

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

City of Philadelphia	:	April TERM, 2014
C/O GRB LAW	:	
1425 SPRUCE STREET STE 100	:	
PHILADELPHIA PA 19102	:	
Plaintiff	:	
	:	
v.	:	No. 1404T0051
	:	
LeRoy McCray, Trustee for Claudia	:	
McCray	:	
C/O LORRAINE ROBINSON	:	
5551 WEBSTER STREET	:	
PHILADELPHIA PA 19143	:	
Defendant(s)	:	

ORDER

AND NOW, this _____ day of _____, _____ upon consideration of the Petitioners' Petition to Intervene the Rule to Show Cause, it is hereby **ORDERED AND DECREED** that:

A hearing will be held in the Philadelphia County Court of Common Pleas in City Hall, in Courtroom _____ on _____, at _____ A.M./ P.M. before The Honorable _____, with respect to this matter. The Petitioners must appear on that date and at that time to present evidence as to the reasons(s) that the Petition should be granted. Petitioners shall bring all documents to the hearing to support their case.

The Petitioners shall immediately serve a copy of the Petition, the proposed Order, and all supporting papers upon Plaintiff's attorney personally, by facsimile, or by courier service. On the date of the hearing, Petitioner must provide the Court an Affidavit of Service.

BY THE COURT:

J.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

City of Philadelphia	:	April TERM, 2014
C/O GRB LAW	:	
1425 SPRUCE STREET STE 100	:	
PHILADELPHIA PA 19102	:	
Plaintiff	:	
	:	
v.	:	No. 1404T0051
	:	
	:	
LeRoy McCray, Trustee for Claudia McCray	:	
5551 WEBSTER STREET	:	
PHILADELPHIA PA 19143	:	
Defendant(s)	:	

ORDER

AND NOW, this _____ day of _____, _____ upon consideration of the Petitioners' Petition to Intervene in Petition for Rule to Show Cause, and it appearing that good cause exists for the **GRANTING** of such Petition, it is hereby **ORDERED AND DECREED** that:

1. The Petition to Intervene is **GRANTED**.

2. Intervenor Petitioners **SHALL** have the same rights and privileges as all other defendants in this action. This includes the right to file an answer to the Petition for Rule to Show Cause and the Rule to Show Cause Order and, necessary, to seek a stay of the sheriff's sale of the Property.

3. The opportunity to respond to the Petition for Rule to Show Cause is hereby reopened and the Court hereby **GRANTS** Intervenor Petitioners a _____ day extension to respond to the Petition for Rule to Show Cause.

BY THE COURT:

J.

By: Amy Laura Cahn

acahn@pilcop.org

Pa. Bar No. 306762

Public Interest Law Center of Philadelphia

1709 Benjamin Franklin Parkway, 2nd Floor

Philadelphia, PA 19103

267-546-1306

Attorney for Neal Santos and Andrew Olson,

Petitioners

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

City of Philadelphia	:	April TERM, 2014
C/O GRB LAW	:	
1425 SPRUCE STREET STE 100	:	
PHILADELPHIA PA 19102	:	
Plaintiff	:	
	:	
v.	:	No. 1404T0051
	:	
	:	
LeRoy McCray, Trustee for Claudia	:	
McCray	:	
C/O LORRAINE ROBINSON	:	
5551 WEBSTER STREET	:	
PHILADELPHIA PA 19143	:	
Defendant(s)	:	

PETITION TO INTERVENE IN PETITION FOR RULE TO SHOW CAUSE

Party Filing Petition:

1. Neal Santos and Andrew Olson (“Petitioners”), representing Farm 51, hereby petition (the “Petition”) the Court to enter an order granting Petitioner’s Petition to Intervene in this Petition for Rule to Show Cause initiated by City of Philadelphia (“City”) and GRB Law (“GRB”) regarding the real property located at and known as 5103 Chester Avenue, Philadelphia, PA 19146 (the “Property” or “5103 Chester Avenue”) (BRT # 511270500).

2. Petitioners have an equitable interest in the Property by virtue of Petitioners' ownership over the two properties adjacent to the Property and by virtue of six years of stewardship of the Property through operation of Farm 51, located on the Property and 5105 Chester Avenue.
3. Petitioners did not receive notice of the Petition for Rule to Show Cause and now seek an opportunity to respond to that petition.

History of the Property

4. According to the Philadelphia Revenue Department, Leroy McCray is the owner of record of the property. However, Mr. McCray is now believed by Petitioners to be deceased. The owner's widow, Claudia McCray, may or may not still be living.
5. The Property has taxes assessed upon it in the amount of \$27,348.46. The tax burden has been accumulating since 1985.
6. The Property may also have additional municipal and/or mechanics liens assessed on it.
7. When Petitioners moved to the 5100 block of Chester Street in 2008, both the Property and the adjacent 5105 Chester Avenue, then owned by the City of Philadelphia, had long been abandoned and were threats to the health, safety, and welfare of nearby residents.
8. According to Petitioners, when they moved to the block, the two contiguous parcels were sites for short dumping and the deposit of drug paraphernalia. In the intervening years since 2008, Petitioners have unearthed multiple dangerous items that were buried or deposited on the Property, most notably a loaded gun, bags of bullets, and stolen license plates.
9. When Petitioners moved to the block, weed trees of over twenty-five feet tall had taken over both properties. Due to an ongoing lack of maintenance, the sidewalk adjacent to the Property had become impassible because of weed trees growing up from cracks in the

pavement. For years, neighbors were afraid to walk on the side of the street past the Property because one never knew who or what was in the weeds.

10. In 2008, upon moving to the neighborhood, Petitioners began the long process of revitalizing the Property and 5105 Chester Avenue, with the enthusiastic assistance and support of the surrounding community.

11. The demolition of the former homes on the Property and 5105 Chester Avenue was not conducted properly and the site not properly back-leveled. Thus, Petitioners spent a week with a pickax, breaking up the concrete foundations. At their own cost, Petitioners obtained a contractor to truck out several tons of rubble.

12. In addition to removing the foundations and leveling the site, Petitioners put years of work into transform each property, working with community members to bring in over 80 yards of soil, construct raised beds, erect fencing, and maintain the properties as safe spaces.

13. For almost six years, Petitioners have now operated Farm 51, a community-based market farm, on the Property and 5105 Chester Avenue.

Demonstration of Petitioner's Equitable Interest in the Property

14. Petitioners have an equitable interest in the real property involved in this tax lien foreclosure action on the Property.

15. Since 2009, Petitioners have operated Farm 51, described above.

16. In 2012, Petitioners purchased 5107 Chester Avenue and maintain that address as their domicile.

17. Prior to their purchase of 5107 Chester Avenue, Petitioners resided at 5101 Chester Avenue.

18. In 2013, Petitioners purchased 5105 Chester Avenue from the City through the City's "sidelot" program.

19. Petitioners continue to operate Farm 51 on the Property and 5105 Chester Avenue.
20. Petitioners founded Farm 51 as a response to the widespread abandonment of vacant parcels in Southwest Philadelphia and throughout the city. As described above, prior to Petitioners creation of Farm 51, both the Property and 5105 Chester Avenue had long served as dumping grounds for trash, resulting in both safety hazards and eyesores for the neighborhood.
21. Petitioners also founded Farm 51 to revitalize and rebuild the community by providing an inexpensive and community based method to provide local, affordable, and healthy food to residents in a low wealth and historically disinvested neighborhood.
22. Farm 51 now plays an integral role in bringing together community members, who frequent the farm as a source of sustenance and as a meeting location to engage in educational activities, both of which provide useful professional skills to youths and improve the quality of the community.
23. Farm 51 was an “organic” solution to two citywide problems: vacant land and insufficient access to fresh and affordable food. The community at large has embraced the efforts initiated by Petitioners in building a successful community-based entrepreneurial endeavor. Petitioners have involved residents, local youth in particular, in the revitalization of the Property from Farm 51’s initial stages. Certain youth have been involved in the project for the entirety of its almost six year tenure.
24. For more than six years, Petitioners have invested substantial resources and numerous staff- and volunteer-hours towards improvement and maintenance of the Property for community events, outreach, green space, and gardening under the City Harvest Grower’s Alliance Program of the Pennsylvania Horticultural Society.

25. Petitioners have produced and distributed well over 6,000 pounds of produce to the immediate neighborhood. As of 2014, Petitioners have been granted permission to accept WIC FMNP coupons from the Commonwealth of Pennsylvania for the benefit of immediate neighbors in Southwest Philadelphia, enabling Farm 51 to make its produce more broadly accessible to economically strapped residents.
26. That the Property is at risk places the entire program in jeopardy, and would detrimentally affect those low-income community members that have grown dependent upon both the subsidized food access and community space provided by Farm 51.
27. Petitioners ultimately seek the preservation of the Property as a community-based educational farm.
28. Petitioners are aware that the Philadelphia Land Bank Law, passed in December of 2013, contains certain provisions that assist with the targeted development of privately-owned abandoned and tax delinquent land that would have likely provided them with assistance to acquire the property for Farm 51. Phila. Code Chap. 16-700 § 16-705(3)(b). However, the Philadelphia Land Bank will not have the capacity to exercise the appropriate tools until January of 2015.
29. Petitioners are also aware of a pending amendment to the Abandoned and Blighted Property Conservatorship Act, Pennsylvania Act 135 of 2008 (“Act 135”); 68 P.S. § 1101-11, which would amend the statute to include a “vacant lot on which a building has been demolished.” 68 P.S. § 1101-11 (pending amendment) available at <http://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2013&sessInd=0&billBody=H&billTyp=B&billNbr=1363&pn=2086>. Upon passage, such

amendment would allow Petitioners to file a Petition for the Appointment of a Conservator for the Property.

Reasons Why Court Should Grant a Petition to Intervene

30. GRB Collection Agency (“GRB”) has been assigned by the City of Philadelphia to collect the debt.
31. On April 8, 2014, GRB filed a Petition for Rule to Show Cause, initiating the process to bring the Property to tax foreclosure sale.
32. Petitioners did not receive notice of the Petition for Rule to Show Cause, nor did the Petition for Rule to Show Cause appear to have been posted on the Property, although the address for the Property is listed as one of a list of addresses noticed by GRB.
33. On April 24, 2014, the City obtained a Rule to Show Cause granted by this Court pursuant to this Court’s Order in No. 1404T0051, docketed on May 9, 2014.
34. On June 3, 2014, GRB mailed notice of the Rule to Show Cause, via certified mail.
35. On June 4, 2014, GRB mailed notice of the Rule to Show Cause, via first class mail.
36. On June 7, 2014, the Rule to Show Cause Order was physically posted at the Property, having been secured to a structure on the Property.
37. Petitioners first learned of this situation on June 7, 2014 by way of the posting of this Court’s Rule to Show Cause Order at the Property.
38. GRB has informed this office that it intends to proceed with issuance of a sheriff’s sale decree, thus enabling GRB and the Revenue Department to list the property for sheriff’s sale, unless Petitioners submit a petition to intervene by June 27, 2014.

39. Petitioner has met with staff from the office of District Councilwoman Jannie Blackwell, who indicated the Councilwoman's support for Farm 51 and her office's intent to work with all parties to negotiate a resolution.

Reasons Why Petitioner is Entitled to Petition to Intervene:

40. A nonparty to an action is permitted to intervene at any time during the pendency of the action if "such a person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof." PA. CONS. STAT. ANN. § 2327(2) (West 2014); see also *Keener v. Zoning Hearing Bd. of Millcreek Twp.*, 714 A.2d 1120 (Pa. Commw. Ct. 1998) (holding that neighbor's interest as mortgage holder in property across street from property sale was sufficient to permit neighbor's intervention in variance appeal).

41. The right to intervention should be accorded to anyone with an interest of his own which no other party on the record is interested in protecting, especially if a party's property is in the vicinity of the property at issue. *See Keener*, 714 A.2d at 1123 (citing *Esso Standard Oil Co. v. Taylor*, 399 Pa. 324 (1960)).

42. Petitioners contend that they are entitled to a petition to intervene and an opportunity to file a response to the Petition for Rule to Show Cause by virtue of their equitable interest in the property. Petitioners contend that they will be adversely affected, if this action is allowed to proceed and the Property is auctioned at sheriff's sale, without Petitioners having been given an opportunity to respond to the Petition for Rule to Show Cause.

43. Petitioners also contend that they are entitled to a petition to intervene on the basis that GRB did not physically post notice of the Petition for Rule to Show Cause on the Property,

preventing Petitioners from intervening as a party of interest at an early stage of the proceeding.

44. Petitioners contend that a petition to intervene has broad benefits for the community-at-large, which has acquired its own stake in the Property through its civic engagement.
45. Finally, Petitioners contend that neither the City, nor any additional parties to this action will be prejudiced by the delay sought by Petitioners. The Property has been tax delinquent since 1985. Similarly, the Property and the adjacent 5105 Chester Avenue were both abandoned for years, possibly decades, prior to Petitioners' intervention with community members. There is no compelling reason why the Property must go to sheriff's sale without an opportunity for Petitioners to be heard in the matter and to have the opportunity to negotiate a solution.

Relief Sought by Petitioners:

46. Petitioners request that the Court grant Petitioners' Petition to Intervene.
47. Petitioners additionally request that the Court reopen the Petition for Rule to Show Cause and grant Petitioners a thirty (30)-day period to file a response to the Petition and review options with municipal officials, GRB, and the community at large, including the option to file a Petition for the Appointment of a Conservator, pursuant to Act 135, if Act 135 is amended by the Pennsylvania Legislature before the close of this legislative session.
48. In the alternative, Petitioners request that the Court allow Petitioners to respond to the Rule to Show Cause and grant thirty (30) days in which to respond.
49. If granted a postponement, Petitioner will use the additional time to work with municipal officials, GRB, and the community at large to craft a solution to preserve the property and Farm 51.


50. Petitioners and the community have demonstrated their commitment to improving the Property through productive reuse by creating an essential resource for an otherwise underserved community. Such an investment in Farm 51 warrants a postponement of the sheriff's sale to provide Petitioners extra time to find alternative methods to preserve the space for the community's benefit.

Rules of Service:

Petitioner understands that it must present proof of service at the hearing. Petitioner must provide immediately a complete copy of the motion package documents to Plaintiff's counsel by a method which proves that it was served such as the following:

- Hand delivery at the office of the Plaintiff's counsel,
- Fax the Petition with confirmation that it was received,
- Deliver the Petition by overnight courier service (Federal express, UPS, DHL, Airborne Express, or US Postal Service Express Mail)

Petitioner understands that if it does not have proof that it complied with this requirement, that the Petition may be dismissed by the Court.



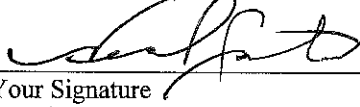
Amy Laura Cahn
Attorney for Plaintiff

OF COUNSEL:

Public Interest Law Center of Philadelphia
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia PA 19103
267-546-1306

VERIFICATION

This Petition is verified by me. I understand that the statements contained in this Petition are true and correct to the best of my knowledge, information and belief. I understand that the statement herein is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.



Your Signature

Neal Santos

Print Your Name

5107 CHESTER AVE

Address- No Post Office Boxes

9583

Last Four Digits of you Social Security Number

8 27 86

Birth Date

201-988-6943

Telephone Number Where You Can be Reached by the Court or Plaintiff's Counsel