the provisions in SB 1291, I recommend consideration of additional measures to address blight. First, consider **requiring property liability insurance** for structures that are attached to adjacent structures or even for all properties the way automobile insurance is mandated. Second, **eliminate the disincentive** for property owners to improve their properties by eliminating the property tax. Finally, work with the Attorney General's office to establish **an anti-blight agent** who can work with local District Attorneys to assist in fighting the criminal violation of building codes by notorious multi-community offenders.

I would like to conclude by restating that Tamaqua has and will continue to do everything within its power to fight blight in our community. We are unique in that we have the will to do what needs to be done and have put resources to making it happen—but it's not easy and it's not enough. Most property owners have pride in their property and in their community. But there are those notorious owners who cannot be budged with the existing laws. They are willing to face jail time and fines to let their property become a devaluing and dangerous presence in our communities. The measures of SB 1291 will most certainly help us win our fight in Tamaqua.

There are many smaller communities who do not have the experienced and talented staff that we have and we still struggle. SB 1291 will allow them a stronger opportunity to make meaningful progress in their neighborhoods.

We are fortunate to have the means and will to “throw the book” at notorious property owners. I would like to thank Senator Rhoades for helping us with this issue because sometimes we just need a heavier book!

Thank you for your time and consideration. I am available now or at any time to answer questions or further discuss this important issue.