

Legislation Text

File #: 030867, Version: 0

December 18, 2003

To the President and Members of the City Council of Philadelphia:

I am herewith returning to you as disapproved Bill Number 030686, which would amend Title 14 of The Philadelphia Code, entitled 'Zoning and Planning,' by amending Chapter 14-1200 entitled "Reserved" by adding a new Chapter 14-1200 entitled 'Pending Public Acquisition District,' by establishing certain restrictions on land sought for acquisition by the City. The intent of the legislation is to preserve the City's budgetary and financial interests when the City announces that it is seeking to acquire and develop property for a public purpose by discouraging improvements to a specific property that could result in an improper inflation in value. However, Bill 030686 could have significant, unforeseen, or negative consequences. I therefore cannot support this legislation in its current form.

The legislation would require enactment of "zoning overlay" designating an area as a "Pending Public Acquisition District," while the underlying zoning designation of the property would not be changed. Within a "Pending Public Acquisition District," permits could not be issued for any new construction, additions, expansions or improvements to buildings or land within the district other than to cure a violation issued by the Department of Licenses and Inspections; further, variances would be prohibited in a "Pending Public Acquisition District" except where the denial of a variance would affect an unconstitutional taking. Although legislation would allow for the continued lawful use of the property, it would not allow for a change of use of the property or improvements to the property after the establishment of a Pending Public Acquisition District.

The legislation specifically describes the two events that would trigger the establishment of a Pending Public Acquisition District: either, adoption by the Planning Commission of a Redevelopment Area Plan pursuant to the Pennsylvania Urban Development Act; or the announcement by the City, or an agency acting on behalf of the City, of the intention to acquire an individual property or series of properties through purchase or condemnation for improvement and/or use for public purposes.

I appreciate the intent of this legislation, and support efforts to protect the City's interests from speculators and individuals seeking to make an unscrupulous profit from public tax dollars; however, this legislation has the potential to encourage disinvestments, neglect and abandonment in properties within an established Pending Public Acquisition District. This provision would be especially problematic in Neighborhood Transformation Initiative (NTI) areas. Additionally, this legislation presents legal and constitutional issues related to de facto takings that have not been sufficiently

examined or addressed.

For these reasons, I cannot support Bill 030686.

Sincerely,

John F. Street, Esquire
Mayor - City of Philadelphia