

**TOWNSHIP OF ABINGTON
VACANT PROPERTY REVIEW BOARD MEETING
December 7, 2017**

Commenced at 4:00 PM

**Attendance: Bob Greaves, Jerry Nugent, Cathy Gauthier,
Toby True, Commissioner John Spiegelman, Commissioner
Ben Sanchez, Maria Wyrsta**

Welcome

Presentation:

**Toby True introduced Dave Foster of Bastogne Development
regarding the Act 135 Conservatorship**

General Discussion with Questions and Answers – Act 135

Adjourned at 5:15 p.m.

Act 135 Conservatorship: An Economic Development Tool for PA Municipalities

October 31, 2017

PROPRIETARY – NOT FOR DISTRIBUTION



Company Overview

Bastogne Development Partners is a real estate, economic development and advisory firm with a focus on revitalizing underinvested communities. The company has twelve conservatorship projects in process and is also developing residential and mixed-use projects in several communities across the Delaware Valley, Brooklyn and Hartford.

Dave Foster is BDP's CEO. Prior to this role he was the president of Cooper's Ferry Partnership in Camden (2008-2014) where he led the organization through a significant period of growth and helped to coordinate more than \$350M in investment, including the relocation of the Philadelphia 76ers headquarters and the purchase/re-positioning of a 525,000 s.f. office and manufacturing building. He previously worked as an attorney in the real estate department of Ballard Spahr and as a foreign-direct investment specialist in the Shanghai office of Hutchison Whampoa Properties. He is a 2005 graduate of the University of Pennsylvania Law School and a 1998 graduate of Washington & Lee University. David is a veteran of the US Army. He served multiple tours overseas including a combat deployment to Afghanistan.

Company Overview

Hope Yusem is BDP's Senior Real Estate Associate and leads the company's conservatorship work. She has been working in the field of urban redevelopment for over 15 years. After earning her Master of City Planning degree at the University of Pennsylvania she worked for the Philadelphia Redevelopment Authority as part of the Real Estate Development unit. While there she coordinated over \$50 million of acquisition funds, and managed the eminent domain process for site assembly and redevelopment of 500+ parcels of land, which resulted in 150 units of affordable and market-rate homeownership and rental units.

Pennsylvania Conservatorship Statute Overview

Act 135 - Pennsylvania Abandoned and Blighted Property Conservatorship Act

- Provides a legal process to address vacancy and blight for parties with standing (near neighbors, businesses, municipalities and community development corporations)
- Upon the filing of a successful petition, the Court appoints a 'conservator' that is given all powers of the true owner including rehabilitation/demolition of the property - petition must establish vacancy and blight (photos, affidavits, code violations.
- Owner has right of redemption until conservatorship is terminated
 - Must pay off governmental liens
 - Must reimburse conservator costs (hard and soft)
 - In order to address code violations, owner must post bond for the construction
- Conservator has superlien status over all lien holders except government
- Statute contemplates waterfall distribution of disposition proceeds with conservator's costs (including cost of capital) superseding all but government liens
- Developer may recover a fee of up to 20% of sales price (in addition to costs)

Property Qualification Criteria

- Must meet the statutory definition of blight and abandonment (see Section 3(d)5 of the statute), examples include:
 - Public nuisance
 - Not listed on MLS
 - No rehabilitation within the past 12 months
 - Unfit for human habitation
 - Health/safety/fire risk
 - Impacts the economic well-being of the community
- Resale of property after blight mitigation will yield sufficient proceeds to cover costs of redevelopment / blight remediation and conservatorship

The statute requires only that the blight be remediated, not that the property be fully redeveloped; in some cases the right approach could be demolition or stabilization with a subsequent resale to a developer

Note: a municipality could choose to move forward with a project that does not meet this requirement if it believed that subsidizing the project could further other municipal interests

How Conservatorship Can Help

- Allows municipalities to advance the redevelopment of properties that are not otherwise available for eminent domain
- Permits a capital-efficient public/private approach to economic redevelopment that requires no financial resources on the part of the municipality; all fees and costs are paid from the proceeds of the sale
- Provides a powerful tool for eliminating blight/nuisance properties and creating new development opportunities in the municipality
- Depending on the municipality's level of involvement in the conservatorship, the process can be a source of revenue
- Can serve as a tool for large-parcel assembly

Process Overview

1. Initial property identification
2. Title, lien and judgment research
3. Review of remediation/redevelopment strategy and budget
4. Filing of petition
5. Initial hearing—conservatorship awarded, initial budget approved, right of entry for further investigation
6. Second hearing (if required) to approve construction plan and timeline
7. Conservator performs work
8. Final hearing; once work is complete and the property is under contract for sale, the conservator petitions the court to terminate the conservatorship and permit the sale. The court must approve the HUD-1 and the distribution of proceeds in accordance with the statutory distribution provision

Bastogne Development Partners' Role

BDP can assist Abington Township by serving in any or all of the following roles:

- Advising on the integration of conservatorship acquisitions into the municipality's economic development strategy
- Managing the conservatorship process on behalf of the municipality
- Serving as conservator or co-conservator (with the municipality):

BDP can provide a full turnkey solution (bringing legal counsel, construction and necessary capital), or it can partner with the municipality if the municipality desires to provide some or all of these services itself

Thank You

David Foster

Bastogne Development Partners

dfoster@bastognevp.com

(484) 995-8783

www.bastognedp.com