



Proposed Anti-Squatting Bill Will Have Unintended Consequences



Philadelphia City Council has recently introduced two proposals to address the problem of trespass into residential properties – a practice often described as “squatting.” As long-standing advocates for homeowners and tenants, Community Legal Services (CLS) and Public Interest Law Center (The Law Center) value the importance of preserving property rights, as well as protecting legitimate occupants from illegal lock outs and other illegal eviction practices.

Council has adopted Resolution No. 170841. The Resolution calls for hearings to discuss the impact of squatting and how to develop best practices to address these problems. **CLS and The Law Center welcome a full discussion of this serious issue, and we support holding hearings on it.**

The second proposal is Bill No. 170827, which proposes to require police to remove people from properties if they are unable to produce “credible evidence” of their right to be in the property within 48 hours. The police department would be obligated to remove people, without any discretion, anytime a record owner asserts that the property is occupied by squatters. Although we acknowledge that unlawful trespass can be a difficult problem for an owner to resolve, the “fixes” in the bill will have huge unintended consequences for people with legitimate ownership or tenancy rights.

CLS and The Law Center have the following serious concerns about this bill:

- (1) The Bill oversimplifies who is a lawful resident and does not adequately protect legal and equitable owners. Property rights can be acquired many different ways. The bill seems to assume that people with the right to be in a property will naturally have written documents to prove their rights, and that those documents are readily available to the occupant. In many cases, these assumptions will be incorrect.
 - Many tenants have oral leases that are valid and enforceable under Pennsylvania law. The proposed ordinance does not take this into account.
 - There are more than 14,000 properties in Philadelphia titled in the name of people who are deceased. The heirs have rights to the property; they may just lack the paperwork or are stymied by Philadelphia’s tangled title epidemic.
 - There is the problem of forged deeds - a common problem in Philadelphia. Even though the rightful owner still has their old deed, the bill requires the police only to recognize the “actual current owner.”
 - There are also many situations, such as a lease or an installment sale agreement, where an agreement signed by a previous owner remains valid even once the property is transferred.
- (2) This bill places a burden on our already overtaxed police force. Police are ill-equipped to engage in complicated review of ownership claims, where it takes time to figure out who the rightful owner is.

The courts are designed to review disputes, and we should not saddle the police with the responsibility of sorting out complex property matters. This bill not only adds responsibility to the police force, but it does not make it clear which party brings a case to court or what happens while the case is ongoing, making systems more complex for everyone.

- (3) Unscrupulous landlords could abuse this process as a way to circumvent due process rights of tenants. In so many cases, the landlord holds all the cards. They decide whether a lease will be oral or written. They decide whether to accept cash only for the rent. And they decide whether or not to bring their receipt book every month when they collect rent. And when a dispute arises, there is very little to prevent that same landlord from accusing the tenant of being a squatter. City Council has enacted a number of important provisions to protect renters, and this bill would allow unscrupulous landlords to render them hollow. All they need to do is assert a tenant is a squatter. Then a tenant has 48 hours, and no lawyer, to assert “credible evidence” to a police officer.
- (4) This bill could hurt victims of domestic violence, by giving abusers a way to assert economic control over their victims. It is not uncommon in situations of domestic violence to have the property in the name of the abuser only. It’s possible that the victim has few, if any, documents linking them to the residence – perhaps because the abuser hid or destroyed what documents existed. Under this bill, an abuser could merely call up the police, allege that the victim is a “squatter,” and the police would have no option but to remove the victim. An abuser could use the threat of homelessness as a way to coerce their victim.
- (5) The intention of the bill is not to address issues with vacant land, but it could still cause a negative impact on greenspaces. Currently, there are structural barriers to getting access to vacant land. Gardeners have been maintaining the city’s vacant land and other privately owned vacant land for years, creating community assets, and should not be considered squatters. The police would have no choice but to remove gardeners from greenspace, even if the land was previously hazardous or an eyesore. In some cases, there are lease agreements for the vacant land, which do not always require rent to be paid. The proposed bill would invalidate those lease agreements, and community assets would become diminished.
- (6) The bill violates the Pennsylvania Constitution’s provisions for separation of powers by imposing procedures on the courts. As an independent branch of government, only the court system can set its procedures.

For all the reasons above, we encourage City Council to take a measured and deliberate approach to this complicated problem. City Council has not yet fully reviewed this issue, and creating a new ordinance as proposed in Bill 170827 is premature. We encourage City Council to follow Resolution 170841 and continue to hold hearings on the issue of unlawful trespass, so this issue can be studied thoroughly before action is taken.