

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY,  
PENNSYLVANIA – CIVIL ACTION

CITY OF BETHLEHEM, )  
Petitioner )  
 )  
vs. )  
 )  
ALVIN S. KANOFSKY and )  
the UNITED STATES OF AMERICA, )  
Respondents )

No. C-48-CV-2016  
ACTION IN REM

9376  
2016 OCT 28 A 10:38  
COURT OF COMMON PLEAS  
CIVIL DIVISION  
NORTHAMPTON COUNTY, PA.  
FILED

PETITION FOR APPOINTMENT OF CONSERVATOR

TO THE HONORABLE, THE JUDGES OF SAID COURT:

AND NOW, comes Petitioner, the City of Bethlehem, and herein petitions this Honorable Court for relief pursuant to the Abandoned and Blighted Property Conservatorship Act, P.L. 1672, No. 135, 68 P.S. § 1101 et seq. and avers the following in support thereof:

1. Petitioner is the City of Bethlehem, an incorporated third-class city of the Commonwealth of Pennsylvania located in the counties of Lehigh and Northampton, with its principal administrative offices located at 10 East Church Street, Bethlehem, Northampton County, PA 18018.

2. Respondent is Alvin S. Kanofsky (“Kanofsky”), an adult individual residing at 229 East Church Street, Bethlehem, Northampton County, PA 18018.

3. Since 1986, Kanofsky has owned the improved real estate located at 30 East 3rd Street, Bethlehem, Northampton County, PA 18015, Parcel ID No. P6SE1A1180204 (the “Building”). True and correct copies of the deeds vesting title to the Building in Kanofsky are collectively attached hereto as Exhibit “A”.

4. Since 1986, Kanofsky has owned the unimproved real estate located at 32 East 3rd Street, Bethlehem, Northampton County, PA 18015, Parcel ID No. P6SE1A1190204 (the "Vacant Lot"). A true and correct copy of the deed vesting title to the Vacant Lot in Kanofsky is attached hereto as Exhibit "B".

5. Respondent United States of America is the federal government of the United States, organized and existing under the United States Constitution and laws of the United States, with addresses for service of process of U.S. Attorney for the Eastern District of Pennsylvania, U.S. Department of Justice, U.S. Attorney's Office, 504 W. Hamilton Street, #3701, Allentown, PA 18101, and Assistant Attorney General for Administration, U.S. Department of Justice, Justice Management Division, 950 Pennsylvania Avenue, NW, Room 1111, Washington, DC 20530.

6. Kanofsky has not vacated the Building or the Vacant Lot in order to perform military service in time of war, armed conflict or in order to assist with relief efforts during a declared Federal or State emergency as a member of the United States Armed Forces or its reserve component.

7. The Building and Vacant Lot are situate within the City of Bethlehem, in the County of Northampton, Pennsylvania.

8. The Building is improved by a large three-story L-shaped building, which was formerly utilized for commercial purposes.

9. A building was once situate on the Vacant Lot, but was demolished in 1982.

10. The Building and the Vacant Lot are or were used for a single or interrelated function.

11. The Vacant Lot and the Building are both owned by Kanofsky.
12. Neither the Building nor the Vacant Lot are owned by or held in trust for the Federal Government and regulated under the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) and regulations promulgated under that act.
13. Due to years of neglect by Kanofsky, the Building's structural integrity has severely deteriorated.
14. The Building has been vacant for more than twenty years.
15. The Building, for which no certificate of occupancy has been issued, is being unlawfully used to store items.
16. Mortar is missing from bricks in various parts of the exterior wall of the Building.
17. Bricks have fallen from the exterior wall of the Building onto the sidewalk below.
18. The missing mortar permits water to seep into the Building's interior.
19. Sections of the roof of the Building have collapsed and the roof leaks.
20. The collapsed sections of the roof are adding substantial weight and distress to the third floor of the Building.
21. There are holes in the roof of the Building and there are 33-gallon garbage cans strewn throughout the Building's interior to collect rainwater entering the Building.
22. The water service to the Building was shut off in 1994 and has never been re-connected.
23. There is no water service at the Vacant Lot.

24. There is no electricity service at the Building or the Vacant Lot.
25. Stucco plaster is loosening from the east exterior wall of the Building.
26. Kanofsky's neglect of the Building has caused water damage to the adjoining building.
27. The Building and the Vacant Lot are overgrown with vegetation, which has grown into the interior of the Building.
28. The window pane in the front of the Building is broken.
29. In the previous eighteen (18) months, multiple decisions in the Court of Common Pleas of Northampton County, Pennsylvania have found Kanofsky to be in violation of Petitioner's municipal codes.
30. Neither the Building nor the Vacant Lot have been legally occupied for at least the previous twelve (12) months.
31. Kanofsky has not actively marketed the Vacant Lot or the Building within the previous sixty (60) days, nor has Kanofsky made a good faith effort to sell the Vacant Lot or the Building at a price which reflects the circumstances and market conditions.
32. Within the previous sixty (60) days, Kanofsky has not placed a "for sale" sign on the Vacant Lot or the Building with accurate contact information, nor, to the best of Petitioner's knowledge, information and belief, has Kanofsky done any of the following:
  - (i) engaged the services of a licensee under the act of February 19, 1980 (P.L. 15, No. 9), known as the Real Estate Licensing and Registration Act, to place the Vacant Lot or the Building in a Multiple Listing Service or otherwise market the Building or the Vacant Lot;

(ii) placed weekly or more frequent advertisements in print or electronic media; or (iii) distributed printed advertisements.

33. Neither the Building nor the Vacant Lot is subject to a pending foreclosure action by an individual or nongovernmental entity.

34. Kanofsky did not acquire the Building or the Vacant Lot within the preceding six (6) months; to the contrary, Kanofsky acquired both the Building and the Vacant Lot in 1986.

35. The Building and the Vacant Lot are public nuisances.

36. The Building is in need of substantial rehabilitation and no pertinent rehabilitation has taken place during the previous twelve (12) months.

37. The cost of repairs, replacements and improvements will exceed 15% of the Building's value after completion of all repairs, replacements and improvements.

38. The Building requires, without limitation, the replacement of roof structures and floor structures.

39. The Building and the Vacant Lot are unfit for human habitation, occupancy or use.

40. The condition and vacancy of the Building materially increase the risk of fire to the Building and to adjacent properties.

41. The Building and the Vacant Lot have potentially been subject to unauthorized entry which could have led to potential health and safety hazards because Kanofsky failed to take reasonable and necessary measures to secure the Building and the Vacant Lot.

42. Petitioner has secured the Building and the Vacant Lot in order to prevent such hazards after Kanofsky failed to do so.

43. The Building is an attractive nuisance due to the presence of basements and unsafe structures.

44. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the Building and the Vacant Lot have created potential health and safety hazards and Kanofsky has failed to take reasonable and necessary measures to remove the hazards.

45. The dilapidated appearances of the Building and the Vacant Lot negatively affect the economic well-being of residences and businesses in close proximity to the Building and the Vacant Lot, including decreases in property value and loss of business, and Kanofsky has failed to take reasonable and necessary measures to remedy appearance or the condition.

46. The Building and Vacant Lot are attractive nuisances for illicit purposes, including prostitution, drug use and vagrancy.

47. Petitioner has filed a praecipe for lis pendens against the Building and the Vacant Lot contemporaneous to the filing of the instant Petition. A copy of the praecipe for lis pendens is attached hereto as Exhibit "C".

48. Copies of citations charging Kanofsky with being in violation of Petitioner's municipal code requirements are collectively attached hereto as Exhibit "D".

49. A Preliminary Plan from Serfass Construction Company (Option 1) with initial cost estimates for rehabilitation of the Building is collectively attached as Exhibit "E".

50. The Preliminary Plan from Serfass Construction Company includes, inter alia: removal of stucco finish from the eastern exterior wall of the Building; removal of a section of collapsed roof; stabilization of the remaining roof and eastern and north walls of the Building; necessary shoring/bracing of the Building; removal of debris from the Building; reconstruction and weatherization of a partially collapsed section of the third floor roof. The estimate cost for this work is \$135,536.00.

51. A Preliminary Plan for rehabilitation of the Building with initial cost estimates from Base Engineering Inc. is attached hereto as Exhibit "F" and includes, inter alia, the removal of collapsed portions of the roof; the weatherization of the roof of the Building; removal and repair or replacement of portions of existing ceiling and wall finishes; removal and replacement of collapsed portions of the collapsed roof and floor; repointing of brick joints and removal and replacement of all damaged and compromised bricks; and removal of the stucco on the east exterior wall of the Building. The estimated cost for such work is \$400,000.00.

52. The anticipated funding sources to rehabilitate the Building and the Vacant Lot are the Lehigh Valley Economic Development Council Bank Participation Pool, the Northampton County Department of Community & Economic Development, and Community Development Block Grant funding.

53. A schedule of mortgage, liens and other encumbrances on the Building is attached hereto and marked as Exhibit "G".

54. To the best of Petitioner's knowledge, information and belief, the lienholders on the Building are Samuel and Blanche Goodman, c/o Richard Boyer, Esq., 1216 Linden Street, P.O. Box 1409, Bethlehem, PA 18016; Meyer, Adam, Inc. d/b/a Adam Meyer Moving & Storage, 824 Jennings Street, Bethlehem, PA 18018; the City of Bethlehem; the Internal Revenue Service ("IRS"); the Bethlehem Area School District, 1516 Sycamore Street, Bethlehem, PA 18017; and the Commonwealth of Pennsylvania, County of Northampton, 669 Washington Street, Easton, PA 18042.

55. The IRS tax liens on the Building are as follows: (1) a lien was filed on November 13, 2012, at docket number C-48-CV-2012-11340 in the Court of Common Pleas of Northampton County, Pennsylvania; (2) a lien was filed on April 8, 2013, at docket number C-48-CV-2013-3202 in the Court of Common Pleas of Northampton County, Pennsylvania; and (3) a lien was filed on November 9, 2015 at docket number C-48-CV-2015-10504.

56. All three (3) IRS tax liens on the Building were filed by the Internal Revenue Service, 1000 Liberty Avenue, Room 112, Pittsburgh, PA 15222.

57. A schedule of mortgage, liens and other encumbrances on the Vacant Lot is attached hereto and marked as Exhibit "H".

58. To the best of Petitioner's knowledge, information and belief, the lienholders on the Vacant Lot are Samuel and Blanche Goodman, c/o Richard Boyer, Esq., 1216 Linden Street, P.O. Box 1409, Bethlehem, PA 18016; Meyer, Adam, Inc. d/b/a Adam

Meyer Moving & Storage, 824 Jennings Street, Bethlehem, PA 18018; the City of Bethlehem; the Internal Revenue Service (“IRS”); the Bethlehem Area School District, 1516 Sycamore Street, Bethlehem, PA 18017; and the Commonwealth of Pennsylvania, County of Northampton, 669 Washington Street, Easton, PA 18042.

59. The IRS tax liens on the Vacant Lot are as follows: (1) a lien was filed on November 13, 2012, at docket number C-48-CV-2012-11340 in the Court of Common Pleas of Northampton County, Pennsylvania; (2) a lien was filed on April 8, 2013, at docket number C-48-CV-2013-3202 in the Court of Common Pleas of Northampton County, Pennsylvania; and (3) a lien was filed on November 9, 2015 at docket number C-48-CV-2015-10504.

60. All three (3) IRS tax liens on the Vacant Lot were filed by the Internal Revenue Service, 1000 Liberty Avenue, Room 112, Pittsburgh, PA 15222.

61. On March 15, 2016, the Honorable Emil Giordano of the Court of Common Pleas of Northampton County, Pennsylvania determined that the Building was “blighted” pursuant to the Urban Redevelopment Law, and further held that the Building was dangerous to the safety of persons and property, violated numerous code provisions, and was a public nuisance. Judge Giordano’s Order of March 15, 2016, as well as his Findings of Fact and Conclusions of Law, is attached hereto and incorporated herein as Exhibit “T”.

62. Based on the foregoing averments, the Building and the Vacant Lot are in need of the appointment of a conservator pursuant to the Abandoned and Blighted Property Conservatorship Act, P.L. 1672, No. 135, 68 P.S. § 1101 et seq.

63. It is recommended that Petitioner, the City of Bethlehem, be appointed as conservator for the Building and the Vacant Lot to exercise all duties, rights and powers pursuant to the Abandoned and Blighted Property Conservatorship Act, P.L. 1672, No. 135, 68 P.S. § 1101 et seq.

64. Petitioner is a governmental unit with experience in the rehabilitation of residential, commercial or industrial buildings and has the ability to provide or obtain the necessary financing for such rehabilitation.

65. Petitioner has a robust Community and Economic Development Department that is highly experienced with the financing, rehabilitation and marketing of blighted and abandoned properties.

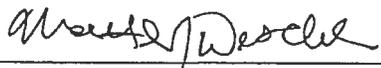
66. If needed, Petitioner will be able to utilize the resources of the Bethlehem Redevelopment Authority in the rehabilitation of the Vacant Lot and Building.

**WHEREFORE**, Petitioner respectfully requests that this Honorable Court hold a hearing on the Petition and thereafter award the following relief:

- (1) appoint Petitioner, the City of Bethlehem, as conservator for the Building and the Vacant Lot to exercise all duties, rights and powers pursuant to the Abandoned and Blighted Property Conservatorship Act, P.L. 1672, No. 135, 68 P.S. § 1101 et seq.;
- (2) certify the schedule of encumbrances against the Building attached hereto as Exhibit "G";
- (3) certify the schedule of encumbrances against the Vacant Lot attached hereto as Exhibit "H";

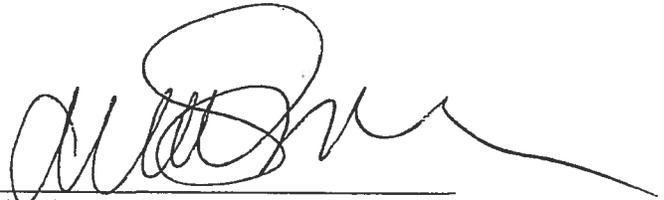
- (4) order that Kanofsky reimburse Petitioner for all costs incurred by Petitioner in preparing and filing the instant Petition;
- (5) order that Kanofsky pay Petitioner a conservator's or developer's fee pursuant to in 68 P.S. §§ 1103, 1105; and
- (6) grant such other relief as may be just and appropriate.

**CITY OF BETHLEHEM**

By:   
Matthew J. Deschler, Esquire  
Assistant Solicitor  
10 East Church Street  
Bethlehem, PA 18018  
610-865-7011  
mdeschler@bethlehem-pa.gov  
ID No. 311785

VERIFICATION

I, Alicia Miller Karner, Director of the Department of Community and Economic Development for the City of Bethlehem, verify that the information set forth in the foregoing Petition for Appointment of Conservator is true and correct to the best of my knowledge, information or belief. I further verify that I am authorized by the City of Bethlehem to make this verification and understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



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Alicia Miller Karner,  
Director of the Department of  
Community & Economic  
Development for the City of Bethlehem

Date: 10/28/10