IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

In re: APPEAL OF DEMOLITION NOTICE RELATING TO 1920 RIVERSIDE DRIVE SOUTH WILLIAMSPORT	:	CV-22-00614
TAX PARCEL #53-01-837	:	

OPINION AND ORDER

AND NOW, this 28th day of April 2023, the Court hereby issues the following OPINION and ORDER regarding the June 23, 2022 Appeal of Demolition Order filed by Appellants Brad Gordner ("Gordner") and 1920 Riverside Drive, LLC.[1]

BACKGROUND

A. The Property

This administrative appeal from South Williamsport Borough's ("South Williamsport") Demolition Notice concerns real property owned by Gordner, located at the northeast corner of Riverside Drive and South Maynard Street in South Williamsport (the "Property").[2] There are five distinct portions of the property relevant to this matter. The easternmost segment of the property consists of a square, paved parking lot (the "Parking Lot"). Directly to the west of the parking lot

[1] Gordner is the owner of 1920 Riverside Drive, LLC. For the purposes of this appeal, the parties have treated Gordner and 1920 Riverside Drive, LLC as a single entity. This Opinion and Order adopts this treatment, and refers to appellants as "Gordner."

[2] The Property has multiple street addresses. In this appeal and prior actions, the parties have referred to the property as a whole – and various portions thereof – by different street addresses. To prevent confusion, this Opinion and Order will avoid describing the Property by address and instead refer to each portion of the Property by a descriptive name.

is a single-story convenience store (the "Convenience Store"). The middle of the five segments is a two-story residence (the "House"). To the west of the house is a narrow, single-story shed (the "Shed") overhung by an awning roof (the "Awning"). The final segment of the Property is a three-story structure known to the parties as the "Protasio Building." The four segments of the Property forming structures are connected, their walls abutting; together they form the "Entire Building." The Entire Building is a rectangle with the eastern and western exterior fairly short and the northern and southern exterior much longer. The Protasio Building comprises approximately half of the Entire Building's length.

During previous litigation concerning the Property,[3] the parties disputed whether the Property was a single building or multiple connected buildings. As discussed below, the Court held in the prior appeal that the Eminent Domain Code ("EDC") permitted South Williamsport to treat the Entire Building as consisting of multiple connected buildings, and ultimately to effect a partial taking of some subset of them. This determination is not relevant to the issue now before the Court.

B. Relevant Ordinances

As discussed below, South Williamsport enacted Ordinance 2018-01 to provide the borough with an additional mechanism to address blighted properties.

[3] This Opinion discusses the prior administrative appeal regarding the Property, docketed at CV-19-01226, in detail below.

The parties do not challenge the determination from the prior appeal that the Protasio Building is a blighted property as defined by Ordinance 2018-01.[4]

In 2021, South Williamsport enacted Ordinance 2021-12, which amended Ordinance 2018-01 by adding the remedy of demolition. That provision, which is at the heart of the instant dispute, reads as follows:

> "Section 7. Remedies:
>
> In the event a property has been deemed blighted, the Borough at its discretion, may acquire the property via Eminent Domain or may demolish the blighted property, lien the landowner for demolition costs and file a Municipal Lien against the landowner."[5]

C. Prior Appeal; Adjudication of Blight[6]

In July of 2019, the South Williamsport Blighted Property Review Committee ("BPRC") issued a final determination finding the Property blighted pursuant to Ordinance 2018-01, from which Gordner timely appealed. This Court remanded to the BPRC to develop an evidentiary record; in response, the BPRC held a hearing on the record on November 7, 2019 and issued an opinion and order on November 22, 2019, once again finding the Property blighted. Gordner timely appealed.

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[4] The text of Ordinance 2018-01 relating to the definition of a blighted property is reproduced in this Court's September 14, 2020 Order at civil docket number CV-19-01226.
[5] The remainder of this Opinion and Order will refer to this section of Ordinance 2018-01 as the "Amendment."
[6] The recitation of facts in this section of the Opinion is based on the transcript of the April 27, 2022 hearing before the South Williamsport Zoning Hearing Board (discussed in detail *infra*) and the case file at civil docket number CV-19-01226.

After argument, the Court issued an Order on September 14, 2020. The Court first noted the Property was a single "unit of property" as defined by the EDC. Even so, the Court held that because the EDC "provides local authorities the powers to effect a 'partial taking' of blighted property," the BPRC was permitted to treat the Protasio Building as a separate structure for blight and taking purposes.[7] As a result of this determination, the Court further held that the fact that the House and Convenience Store were occupied did not prevent the BPRC from determining that the Protasio Building was "vacant" as defined by the relevant statutes. The Court additionally held that South Williamsport "had an ample evidentiary basis to determine that the Protasio Building was unsanitary [and] not connected to [most] utilities" as required. Finally, the Court stated that regardless of whether the enforcement notice the BPRC provided strictly complied with the relevant statutory requirements for service of such a notice, Gordner had received actual notice of enforcement. The Court found that the BPRC substantially complied with the relevant statutory requirements, and therefore any "non-prejudicial procedural irregularities" did not justify overturning the BPRC's determination.

[7] The evidence presented before the BPRC was consistent with this determination. Although the Protasio Building shared a wall with the Shed and a single I-beam supported the first floor of each structure, it was impossible to enter the Protasio Building from any other segment of the Entire Building without going outside, and each segment had its own utilities. Thus, the Court held that Committee did not abuse its discretion or commit an error of law in reaching this determination.

For the above reasons, the Court dismissed Gordner's appeal of the BPRC's blighted property disposition. Neither party appealed from this Court's November 14, 2020 Order in the previous appeal, and both parties agree that it constitutes the law of the case in the instant matter as to all issues decided in the previous appeal.[8]

INSTANT APPEAL

In late August or early September of 2021, South Williamsport served Gordner with a Notice of Demolition concerning the Protasio Building. Gordner timely appealed, and South Williamsport withdrew the first Notice.[9] In late 2021 or early 2022, South Williamsport issued a second Notice of Demolition concerning the Protasio Building; Gordner once again appealed this Notice to the South Williamsport Board of Appeals (the "Board"). The first part of this section of the Opinion summarizes the testimony and evidence taken at the April 27, 2022 hearing before the Board concerning Gordner's appeal of the Notice of Demolition. The second and third parts of this section discuss the Board's conclusions and the issues raised in Gordner's appeal of the Board's determination to this Court,

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[8] Both parties agree that they may not relitigate the BPRC's determination that the Protasio Building is blighted. However, South Williamsport asserts that the blight determination renders evidence concerning whether the Protasio Building can be rehabilitated irrelevant, whereas Gordner argues that evidence concerning rehabilitation is independently relevant to the demolition issue currently before the Court.

[9] Gordner notes South Williamsport did not amend Ordinance 2018-01 until after it withdrew the first notice of demolition, and purported to issue the second Notice of Demolition pursuant to the Ordinance *as amended*. The parties did not discuss this issue at length or in detail at the April 27, 2022 hearing, presumably because they agreed that constitutional issues (such as the ex post facto application of laws) were not within the Board's authority to resolve.

respectively. The final portion of this section summarizes the parties' arguments concerning those issues.

A. April 27, 2022 Hearing before the Board

The Board held a hearing on the record on April 27, 2022 to address Gordner's challenge to South Williamsport's Notice of Demolition. Gordner appeared represented by Norman Lubin, Esq., and South Williamsport was represented by Joseph Orso, Esq.[10] Gary Weber, Esq. presided as Hearing Officer.

Prior to the presentation of testimony and evidence, the parties addressed numerous preliminary issues. Gordner clarified that he was challenging both South Williamsport's authority to enact the Amendment as well as what he believes is its selective enforcement with regard to the Protasio Building. Gordner also noted his contention that the application of the Amendment to the Protasio Building is ex post facto, and therefore impermissible. Both parties agreed that Gordner adequately preserved this argument, but that this Court, rather than the Board, is the appropriate body to address constitutional arguments in the first instance. The parties further agreed that they could not attack the prior determination of blight in the instant appeal, and that the sole question before the Board was whether it was permissible for South Williamsport to order the demolition of the Protasio Building in

[10] The parties noted on the record that First Citizens Community Bank has an interest in this matter, as it holds a mortgage secured by the Protasio Building. Nonetheless, no representative of First Citizens Community Bank appeared at the April 27, 2022 hearing, despite the parties providing the bank with notice.

response to that finding of blight. Finally, the parties agreed that South Williamsport had the burden of proof.

South Williamsport called the first witness, Steve Capelli. Capelli testified that he became South Williamsport Borough Manager on August 14, 2018. Among his duties in this position was the exploration of "legislative remedies for unoccupied, vacant, otherwise uninhabitable properties in South Williamsport." Having participated in the enactment of Williamsport's blighted property ordinance 25 years ago, Capelli worked with South Williamsport to adopt a similar ordinance, Ordinance 2018-01, in late 2018.

Capelli summarized his dealings with the Property over the previous four years, testifying that in October 2018 the Borough Council met with Gordner to discuss plans for the Property and inform Gordner that South Williamsport considered the Property vacant and thus a fire hazard. Capelli stated that Gordner made representations about plans for the Property, but performed no significant work for months. After the enactment of Ordinance 2018-01, a codes officer evaluated the Property and determined it was blighted as defined in the ordinance. The BPRC voted to give Gordner formal notice of this finding, scheduling a hearing for the code enforcement department to detail its conclusions and for Gordner to address that determination. The BPRC ultimately declared the Property to be blighted, prompting the previous appeal in this matter, which this Court ultimately dismissed.

Capelli stated that after the dismissal of the appeal, the next step for Gordner should have been to obtain a building permit or zoning permit. Capelli said that he occasionally communicated with Gordner via third parties about the necessary permits, but Gordner ultimately did not obtain them. For this reason, Capelli explained, South Williamsport issued its formal Notice of Demolition to Gordner, based on the finding of blight pursuant to Ordinance 2018-01 and the remedy provided by the Amendment. Capelli expressed his belief that South Williamsport properly enacted and amended Ordinance 2018-01 in accordance with the Borough Code, testifying that it properly advertised both the original ordinance and the Amendment and accepted public comment as required prior to enactment.

On cross-examination, Capelli stated that he has not personally inspected or been inside the Property, with his understanding of the state of the Property largely based on the findings of Code Enforcement Officer John Brezan.[11] Capelli explained that under the Amendment, if the BPRC deems a property blighted South Williamsport may either acquire that property through eminent domain or demolish the property, placing a municipal lien on the land for the cost of demolition. Capelli clarified that he believed the decision to demolish a blighted property is entirely within South Williamsport's discretion, with the sole consideration on appeal whether notice of the demolition was properly given.

[11] Brezan is employed by Code Inspections, Inc., a private company that performs code inspections and permitting work for South Williamsport and other municipalities.

Capelli agreed that one purpose of the blighted property review process is to incentivize the conversion of blighted properties to taxable, inhabitable, commercial and residential properties. Although this was initially the goal for the Property, Capelli testified, Gordner had not taken substantial action to rejuvenate the Property for three-and-a-half years, prompting South Williamsport's decision to seek the Property's demolition. Capelli testified that he was not aware whether Tony Komarnicki, an architect, had drafted any plans for the rehabilitation of the Property, or whether Gordner had provided those plans to South Williamsport's solicitor. Capelli agreed that at some point Gordner proposed a resolution pursuant to which he would take concrete steps to rehabilitate the Property by a mutually agreed upon date. Capelli denied that South Williamsport rejected this plan, testifying that South Williamsport was amenable but the plan fell through because Gordner never followed up on the preliminary discussions.

At this point South Williamsport rested, pending rebuttal.

Gordner first testified on his own behalf. He testified that he and Komarnicki met with Capelli, but Capelli refused to review Komarnicki's plans concerning the Property because it was blighted. Gordner explained that Komarnicki's plan included demolishing the Convenience Store and House, increasing parking to provide more spaces than required by statute, renovating the first floor of the Protasio Building to a commercial space, and converting the second and third floors of the Protasio Building to a single residential apartment in which Gordner planned

to live. Gordner testified that he requested that South Williamsport review Komarnicki's plans and inform Gordner whether they would require a variance, but South Williamsport refused.

Gordner clarified that at the late 2018 meeting in which he asked South Williamsport to consider the architectural plans, he promised to take three concrete steps to rehabilitate the Protasio Building: install windows, paint the building's exterior, and develop a concrete plan of action for further necessary work. Gordner testified that he installed the windows in January 2019, and shortly thereafter contacted Randy Webster, a surveyor, to begin developing the plan of action regarding the demolition of the House and Convenience Store and the expansion of the Parking Lot. Gordner stated that he painted the Protasio Building sometime during the spring of 2019, fulfilling all three promises.

Gordner reiterated his belief that South Williamsport's refusal to review his plans for rehabilitating the Property is the primary reason for the lengthy nature of the dispute. He again characterized South Williamsport's position as a refusal to take any action after making the blight determination; he filed the previous appeal, he testified, in the hopes of removing the Property from the list of blighted properties so that South Williamsport would give him the opportunity to address the Property's issues.

Gordner testified that Komarnicki met with either Brezan or Victor Marquardt, Brezan's colleague at Code Inspections, Inc. Gordner testified that Capelli faulted

him for not obtaining the necessary permits to begin the substantive work necessary to remove the Property from the blight list, but that he was unable to determine what permits were necessary until South Williamsport first reviewed his plans – which it refused to do until the Property had been removed from the blight list.[12]

Gordner testified that he retained Richard T. Hughes, a structural engineer, to inspect the Property in September of 2021. At this time, South Williamsport objected to the introduction of testimony about the structural soundness or potential for rehabilitation of the Property, asserting that it was irrelevant to the issues of whether the Notice of Demolition was permissible and had been properly served. Attorney Weber allowed Gordner to present testimony on this topic while noting South Williamsport's objection and reserving a ruling on its ultimate admissibility.

On cross-examination, Gordner clarified that the meeting at which he promised to take rehabilitative steps occurred in October or November of 2018, prior to all BPRC activities concerning the Property. Gordner expressed frustration that South Williamsport declared his Property blighted even though he satisfied the three conditions laid out at the meeting.

Gordner testified that he obtained demolition permits for the House and Convenience Store, but these have since expired because he was unable to submit his plans to determine what building and zoning permits he needed to proceed with

[12] Essentially, Gordner described the situation facing him as a catch-22: in order to remove the Property from the blight list, he must first determine what permits he needs, but in order to determine what permits he needs, he must first remove the Property from the blight list.

rehabilitation. Gordner stated that Komarnicki has not given him an estimate of how much the proposed rehabilitation of the Protasio Building would cost, though another professional involved in the process suggested it would be approximately $300,000. Gordner agreed that he had never received a letter from a bank pre-approving him for a loan in such an amount, but stated that this is because banks would not grant pre-approval until the owner had obtained zoning and building permits. Gordner testified that the outstanding mortgage on the Property is approximately $148,000.

On redirect, Gordner indicated that he could have up to $250,000 cash on hand to begin the rehabilitation process, but would need some manner of building loan to cover the remaining cost and combine it with the mortgage via refinancing.

Gordner's next witness was Richard T. Hughes, a registered physical engineer in seven states with over 40 years of experience in building design and inspection. South Williamsport stipulated to his expertise in structural engineering, subject to its prior objection to testimony and evidence concerning rehabilitation.

Hughes testified that Gordner hired him to inspect the Protasio Building, which he did on September 15, 2021. Hughes was aware when he was conducting his inspection that South Williamsport had deemed the Protasio Building blighted, and he was initially under the impression that it had been deemed unsafe. Hughes explained that he began in the Protasio Building's basement and proceeded upward. Hughes described the building as "[e]ssentially gutted and swept out [and] very neat inside," noting that the interior was "down to the studs...." At the time of his

inspection, the Protasio Building had water, sewer, and electric utilities; all windows were installed, and the outside was partially painted. Hughes noted that the roof did not leak. Hughes testified that the single problematic finding he made during the entire inspection was his observation that the Awning was structurally unsound; Gordner promised Hughes he would either fix or remove the Awning.

Hughes then provided additional detail on each stage of his inspection. He noted that the basement was swept out clean, dry, with no rodents. Hughes explained that the common concerns with vacant properties' basements are rodent infestation or occupation by vagrants, but Gordner had completely sealed the basement to prevent either issue. Hughes observed that the exterior walls showed no signs of cracking, distress, or settlement, and were devoid of loose exterior fixtures that could fall and injure pedestrians. Hughes stated that the "building has good bones," explaining that he could observe its structural supports because the non-structural parts had largely been stripped.

Hughes testified that the Protasio Building's floors were structurally sound and compliant with the newest building codes enacted in 2004. Hughes again noted the need to address the Awning, but characterized that as a small issue and "absolutely not" a reason to demolish the building.

Generally, Hughes opined that the building was not a safety hazard. He noted that there was no debris or vegetation inside, and that the building was in generally good condition. Hughes stated his belief that the Protasio Building could

absolutely be rehabilitated, with the Komarnicki plans for one commercial floor and two residential floors a feasible mixed-use design.

On cross-examination, Hughes characterized the Entire Building as a multistory structure and a single-story structure with a connector. He explained that he was focused on the Protasio Building and that his report did not address the Convenience Store, House, or Shed. Hughes clarified that he did not recall if he explicitly knew that South Williamsport had formally declared the property blighted, explaining that he was aware that South Williamsport had indicated its desire to demolish the building. Hughes stated that his understanding at the time of his inspection was that there was a dispute over whether the Protasio Building could be rehabilitated. Prior to the testimony at the April 27, 2022 hearing, Hughes was unaware of whether South Williamsport was amenable to rehabilitating the Protasio Building.

Gordner's final witness was Randall Webster, a licensed professional civil engineer. Webster testified that he was familiar with the Protasio Building and its blight designation, though he did not have personal experience with rehabilitating blighted buildings. Webster explained that Gordner retained him to complete a full topographic study[13] of the Property to evaluate different parking lot layouts to maximize space.

[13] Webster explained that a topographic study is a full three-dimensional survey of the property, essentially capturing the "lay of the land" regarding its horizontal dimensions, utilities, and existing features.

Webster testified that he first began assessing the Property and discussing options with Gordner in 2015 or 2016, and that the two have discussed the property several times since. Webster understood the purpose of his work was to provide Gordner with information to make educated decisions about the Property, particularly regarding renovation of the Parking Lot. Webster ultimately presented two options for a new parking lot that would comply with all zoning regulations for a one commercial story, two residential story building of the Protasio Building's square footage.

On cross-examination, Webster explained that he created maps depicting the two parking lot options on July 16, 2019, and clarified that neither plan would encroach upon the property neighboring the Parking Lot to the east.

Following Webster's testimony, Gordner rested.

At this time, South Williamsport called Victor Marquardt of Code Inspections, Inc. to testify in rebuttal concerning rehabilitation, while maintaining its previous objection to the relevance of any testimony on that topic. Marquardt testified that he is South Williamsport's zoning officer, receiving and evaluating zoning applications for the borough. Marquardt stated that he was familiar with the Property generally and the Protasio Building specifically.

Marquardt testified that Gordner submitted building permit applications with attached building plans and site sketches sometime after November 2019, but the permit applications could not be evaluated until the Shed, House and Convenience

Store were demolished. Marquardt stated that prior to this demolition he could provide preliminary suggestions but could not make a final zoning determination. Marquardt explained that demolition was required to bring parking into compliance and make an evaluation of its sufficiency, as well as to allow the Property to meet the requirement of a single principal use, which is a prerequisite to the grant of zoning permits.

Marquardt testified that he explained these things to Gordner, who then applied for demolition permits, which had since expired. Marquardt explained that demolition permits are valid for 180 days, and can be renewed for an additional 180 days, which Gordner did. Marquardt stated that Gordner did not complete demolition prior to the expiration of the permits, and reiterated that demolition would be a prerequisite to any further rehabilitation. Marquardt suggested that one possible hurdle to demolition is that the Convenience Store is the only part of the Entire Structure currently making money, meaning that the Property will cease to produce income once the Convenience Store is demolished.

On cross-examination, Marquardt explained that he is involved in this matter from a zoning perspective only; although he does codes work for some other municipalities, he solely performs zoning work for South Williamsport, with Brezan performing South Williamsport's codes enforcement work. Marquardt clarified that the proposed use of the Protasio Building – a commercial space on the first floor and a single residence on the second and third floors – is entirely permissible and

would not present any problems from a zoning perspective. Marquardt noted that a further reason demolition would need to precede the approval of permits is because if permits are granted but Gordner does not subsequently demolish the remainder of the Entire Building, the Property would then be non-conforming and constitute a zoning violation. Marquardt agreed that in such a case there would be methods to enforce the zoning requirements, such as withholding the necessary occupancy permits for the Property. Marquardt clarified that he has no reason to dispute Hughes's conclusion that the Protasio Building is structurally sound.

At this time, the parties stipulated that should Komarnicki be called to the stand, he would testify that he created an architectural plan for the Property, and that it would be possible to rehabilitate the Property in accordance with that plan. South Williamsport objected to the relevance of this testimony.

B. Board Adjudication

On May 26, 2022, the Board issued an Adjudication denying Gordner's appeal of the Notice of Demolition. The Board began by reviewing the scope of its decision, describing "[t]he sole issue for determination by the Board" as "whether [South Williamsport] properly exercised its authority under the ordinance to order the property to be demolished." The Board noted that Gordner had "challenge[d]... the validity of the ordinance on procedural and constitutional grounds," but that the parties agreed that "[t]he Board does not have the authority to determine those issues."

The Board next briefly reviewed the witnesses and issued thirteen findings of fact, essentially recounting the salient testimony.

In the Discussion section of the Adjudication, the Board first stated that although Gordner testified "that he had undertaken efforts to address the issues that led to the finding of blight," he did not present specific evidence addressing "the issues found by [this Court in the previous appeal] to have led to a finding of blight...." The Board found that although Gordner testified he had been told he could not seek building or zoning permits, he never attempted to obtain them and therefore "cannot complain that no permits were issued allowing him to perform work."

The Board next agreed with South Williamsport that the testimony and evidence concerning "the possibility of performing expensive renovations to the property" was not relevant to the question before the Board. The Board held that although Ordinance 2018-01 provides property owners "time to eliminate the conditions causing the blight... [a]ny such time for remediation has long ago expired" due to the age of the BPRC's determination. The Board further expressed skepticism that the work detailed in Gordner's plans could ever come to fruition, given the lack of financing and cost of remediation in addition to the outstanding mortgage. The Board characterized these plans as vague.

The Board concluded its discussion of the issues by citing *Redevelopment Authority v. Bratic*,[14] a Commonwealth Court case that the Board describes as similar to the instant case. In particular, the Board cited the Commonwealth Court's pronouncement that "a redevelopment authority... is under no obligation to provide owners of blighted properties an opportunity to remediate."[15]

The Board concluded its Adjudication with five Conclusions of Law:

> "1. A portion of [the Property] known [as] the Protasio Building has finally been determined to be blighted under [Ordinance 2018-01], as amended.
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> 2. Pursuant to the ordinance, a blighted property may be demolished.
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> 3. [South Williamsport] had the discretion to determine that the blight at [the Property] will not be eliminated in a timely manner and that the [Property] should be demolished.
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> 4. [South Williamsport] did not abuse its discretion in determining that demolition was the most appropriate remedy.
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> 5. There is no legal basis for overruling [South Williamsport's] decision to order demolition of... the Protasio Building."

C. Instant Appeal

Gordner timely filed an appeal from the Board's Adjudication on June 24, 2022. Gordner raises four allegations of error:

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[14] *Redevelopment Authority v. Bratic*, 45 A.3d 1168 (Pa. Cmwlth. 2012).
[15] *Id.* at 1174.

1. The Board's conclusions are not supported by the testimony and evidence presented at the April 27, 2022 Hearing;

2. South Williamsport's issuance of the Notice of Demolition was arbitrary, unreasonable, not authorized by the Ordinances, and constituted selective enforcement.

3. The Amendment to Ordinance 2018-01 is unconstitutionally vague.

4. The application of the Amendment to the Property is an ex post facto application and therefore void.

On September 12, 2022, following a scheduling conference, the Court directed the parties to brief the issues and scheduled argument for December 8, 2022.

D. Briefs and Arguments

1. Gordner's Brief

Gordner filed his brief in support of his appeal on October 21, 2022. Gordner first highlighted the fact that South Williamsport issued an initial Notice of Demolition in the fall of 2021, but withdrew it after Gordner appealed. South Williamsport then amended Ordinance 2018-01 to explicitly add the demolition of blighted property as a remedy, and filed a second Notice of Demolition in late 2021.

Addressing whether the Board's determinations were supported by the record, Gordner contended that the onus was on South Williamsport to introduce relevant "documents, reports, transcripts, [and] decision[s] from... prior proceedings"; in failing to do so, Gordner argued, South Williamsport did not create

an adequate factual record. Gordner maintained that it was necessary for South Williamsport to present evidence that the Property was not structurally sound or could not be rehabilitated, but it did not do so. Gordner highlighted the numerous witnesses he called, each of which stated that the Property is structurally sound and could be rehabilitated. Accordingly, Gordner asserted that the Board committed a clear error of law when it ruled rehabilitation testimony irrelevant and thus inadmissible.[16]

Gordner next asserted that the Amendment to Ordinance 2018-01 is void for vagueness. Gordner noted that Pennsylvania considers a statute unconstitutionally vague when it:

> "a) traps the innocent by failing to give a person of ordinary intelligence reasonable opportunity to known what it prohibits so that he may act accordingly or b) results in arbitrary or discriminatory enforcement in the absence of explicit guidelines for its application."[17]

Gordner argues that the Amendment falls into the second category, because it "does not have any standards or guidelines on when a blighted property may be subject to demolition or who makes the determination."

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[16] Gordner further contends that the Board erred in citing *Bratic*. Gordner argues that *Bratic* is irrelevant to the issue before the Court, inasmuch as "it is based on the condemnation powers set forth in the Redevelopment Law" rather than the sort of power exercised by South Williamsport below.

[17] *Krichmar v. State Bd. Of Vehicle Manufacturers, Dealers and Sales Persons*, 850 A.2d 861, 865 (Pa. Cmwlth. 2004).

Gordner next elaborated on his contention that the Notice of Demolition constitutes selective enforcement, asserting that South Williamsport enacted the Amendment with the sole purpose of enabling the demolition of the Property.

Finally, Gordner elucidated his ex post facto argument, noting that the BPRC found the Property blighted in 2019, two years prior to the enactment of the Amendment enabling its demolition. Citing the unpublished memorandum in *FC Station Square Landman, LLC v. City of Pittsburgh et al.*[18] as persuasive, Gordner suggests that prohibitions on ex post facto laws generally apply to administrative enforcement actions such as this one.

2. South Williamsport's Brief

South Williamsport filed its brief in opposition to the instant appeal on November 4, 2022. South Williamsport first noted the standard of review: pursuant to § 754 of the Local Agency Law, this Court must determine whether the adjudication below violated the appellant's rights, a provision of law, or the procedure for local agency actions. The Court must further determine whether the agency's findings of fact were supported by substantial evidence. The Court must affirm the adjudication unless it violates the law or is not supported by substantial evidence.

[18] Commonwealth docket 744 C.D. 2021.

South Williamsport first argued that the Amendment is not void for vagueness, highlighting that it applies only to blighted properties and clearly specifies an additional remedy for blight that South Williamsport may utilize in its discretion. Regarding the allegation of ex post facto enforcement, South Williamsport cited *Kuziak v. Borough of Danville et al.*[19] as particularly relevant, asserting that the Commonwealth Court rejected a similar argument in that case.

Ultimately, South Williamsport argued that its actions were permissible because in enacting the Amendment, South Williamsport:

> "merely changed the remedy... under the Blighted Property Act; the provisions of the Act concerning the Blighted Property process were not changed. In this case, Gordner litigated and lost the Blighted Property Determination. The fact that [South Williamsport] adopted an additional remedy does not provide any relief to Gordner."

3. Argument

At argument, counsel for Gordner first clarified his argument regarding vagueness, asserting that the Amendment's purported grant of authority to South Williamsport to demolish any blighted property "in its discretion" has insufficiently concrete standards as a matter of law. Counsel argued that the Amendment provides no direction regarding how a property owner may avoid demolition or who makes the decision to demolish a property. Gordner asserted that he still does not know which person or body ultimately decided to issue the Notice of Demolition, or

[19] 541 A.2d 432 (Pa. Cmwlth. 1988).

whether that entity had expertise in the area of blighted property (such as the BPRC) or did not have expertise in the area (such as the Board). Counsel for Gordner again asserted that because it failed to introduce sufficient exhibits concerning the prior appeal, the Board was not permitted to utilize information contained in the record of the prior appeal but not introduced in this action.

Counsel for South Williamsport first noted that Pennsylvania law contains a presumption of constitutionality in local ordinances. Counsel reiterated the argument that there is a categorical distinction between amending an ordinance's criteria and merely adding a remedy, the latter of which, counsel contends, does not implicate ex post facto concerns. Essentially, Counsel argued that South Williamsport owed Gordner nothing more or less than due process under the law – which, Counsel asserted, Gordner received with regard to both the blight determination and the Notice of Demolition.

Representing the Board's position, Hearing Officer Weber addressed the reasoning underlying the Board's Adjudication, highlighting that the Property has been blighted for over three-and-a-half years despite Gordner's claim to have up to $250,000 in liquid assets. Weber explained the Board's position that such a sizeable delay without any substantial action to remedy the blight forecloses any argument that Gordner's predicament is due to something other than his lack of diligence. Weber stated that, essentially, the Board was tired of waiting for Gordner to take action, and had no confidence that he would do so regardless of the Board's

decision. Weber suggested that the plans Gordner obtained from various professionals are rather preliminary and nebulous, and explained that they were insufficient to assure the Board that the proposed work is feasible. Weber ultimately asserted that the record contains substantial evidence in support of demolition.

ANALYSIS

A. Applicable Law

1. Local Agency Law

Proceedings before and appeals from the determinations of local agencies are governed by the Local Agency Law.[20] The adjudication of a local agency is invalid as applied to a party unless that party "shall have been afforded reasonable notice of a hearing and an opportunity to be heard."[21] Local agencies are "not bound by technical rules of evidence at agency hearings" and may receive "all relevant evidence of reasonably probative value...."[22] When a court of common pleas receives an appeal from an agency determination for which a full and complete record exists:

> "the court shall hear the appeal... on the record certified by the agency. After hearing the court shall affirm the adjudication unless it shall find that the adjudication is in violation of the constitutional rights of the appellant, or is not in accordance with law, or that the provisions of Subchapter B of Chapter 5 (relating to practice and procedure of

[20] 2 Pa. C.S.A. Chapter 5, Subchapter B and Chapter 7, Subchapter B. For the purposes of the Local Agency Law, a local agency includes "any political subdivision or municipal or other local authority, or any officer or agency of any such subdivision or local authority." 2 Pa. C.S.A. § 101. Under this definition, the Board is a Local Agency.
[21] 2 Pa. C.S.A. § 553.
[22] 2 Pa. C.S.A. § 554.

> local agencies) have been violated in the proceedings before the agency, or that any finding of fact made by the agency and necessary to support its adjudication is not supported by substantial evidence."[23]

When a local agency has developed a complete record and certified it to a reviewing court, the court may not make its own findings of fact and conclusions of law or otherwise "substitute its judgment for that of the local agency," but must instead "accept the credibility determinations made by the local agency... Assuming the record demonstrates the existence of substantial evidence, the court is bound by the local agency's finding."[24] "Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[25] Because "[i]t is the hearing officer who must resolve evidentiary conflicts," substantial evidence may support a finding although the record also contains conflicting evidence.[26]

2. Constitutionality of Ordinances

Pennsylvania law applies a presumption of constitutionality to ordinances, and "a heavy burden is placed on those seeking to prove [an ordinance's] unconstitutionality."[27] Pennsylvania has long approved of "ordinance[s] to abate

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[23] 2 Pa. C.S.A. § 754.
[24] *In re Nevling*, 907 A.2d 672, 674 (Pa. Cmwlth. 2006).
[25] *Direnzo Coal Co. v. Department of General Services*, 825 A.2d 773, 775 (Pa. Cmwlth. 2003).
[26] *Id.*
[27] *Com. v. Parente*, 956 A.2d 1065, 1070 (Pa. Cmwlth. 2008).

unsafe structures... as long as there is factual evidence to support [the ordinance's] application to a specific structure."[28]

A statute, regulation, or ordinance is unconstitutionally vague when it "do[es] not give fair notice to persons of ordinary intelligence that their contemplated conduct might be unlawful and do[es] not set reasonably clear guidelines for law enforcement officials and courts, thus inviting arbitrary and discriminatory enforcement."[29] However, "a generalized claim that [an ordinance's] provisions create the potential for arbitrary decision-making and enforcement by local officials" is insufficient to demonstrate that an ordinance is unconstitutionally vague.[30]

Both the United States Constitution[31] and Pennsylvania Constitution[32] contain prohibitions on ex post facto laws. These prohibitions on ex post facto laws apply only to criminal or penal, rather than civil, cases.[33] In Pennsylvania, a non-criminal statute may still violate the ex post facto clause if its "intent was punitive" or, if its "intent is... civil and non-punitive [but] it is so punitive in either its purpose or its

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[28] *Herrit v. Code Management Appeal Bd. Of City of Butler*, 704 A.2d 186, 189 (Pa. Cmwlth. 1997) (*citing City of Pittsburgh v. Kronzek*, 280 A.2d 488 (Pa. Cmwlth. 1971)).
[29] *Tri-County Industries, Inc. v. Com.*, 818 A.2d 574, 583 (Pa. Cmwlth. 2003).
[30] *See Park Home v. City of Williamsport*, 680 A.2d 835, 839 (Pa. 1996).
[31] "No Bill of Attainder or ex post facto Law shall be passed." U.S. Const. Art. I, § 9, cl. 3 (applying to congress); "No State shall pass any... ex post facto law...." U.S. Const. Art. I, § 10, cl. 1.
[32] "No *ex post facto* law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed." Pa. Const. Art. 1, § 17.
[33] *Calder v. Bull*, 3 U.S. 386, 390 (1798).

effect so as to negate the [government's] intent that it be civil."[34] The Supreme Court of the United States has enumerated, and the Supreme Court of Pennsylvania has endorsed, seven factors helpful in determining whether a statute is an unconstitutional ex post facto law:

> "(1) whether the sanction involves an affirmative disability or restraint; (2) whether it has historically been regarded as a punishment; (3) whether it comes into play only on a finding of *scienter*; (4) whether its operation will promote the traditional aims of punishment-retribution and deterrence; (5) whether the behavior to which it applies is already a crime; (6) whether the alternative purpose to which it may rationally be connected is assignable for it; and (7) whether it appears excessive in relation to the alternative purpose assigned. In applying these factors, only the 'clearest proof' that a law is punitive in effect will overcome a legislative categorization to the contrary."[35]

3. Retroactivity[36]

Even if the application of a law to a given situation does not violate the ex post facto clauses of the United States Constitution or Pennsylvania Constitution, it remains possible that the retroactive application of a statute (or ordinance) constitutes an error of law. This is because "statutes, other than those affecting procedural matters, must be construed prospectively except where the legislative intent that they shall act retrospectively is so clear as to preclude all question as to

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[34] *Johnson v. Allegheny Intermediate Unit*, 59 A.3d 10, 17 (Pa. Cmwlth. 2012).
[35] *Id.* at 18 (*citing Com. v. Williams*, 832 A.2d 962, 973 (Pa. 2003)).
[36] The question of whether the application of a law violates the prohibition on ex post facto laws is distinct from the question of whether a newly enacted law is to be given retroactive application. As discussed below, although Gordner frames his challenge to the Amendment as an ex post facto issue, the case he cites in support addresses not the ex post facto issue but instead the separate concept of retroactivity.

the intention of the legislature."[37] This rule of statutory construction applies to ordinances.[38]

The application of a law is retroactive when it "relates back to and gives a previous transaction a legal effect different from that which it had under the law in effect when it transpired."[39] Conversely, "[w]here no vested right or contractual obligation is involved, [a statute] is not impermissibly construed retroactively when applied to a condition existing on its effective date, even though the condition results from events which occurred prior to that date."[40] A number of cases demonstrate this distinction.

In *R & P Services*, the plaintiff company applied for a license to transact certain types of business on March 3, 1986.[41] On March 15, 1986, the Department of Revenue amended its guidelines to prohibit the issuance of such licenses to companies – such as the plaintiff – that owed the Department overdue sales taxes, and denied the plaintiff's application solely on that ground.[42] Plaintiff contended that because its application preceded the enactment of the regulation, the denial of its application on the basis of the regulation constituted an impermissible retroactive

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[37] *R & P Services, Inc. v. Com., Dept. of Revenue*, 541 A.2d 432, 434 (Pa. Cmwlth. 1988).
[38] *City of Philadelphia to Use of Polselli v. Phillips*, 116 A.2d 243, 245 (Pa. Super. 1955).
[39] *R & P Services*, 541 A.2d at 434.
[40] *Sher v. Berks County Bd. of Assessment Appeals*, 940 A.2d 629, 635 (Pa. Cmwlth. 2008) (*quoting Ashbourne School v. Department of Education*, 403 A.2d 161 (Pa. Cmwlth. 1979)).
[41] *R & P Services*, 541 A.2d at 433.
[42] *Id.*

application of the regulation.[43] The Commonwealth Court, however, disagreed, explaining:

> "The Department construed these amended regulations... to authorize denial of an application for [the license] or renewal thereof if, *at the time a decision on the application for those licenses or renewal thereof is made*, the applicant is delinquent in paying any tax.... In the present matter, [the plaintiff] had such delinquencies on and after the effective date of the amended regulations. Furthermore, it did not have a vested right to [the licenses]. Consequently, it can not be said that the amended regulations have been given retroactive effect.... Where... a condition triggering the application of the statute or regulation exists on its effective date, it can not be said that the statute or regulation has been given retroactive operation merely because the substantive right it affects is claimed or asserted... prior to its effective date."[44]

Similarly, in *Sher*, in 1996 the plaintiffs enrolled their property in a "preferential assessment" program resulting in a significant reduction in its assessed value for property tax purposes in exchange for an agreement to only use the land in certain ways.[45] In 2005, the legislature amended the program in a manner that rendered the plaintiffs' property no longer eligible for the reduced assessment.[46] The plaintiffs challenged the application of the amendment, and the trial court "concluded that [the amendment] cannot be applied retroactively to increase an assessment when it affected the taxpayer's right to reduction in property tax in exchange for an agreement to restrict land use."[47] The Commonwealth Court

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[43] *Id.*
[44] *Id.* at 435-36.
[45] *Sher*, 940 A.2d at 631.
[46] *Id.* at 631-32.
[47] *Id.* at 632.

reversed, holding that the plaintiffs had no vested right in the lower assessment and that because the plaintiffs would only be assessed the higher tax after the effective date of the amendment, the amendment did not "relate[] back to and give[] a previous transaction a legal effect different form that which it had under the law in effect when it first transpired."[48]

4. Selective Enforcement

The standard for showing selective enforcement of an ordinance is the same as for selective prosecution: the aggrieved party must "establish that 'others similarly situated were not prosecuted for similar conduct' and that the government's 'prosecution was based on impermissible grounds such as race, religion, the exercise of some constitutional right, or any other such arbitrary classification.'"[49]

B. Discussion

The Court will first address the Constitutionality of Ordinance 2018-01 and its Amendment. If the Ordinance is Constitutional, the Court will determine if its application to Gordner was arbitrary, unreasonable, or otherwise improper. In doing

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[48] *Id.* at 636.

[49] *Township of Cranberry v. Spencer*, 249 A.3d 9, 22 (Pa. Cmwlth. 2021) (*quoting Com. v. Mulholland*, 702 A.2d 1027, 1034 (Pa. 1997)). In *Spencer*, the Commonwealth Court applied this standard to a defendant's claim that the Township had selectively enforced its ordinance prohibiting the operation of junkyards, because the Township imposed fines upon him but not upon others contemporaneously cited for identical violations. The Commonwealth Court dismissed this argument on the grounds that the other violators had worked to actively remediate the issue following the issuance of their citations, whereas the defendant had not cooperated with the Township's zoning officer.

so, the Court will consider whether the Board's contrary finding was legally sound and supported by substantial testimony.

1. Vagueness

Gordner asserts that the Amendment is unconstitutionally vague because it "does not have any standards or guidelines on when a blighted property may be subject to demolition or who makes the determination." Facially, however, the Amendment answers each of these questions as framed: first, a blighted property is subject to demolition at any time, with the caveat that South Williamsport may decide to forbear demolition or pursue an alternate course of action; second, South Williamsport makes this determination.

The Court finds that the Amendment is not unconstitutionally vague. With regard to the lack of standards and guidelines, Gordner takes issue not with the remedy itself or its application to all blighted properties; rather, he takes issue with the Amendment's explicit recognition that South Williamsport need not pursue this remedy in all cases, without an accompanying provision dictating to South Williamsport which cases are which. Thus, Gordner implicitly argues that an ordinance providing multiple remedies for a single adjudication is unconstitutionally vague unless it provides standards or factors that the locality must consider in determining whether to pursue or forbear from pursing any particular remedy.[50]

[50] Gordner cites no authority supporting this contention.

That manner of forbearance, however, is exactly the sort of discretion that governmental authorities inherently possess. Suppose a municipality enacted an ordinance that provided a procedure for a finding of blight and simply stated that all blighted properties "shall be demolished." Even an ordinance with such mandatory language, however, would not enforce itself – the municipality would still need to take some action, as a governmental unit, to first make a finding of blight and then to pursue the remedy of demolition by issuing the appropriate notice. A municipality's decision to *not* take either action would not be susceptible to challenge, as it is well established that a municipality has no affirmative duty to enforce its own zoning ordinances.[51] A landowner aggrieved by that municipality's decision to take such actions against his property might have a colorable selective enforcement claim, but could not seriously bring a vagueness challenge to the ordinance's definitive language.

The Amendment here is functionally equivalent to the ordinance enacted by the hypothetical municipality in the example above. The only difference is that the Amendment makes explicit South Williamsport's authority to pursue or eschew the remedy of demolition, which is an authority that South Williamsport implicitly possesses regardless of the Amendment's language.

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[51] *See Buffalini by Buffalini v. Shrader*, 535 A.2d 684, 687-88 (Pa. Cmwlth. 1987).

Nor does the Amendment's failure to specify "who makes the determination" constitute vagueness. The Amendment says that "South Williamsport" makes the determination, which simply means that the borough must act in its capacity as a municipality. The Amended Notice of Demolition was signed by the "Borough of South Williamsport Codes Office," and the record below makes clear that this decision was endorsed by the Borough Council.[52]

2. Ex Post Facto and Retroactivity

As noted above, both the United States and Pennsylvania prohibitions of ex post facto laws apply only to criminal or penal, rather than civil, cases. Ordinance 2018-01 and its Amendment do not purport to impose any criminal or penal sanctions, and South Williamsport has consistently maintained that its purpose is not to punish property owners who allow their properties to become blighted, but rather to maintain the health and safety of the community by incentivizing the revitalization of unused properties and removing hazards. Thus, the remaining question is whether the Ordinance and its Amendment are nonetheless "so punitive in… purpose or effect so as to negate [South Williamsport's] intent that it be civil."

[52] At argument, Gordner questioned whether the demolition decision had been made by the South Williamsport government generally, without any particular expertise, or by some apparatus of South Williamsport with more experience and knowledge in relevant fields. The extent to which various officers and agents of South Williamsport contribute to the final determination may be a valid policy concern, but it is not a constitutional concern given that the second Notice of Demolition constituted an official action of the Borough of South Williamsport.

As discussed above, the courts have enumerated seven factors to be considered in evaluating this question.

First, the Ordinance and its Amendment clearly impose an affirmative disability on landowners whose properties are deemed blighted, requiring the demolition of the property and the concomitant loss of any equity therein.

Second, the Court finds no basis upon which to conclude that the demolition of property has been traditionally regarded as a punishment. Rather, the demolition of property is typically used to alleviate hazards and alter the character of a space.

Third, the Ordinance and Amendment do not require a finding of *scienter*, or a state of knowledge viewed as sufficient to render the property owner culpable;[53] rather, the application of the Ordinance and Amendment turn on factual findings addressing the state of a property. This cuts against a finding of punishment, as the Ordinance and Amendment do not depend on whether the property owner has committed a moral wrong.

Fourth, the demolition of a property could theoretically promote aims of punishment, retribution, and deterrence against allowing blight, though in the context of historical practice and the factual circumstances at hand such a contention is tenuous at best.

Fifth, it is generally not a crime to allow one's property to become blighted.

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[53] Black's Law Dictionary (11th ed. 2019), scienter.

Sixth, the remedy of demolition to cure blight is clearly related to the goals of removing health and safety hazards, promoting active use of property, and growing the tax base.

Seventh, although certain factual circumstances could perhaps render the demolition of a property excessive in a given case, that remedy is in the abstract not excessive in relation to the goals described above.

Upon consideration of the language of Ordinance 2018-01, its Amendment, the record below, and the seven enumerated factors, the Court finds that the Ordinance and Amendment are not punitive, but rather a valid exercise of South Williamsport's civil powers.

Additionally, the Court finds that the application of the Amendment to the Property does not constitute an impermissible retroactive application. Gordner cites a recent unpublished Commonwealth Court case, *FC Station Square Landman, LLC*, which in turn cites *Boron Oil Co. v. Kimple* for the proposition that "an ordinance or regulation, in order to be given retroactive effect, must be 'pending' as of the date of the petitioner's application for a building permit."[54] *Boron Oil Co.*, however, specifically addresses the "pending ordinance doctrine," which states that "a building permit may be refused if at the time of application there is pending an amendment to a zoning ordinance which would prohibit the use of the land for which

[54] *FC Station Square Landman, LLC v. City of Pittsburgh and City of Pittsburgh Department of Mobility Infrastructure*, No. 744 C.D. 2021 (June 24, 2022).

the permit is sought."[55] The relevance of this doctrine to the situation at hand is not obvious. Rather, the application of the Amendment is similar to those approved in *R & P Services* and *Sher*, because the condition triggering the Amendment's application here (that the property is blighted) was in effect on the date of its enactment. Thus, the application of the Amendment is not retroactive.

3. Selective Enforcement

Gordner contends that the application of the Amendment to the Property constitutes selective enforcement. As Gordner notes, "[t]he doctrine of selective prosecution applies to enforcement by administrative agencies."[56] However, "[t]o bring a claim for selective prosecution, a party must demonstrate that: (1) others, similarly situated, were generally not prosecuted for similar conduct, and (2) it was intentionally and purposefully singled out for an invidious reason."[57]

Here, the record contains no evidence to establish either of these requirements. Although there can be no serious dispute that the extended litigation concerning the Property was a factor in South Williamsport's enactment of the Amendment, it is unclear why this fact alone would render the Amendment impermissible in the absence of some evidence that South Williamsport has targeted Gordner for a prohibited reason. On the contrary, the record below supports the conclusion that South Williamsport enacted the Amendment and

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[55] *Boron Oil Co. v. Kimple*, 284 A.2d 744, 746 (Pa. 1971).
[56] *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1030 (Pa. Cmwlth. 2006).
[57] *Id.* at 1030-31.

applied it to the Property because of the significant amount of time that had transpired without substantial remediation since the Protasio Building was deemed blighted.

4. Other Concerns

Finally, Gordner contends that the Notice of Demolition was arbitrary and unreasonable, and that the Board's decision denying his appeal was not supported by substantial evidence.

Upon review of the record, including the transcript of the April 27, 2022 hearing before the Board, the Court concludes that the Board's findings of law were supported by substantial evidence. The record supports the Board's findings that the Protasio Building remained blighted, that Gordner had not applied for any building permits, and that Gordner obtained demolition permits but allowed them to lapse after a year without action. The Board's conclusion of law that the Amendment permits a blighted property to be demolished at South Williamsport's discretion is consistent with the plain language of the Amendment. Ultimately, in light of the testimony establishing that the Protasio Building had not been rehabilitated in more than two years since the finding of blight – with all parties aware of the relevant issues at an even earlier date – the Board's conclusion that South Williamsport did not abuse its discretion is supported by substantial evidence and does not constitute an error of law.

For the same reasons, the Court finds that the Notice of Demolition was not arbitrary or unreasonable. Gordner makes much of the fact that the Protasio Building can be rehabilitated, but does not explain why that would invalidate South Williamsport's action. Essentially, Gordner asks this Court to graft a condition onto the Amendment, holding that South Williamsport may demolish a blighted property *unless that property can be rehabilitated.* The Amendment does not include such a condition, and the Court declines the invitation to impose it.

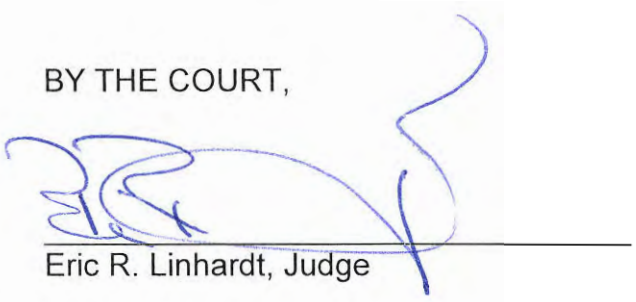
To be sure, reasonable minds may differ as to whether it is good *policy* to demolish a building that is capable of rehabilitation. The time to address South Williamsport's policy determination, however, was prior to the enactment of the ordinance implementing the Amendment. Furthermore, the Court is not permitted to substitute its judgment for that of South Williamsport or the Board. In light of the record demonstrating the lack of funding and, at the very least, a significant dispute over the extent of Gordner's efforts to address the Protasio Building's issues, there is certainly substantial evidence to support the Board's skepticism that rehabilitation of the Protasio Building is feasible within a reasonable timeframe, as opposed to a merely theoretical possibility. Nor can the Court disagree with the more fundamental determination underlying the Board's decision that a reasonable time for Gordner to rectify the blight has come and gone without sufficient action.

ORDER

For the foregoing reasons, the Court DENIES the June 23, 2022 Appeal of Demolition Order filed by Appellants Brad Gordner ("Gordner") and 1920 Riverside Drive, LLC.

IT IS SO ORDERED.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/jcr
cc: Norman M. Lubin, Esq.
Joseph F. Orso, III, Esq.
Gary L. Weber, Esq.