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Neighborhood Blight Reclamation and Revitalization

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Pennsylvania's Neighborhood Blight and Revitalization Act (the "Act") took effect on April 25, 2011. The Act provides local municipalities with powerful new tools to clean up abandoned and substandard properties with serious code violations or properties determined to be a public nuisance. Under the Act, a serious code violation is a violation of state law or the violation of a municipality's building code, housing code, property maintenance code, fire code, health code or any other public safety ordinance where a violation poses an imminent threat to the health and safety of the dwelling occupants, occupants in surrounding structures or passersby. A serious code violation does not include violations of a municipality's zoning or subdivision and land development ordinances.

To this end, the Act specifically permits a municipality to bring an *in personam* action against a property owner for a continuing violation which the owner takes no substantial step to correct within six (6) months following notification. As set forth in the Act, therefore, a municipality may now place a personal lien against the owner after judgment is entered, and not just a lien against the property itself. The right to bring an *in personam* action is in addition to any other remedy available at law or in equity.

In addition, the Act permits a municipality, including its zoning hearing board and other boards which are granted the power to render decisions, to deny issuing to an applicant a municipal permit or approval if the applicant owns real property in any municipality in the Commonwealth for which there exists: (1) a final and unappealable tax, water, sewer or refuse collection delinquency, due to the actions of the owner; or (2) a serious violation of State law or a code and the owner takes no substantial steps to correct the violation within six (6) months following notification and for which fines and other penalties or a judgment or order to abate was imposed by a magisterial district judge, a municipal judge, or a judge of the Court of Common Pleas. Like the power to bring an *in personam* action, the power to deny permits and approvals should assist municipalities in holding property owners accountable for existing delinquencies and unaddressed code violations.

It should be noted, however, that the term "applicant" is not defined by the Act. Often, a property owner's contractor is the person or entity who applies for a municipal permit. The Act is clear in that a permit may be denied if the "applicant" owns real property subject to the Act. Therefore, in order to be clearly entitled to the benefits of the Act, municipalities should discuss establishing a policy of requiring property owners to at least be "co-applicants" for all permits and approvals. Even when the indicated applicant is just the contractor, however, it could be argued that the contractor is simply acting as the agent for the true applicant; the owner of the real estate.

About the Author: Mr. Freimuth focuses his practice on Municipal Law, Real Estate, Zoning, and Land Development. If you have any questions about the impact of the Act, please contact Mr. Freimuth (afreimuth@wispearl.com) or one of the other attorneys in Wisler Pearlstine's Municipal Law or Real Estate, Zoning, and Land Development Practice Groups.

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