



## vantage point

# Fighting City Hall Over Land

Once upon a time (1989 to be exact) in a place not so far away from where I live, a man (Francis Galdo) bought a home across the street from a vacant parcel owned by the City of Philadelphia. That parcel, along with others, had been acquired by condemnation back in 1974 subsequent to a 1956 consenting ordinance and 1962 agreement to the Pennsylvania Department of Highways plans to establish and occupy certain rights of way, streets, and traffic interchanges as part of the construction of the Delaware Expressway within the City. The parcel was not needed for the highway project and sat dormant, tended better at some times than at others.

Soon after moving in across the street, Galdo began using the vacant parcel. First, he poured a concrete slab to park his vehicles, and then temporarily used the area to store debris while rehabbing his home. By 1992, Galdo had poured another concrete slab, enclosed by a fence for storing materials, but later removed the fence to use the area for parking. By 1994 he had installed a fire pit and permanent picnic table. When a nearby factory burned down in 1997, he collected materials from it to create a driveway. He planted trees and grass, built a tree-house deck between 2010 and 2014, and eventually replaced a carport he built with a wooden pavilion.

What was the City doing during all of this? Apparently the answer until 2006 is, “Not much.” At that point, Philadelphia entered into a contract with an investment company for a parcel just south of Galdo’s big encroachment. That group offered to buy what is posted and known locally as “The Notorious Galdo Parcel,” along with several other City parcels in the immediate area in 2008. It was the City’s failure to pass a timely ordinance allowing the sale

to the investment firm that killed the sale, not Galdo’s use of the land. But in February 2013–24 years after Galdo had moved in and taken over—the City posted public notices on the tract to remove all personal property within 30 days. Galdo tore the notices down and threw them away.

It is relevant to mention at this point that the Statute of Limitations in Pennsylvania for adverse possession and prescriptive use of real property is 21 years. This will seem extraordinarily long to surveyors in many other states where statutes require landowners to step up and speak out within less than half that time. However, it is still shorter than in New Jersey, where the true owner must move to eject interlopers within 20 years although the adverse claimant can’t file for a quiet title action until 30 years have elapsed. And in the case of woodlands and uncultivated tracts, 60 years of possession need to pass.

Returning to “The Notorious Galdo Parcel,” the main issue was whether Galdo could adversely possess against the City, which is *not* specifically granted statutory immunity from such claims. But Philadelphia claimed in the Court of Common Pleas that it was acting as an agent for the Commonwealth of Pennsylvania, which is exempt from adverse claims. Furthermore, the City argued that it was holding the land for public use (further protecting the land from adverse claims), in that it planned to sell it (some day). The lower court bought these arguments, and found in Philadelphia’s favor in June 2016. By accepting these immunity arguments and rejecting testimony by the Philadelphia Planning Commission and others that the City had not used the property after the 1970s, the Court found it unnecessary to rule on Galdo’s actual possession. There is an appeal pending, which potentially could overturn that decision if Galdo’s arguments

against the City’s claims of “immunity” and “public use” are successful.

The site is clearly different from anything else on the block. (For The Notorious Galdo Parcel’s Facebook page with many photos: [facebook.com/thenotoriousgaldoparcel](https://www.facebook.com/thenotoriousgaldoparcel). For a Google Street view, spin to the aerial view from the initial view from beneath the elevated train: [goo.gl/LWtK6d](https://www.google.com/maps/@39.954,75.164,15t/data=!3m1!1e3!3m2!1s39.954,75.164,15t)) Public opinions posted on Reddit are divided regarding Galdo’s rights and include arguments about the aesthetics of his “improvements”, with some calling the site a “hideous compound with aggressive signs” warning the world to stay out. But many point out the imbalance between the arguments that each side can legally raise. No matter how unlovely it is, clearly possession by Galdo has been open (not hidden), notorious (well known), hostile (excluding all others who might claim it), and continuous (uninterrupted) for more than the statutorily required period of time. He did not pay taxes on it (not required by Pennsylvania law), and he also does not have color of title (also not mandatory). But is this an attempt at an illegal land grab?

If we mere mortals neglect our property, the local government can step in and fine us for creating a nuisance. If we don’t keep others from using our property, we may be dragged into court for a quiet title action that may cost us our ownership rights. Even though I don’t accept the City’s claim that holding land for potential sale at some unspecified (very) distant future date is true “public use” that should protect against adverse claims, I have doubts that Galdo can win. ■

**Wendy Lathrop** is licensed as a Professional Land Surveyor in NJ, PA, DE, and MD, and has been involved since 1974 in surveying projects ranging from construction to boundary to environmental land use disputes. She is a Professional Planner in NJ, and a Certified Floodplain Manager through ASFPM.