

Pennsylvania House Urban Affairs Committee November 4, 2021 Frackville PA.

Testimony of Michael McKeever

Re: Blight and the Pennsylvania mortgage foreclosure process

Good morning and thank you for the opportunity to discuss foreclosure and the mortgage lender's role in avoiding or minimizing blight and community issues.

It is a well established fact that a property in foreclosure diminishes the value of surrounding properties. It is essential in the foreclosure process to quickly move a property from the status of missed payments through sheriff sale and deed transfer as quickly as the law allows. In Pennsylvania, that process, on good days, can take as little as 250 days, on bad days, or because of a pandemic or government intervention due to economic downturn, it can take years to foreclose and transfer title to a new and responsible owner.

However, there is hardly a lot of champions of "fast & speedy" foreclosures. Homeownership is the one of the best ways to build wealth and sustain families. Keeping people in their homes has become a primary focus of state and federal government efforts. As a result, there has been a tremendous increase in the delays in the foreclosure process, drive mostly by an enhanced regulatory structure at the federal level over the last 15 years, because of the Great Recession of 2010. Covid 19 simply added to the state and federal desire to slow down foreclosures and its attendant social and economic costs of family dislocations and negative impact on communities. In an effort to achieve laudable goals to make sure that every homeowner is given every opportunity to stay in their home and resolve any mortgage delinquency, every foreclosure has slowed. This slow down applies even as to foreclosures and evictions on vacant properties.

We all would know a vacant property when we see one, the difficulty with a vacant property definition is – what is the definition? Is a vacant property vacant, is it vacant but not abandoned? Abandoned but personal property remains? Could an occupant have relocated temporarily but still want the home? What if that person travels a lot? Is in the hospital? In a temporary nursing home or living with relatives for a short while? These issues make it very difficult to reach a consensus that a lender can use to designate a property as vacant.

When Act 32 of 2018 was signed into law in 2018, it was hoped that this vacant and abandoned property statute would provide enough power to determine vacancy and speed up foreclosures and evictions as to vacant properties. It has helped, but not enough. Mortgage lenders see the determination of vacant/abandoned as still presenting too much risk to fully utilize and Courts still scrutinize lenders and their motives in these types of cases which adds delays, instead of removing delays.

Once concept in Act 32 that can be developed more fully is a holistic approach among code enforcement, the police, fire department and social service professionals working together with mortgage lenders. Code enforcement powers are broader and more efficient to establish

vacancy and abandonment than legal process started by a lender or a court approved conservator. But this requires municipalities to pay for/fund the effort to go through the courts to obtain a determination of vacancy. Perhaps we look to leveraging the local relationship with a property that a local municipality has along with the powers that municipality has and create a model to partner this with the duties of lender or conservator to stop blight much earlier. The lenders can worked with the local municipality to provide some of the costs and expense, and in return obtain a faster path to obtain legal title through foreclosure or other means.

As mortgage lending changed over the last 40 years, it became less community based and more national, losing that local knowledge of the homeowner – we cannot keep trying, and in some cases succeeding, in passing laws that shift responsibility for blighted homes to mortgage lenders or other parties or increase the type of notice sent or filed.

Thank you.

Michael McKeever's biography

Mike is the founding shareholder and chief executive officer of KML Law Group with offices in Pennsylvania and New Jersey. KML is one of the largest law firms in Pennsylvania representing mortgage servicers as to residential mortgage defaults as well as transactions and title insurance coverage and litigation. Mike served as Chairperson of the Philadelphia Mortgage Foreclosure Steering Committee, which served as a national model during the mortgage crisis. He has testified before the US Senate and the Pennsylvania Legislature on foreclosure and blight issues. Mike worked for several years on legislation which eventually become Act 32 of 2018. Mike reached across the aisle to work hand in hand with all stakeholders to create the foreclosure diversion program in Philadelphia and several other counties, offering the Courts and homeowners pragmatic and thoughtful guidance to maximize positive outcomes. Mike holds a Bachelor of Arts from Fairfield University and earned his law degree at Villanova University School of Law.

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