

HEARING ON HOUSE BILL 2445
HOUSE LABOR RELATIONS COMMITTEE
AND
HOUSE URBAN AFFAIRS COMMITTEE

JUNE 23, 2008

PENNSYLVANIA ASSOCIATION OF HOUSING AND REDEVELOPMENT
AGENCIES

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I am Christopher C. Houston, Director of Real Estate Development and General Counsel to the Cumberland County Redevelopment and Housing Authorities. I appear on behalf of the referenced Authorities and the Pennsylvania Association of Housing and Redevelopment Agencies (PAHRA) in support of House Bill 2445.

PAHRA represents 136 housing and redevelopment agencies throughout the Commonwealth and on behalf of PAHRA, I appreciate the opportunity to testify before you today.

The members of PAHRA are in the front lines in dealing with blight in our communities. We see first hand the negative impact that blight has and are involved, one way or in another, in cleaning up blighted properties. I don't think that anyone could dispute the fact that blight diminishes property values, has a negative impact on a municipality's tax base, and adversely impacts on the quality of life of those who are forced to live in neighborhoods where blight exists. This legislation would give important tools to not only municipalities, but also to the citizens that reside in those communities to take back their neighborhoods from those who allow their properties to become blighted. Let us give additional powers to Pennsylvania communities to fight blight. The tools made available in this legislation will enable communities to effectively deal with blight before it gets out of hand and even more public funds are needed to revitalize those communities.

HB 2445 and its companion piece of legislation, SB 1291, which was introduced by Senator Jim Rhoades, is the culmination of the efforts of a Blight Task Force convened by Senator Rhoades. The Blight Task Force has spent a considerable amount of time in reviewing methodologies to address, in a comprehensive fashion, the issues that many Pennsylvania communities, both small and large, face in dealing with blighted properties. It is not my intent today to discuss, section by section, the legislation, but to express the importance, in general terms, of the passage of this act, and to give a specific example of where the conservatorship provision in the legislation would have helped our agency in dealing with blight in Cumberland County.

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With regard to the conservatorship provision of HB 2445, we first note that this provision forms the basis for HB 2188, known as the Abandoned and Blighted Property Conservatorship Act, which has been reported from the Urban Affairs Committee. PAHRA is in support of amending HB 2445 to include the amendments to date to HB 2188, so that the language in both pieces of legislation is consistent. Secondly, I wish to address how, if HB 2445 had been law, the conservatorship provision would have helped the Cumberland County Redevelopment Authority in dealing with a number of blighted properties.

In 2000, the Redevelopment Authority was appointed as an “agent” of the court pursuant to a petition filed by the Borough of Carlisle to manage eight properties located in the Borough owned by one individual. All of the properties were blighted and had numerous code violations. Our court ordered powers included the ability to undertake the repairs necessary to bring the properties into code compliance and to seek repayment from the owner for the cost of the repairs. If unsuccessful in being reimbursed, the court order gave authorization to the Redevelopment Authority to sell the properties. The situation was a complex one ultimately involving criminal charges being brought against the owner for arson after he burned down three of the properties after our appointment. Ultimately, after the owner was convicted, sentenced, and incarcerated on the arson charge, the Authority made arrangements with the owner’s attorney-in-fact to purchase several of the remaining properties in their existing condition, which were later sold to various non-profit organizations. The non-profits rehabilitated the properties into for sale and rental affordable housing. The Authority did not get involved in rehabilitating the properties, as an agent of the court. The reason for this was the fact that they were already heavily encumbered and when the costs of rehabilitation were added to what was owed on the current mortgages, the total of the rehabilitation costs and loan amounts would have exceeded the sales price. In other words, there was no guarantee that the Authority would have been fully compensated for the costs of the rehabilitation.

The conservatorship provision of HB 2445 would have greatly simplified our agency’s involvement in dealing with these blighted properties. The court in our case could not have ordered that we be given lien priority over existing encumbrances. This legislation provides for a lien or security interest for the cost of rehabilitation undertaken by the conservator, which would be a lien with priority over all other liens. In addition, the conservatorship provision that provides for a sale free and clear of liens is absolutely necessary, we believe, in order to facilitate the conservatorship process. In our situation, there were existing mortgages upon the properties. If the sale free and clear provisions of this legislation had applied to our situation, we would have been assured that any purchaser would have obtained clear title and the costs of rehabilitation would have been reimbursed.

It is important to note that there is an important mechanism in the act which gives an existing lienholder an opportunity not to lose its priority lien status. Specifically, the legislation provides that the priority lien to be given for the cost of renovations incurred by

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the conservator can only occur if the conservator first sought to obtain necessary financing from the existing/senior lienholder and the senior lienholder declined to provide that financing on reasonable terms.

Accordingly, under the situation that our agency faced, we ended up, fortunately, negotiating with the owner's representative in the successful purchase of a number of the properties through a complicated and drawn out process. If we had not been successful in negotiating to purchase these properties, we may still be dealing with these blighted properties today.

Is the act, in its current form, perfect? The simple answer is no. We recognize that amendments will be needed. As an example, with regard to the provision that pertains to state and local government permit denials, we believe that it would be prudent to amend the language so as to provide that the provisions regarding permit denial would not apply to those instances where the permit at issue is for the repair or renovations to be performed upon the blighted property for which code violations exist. It is not the intent of the act to place unintentional restrictions upon an effort to remove conditions of blight. We are confident, however, that with the cooperation of the various constituencies involved and with the ongoing support of the members of the Blight Task Force, that agreed upon amendments can and will be made that will result in legislation acceptable to all and that will, in the end, allow communities to effectively deal with blighted properties.

Let us do the right thing here. Let us give communities the necessary tools to fight blight. Let us protect the rights of impacted property owners. I was involved in the drafting of Pennsylvania's new Eminent Domain Code. In the drafting of that legislation, a lot of time and effort was expended in making sure that private property interests were protected. We must apply the same logic to this legislation. We must concern ourselves with protecting the rights of those who are forced to live in neighborhoods where blight exists. These citizens include property owners who have land values that are negatively impacted by blight and whose quality of life is greatly diminished. Section 1 of the Pennsylvania Constitution provides that: "All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of **acquiring, possessing and protecting property** and reputation, and of **pursuing their own happiness.**" This legislation will serve to preserve and protect affected land owners' property rights and their rights to pursue their happiness and living free from the detrimental effects of blight.