



Housing Alliance of Pennsylvania

Using Conservatorship to Reclaim Properties: Case Studies

Act 135 of 2008

June 10, 2011



What is conservatorship?

- Conservatorship is the court appointment of a third party “guardian” to take care of a property when the owner is absent or refuses to act.
- Conservatorship is a powerful tool that enables communities to take control of vacant, blighted property.



How does it start?

- A “petitioner” files in Common Pleas Court
 - owner
 - lienholder
 - resident or business owner w/in 500 ft
 - nonprofit located in municipality
 - the municipality or school district
- Petitioner notifies the owner and lienholders
- Petitioner shows that the property is eligible and files a preliminary plan



What properties are eligible?

Applies to residential, commercial, and industrial

ALL must apply:

- Not legally occupied for 12 months
- Not marketed for 60 days
- No foreclosure action
- Current owner longer than 6 months
- Owner not on active duty military service

PLUS three (3):

- ☐ A public nuisance
- ☐ Needs substantial rehab and none done in past 12 months
- ☐ Unfit for occupancy
- ☐ Increases risk of fire
- ☐ Subject to entry and dangerous
- ☐ Attractive nuisance
- ☐ Health or safety hazard
- ☐ Decreases property values or business activity
- ☐ Illicit Activities



Who can be conservator?

In order of preference in the law:

- senior lienholder
- nonprofit corporation, including RDA
- governmental unit
- individual or other competent entity



What can the conservator do?

- Rehab or demolish the property
- Obtain financing
- Obtain insurance and enter into contracts
- Petition to sell the property
 - The owner may regain possession by reimbursing all costs
 - If owner does not, property may be sold free and clear



Where can I get more information?

The Conservatorship Clearinghouse on the
Housing Alliance website:

www.housingalliancepa.org

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Act 135 Conservatorship Case Studies in Philadelphia



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Palmer v. Scioli Turco V.F.W. Post 593

Plaintiff



- Plaintiff Joel Palmer
- Neighbor within 500 feet of property
- “As crow flies”
- Member of Neighborhood Watch
- Other projects in the neighborhood

Palmer v. Scioli Turco V.F.W. Post 593

Target Property



Palmer v. Scioli Turco V.F.W. Post 593

Target Property



Palmer v. Scioli Turco V.F.W. Post 593 Defendant



- “Trustees” for Scioli Turco V.F.W. Post 593
- Scioli Turco Post had charter revoked in 2004 by PA Department of U.S. V.F.W.
- By Charter all property reverted to Adjutant of PA Department
- Adjutant did not want anything to do with the property

Palmer v. Scioli Turco V.F.W. Post 593

ISSUES



- Service all “trustees” deceased
- Attorney General (beneficial trust)
- Philadelphia General Order 2009-1
 - All actions filed in Civil Trial Division
 - Enhanced pleading requirements
 - ✦ Photos
 - ✦ Plans
 - ✦ Certification for CDC’s 501(c)(3)
 - Form Pleadings and Certification

Palmer v. Scioli Turco V.F.W. Post 593

Issues -General Order



- One month after filing *In re: Germantown Conservancy* No. 2385 C.D. 2009 (Comm. Ct. 2009)
- Relaxed pleading requirements
- Suggested that matters where Orphan's Court would normally have jurisdiction should be filed in that Court
- Required petition to transfer

Palmer v. Scioli Turco V.F.W. Post 593

Issues – Attorney General



- Under Act 135, notice to AG was required
- Case transferred to the Orphans Court
- Hearing scheduled and settlement reached with V.F.W.
- AG notified three days prior to hearing that the state objected to our agreement
- Property required to benefit a charitable purpose

Palmer v. Scioli Turco V.F.W. Post 593 Resolution



- Settlement Agreement
 - ✦ Rehabilitating premises
 - ✦ Out sale proceeds split between parties
 - ✦ Deduction of Conservatorship costs and fees
 - ✦ Deduction of liens and taxes



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Conservatorship

Pennsylvania's Abandoned and Blighted Property Conservatorship Act



Presented By :

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- We serve our clients in all areas of the law including litigation, business law, municipal law, family law, real estate, estate and tax planning, and many general law practice areas.

- Introductions:

Andrew M. Menchyk, Jr., Esquire

- **Background:** Partner at the law firm of Stepanian & Muscatello in Butler, Pennsylvania, 2010 recognized by *Pennsylvania Super Lawyers Magazine* as a Pennsylvania *Super Lawyer* "Rising Star" in the area of real estate.
- **Education:** Juris Doctor, University of Pittsburgh School of Law
BA Political Science - University of West Virginia





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(Presentation Scope)

- **The handling of legal issues depends on the unique facts of each case, circumstance and applicable law.**
- **This program is not intended to provide specific legal advice on any particular matter, but is designed to give general information which we hope will be of interest to you.**



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What is Conservatorship?

- **Abandoned and Blighted Property Conservatorship Act**
- **Process overview**
- **Advantages over previously existing legal tools**
- **When can it be used?**





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Butler County Conservatorship Actions

- **Nature of and Background**
- **Discontinued Actions**
- **History and status of pending actions**





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Challenges

- **Applying New legislation**
- **Service of process issues**
- **Timing issues**
- **Modifying plans for abatement**





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Lessons Learned

- Importance of due diligence and planning
- Length of conservatorship process
- Funding a conservatorship action
- Conservatorship can be a viable, useful tool for addressing blight





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Quick Action Guidelines and Best Practices

- **Have a plan for the property**
- **Funding the conservatorship**
- **Plan for disposition of the property**





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Conservatorship

THANK YOU FOR YOUR TIME, ATTENTION, AND CONSIDERATION!





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Any Questions?

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