PHILADELPHIA COURT OF COMMON PLEAS
ORPHANS' COURT DIVISION

ESTATE OF ROBERT W. RYERSS, DECEASED
O.C. No. 36 DE of 1896

O P I N I O N

The City of Philadelphia (hereinafter "City") filed a petition on May 23, 2008 to obtain judicial approval for its plan to lease up to 19.4 acres of Burholme Park to Fox Chase Cancer Center ("Fox Chase"). The City acknowledges that Burholme Park is a "dedicated public park" that was accepted by the City through ordinances passed in 1905 and 1915.[1] Robert Ryerss, who died in 1896, donated forty-eight acres of the land to the City through his June 25, 1895 Will, which provided:

> After the death of my wife, I give devise and bequeath to the City of Philadelphia all that part of my Farm near Fox Chase with my Country seat called Burholme….to be used as a Public Park, the same to be called "Burholme Park"….. The Park to be for the use and enjoyment of the people for ever…[2]

In addition to this donated land, the City acquired an additional twenty-one acres adjacent to the donated land which it then combined for "public park purposes" under the name Burholme Park.[3]

According to the City, "it is no longer practicable or possible, and does not serve the public interest, to continue to use all of the land described in those ordinances as public park land."[4] The City therefore recently enacted an ordinance to authorize leasing up to 19.4 acres in Burholme Park to the Philadelphia Authority for Industrial

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[1] 5/23/2008 City Petition, ¶ 2.
[2] 5/23/2008 City Petition, Ex. 1, June 25, 1895 Will of Robert Ryerss (hereinafter "June 25, 1895 RyerssWill") Mr. Ryerss also executed 2 codicils to his will, which changed the physical boundaries of the land bequeathed to the City.
[3] 5/23/2008 City Petition, ¶2.
[4] 5/23/2008 City Petition, ¶ 3.

Development ("PAID"), so that PAID can enter into a sublease with the Fairmount Park Conservancy, which would then enter into a sub-sublease with Fox Chase.[5] The City is not asserting that Burholme Park no longer functions as a viable public park. Instead, "the purpose of the recent ordinance and agreements it authorizes is to permit Fox Chase to expand and improve its current campus and continue to provide medical services to the citizens of Philadelphia from a location within the City, and so that the City can maintain its reputation as a leading center of healthcare."[6] It emphasizes as well that this expansion will create thousands of temporary and permanent jobs in the City while increasing the tax base. The City is also concerned that if Fox Chase is not permitted to expand into Burholme Park, it "will probably locate its future facilities outside the City" as well as its existing facilities.[7]

In seeking court approval for this lease arrangement, the City invokes The Inalienable Property Act, 20 Pa.C.S.A §§ 8301-8306 which it emphasizes was formerly known as the Revised Price Act. The specific section of the Inalienable Property Act the City cites is section 8301 which provides that "[t]he court of common pleas, operating through its appropriate division, may authorize the sale, mortgage, lease or exchange of real property or grant declaratory relief with respect to real property: (1) Where the legal title is held:…(iii) by corporations of any kind having no capacity to convey, or by any unincorporated association; … [or] (3) Where the legal title is otherwise inalienable." [8]

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[5] 5/23/2008 City Petition, ¶ 3.
[6] 5/23/2008 City Petition, ¶ 3.
[7] 5/23/2008 City Petition, ¶¶ 3-4.
[8] 5/23/2008 City Petition, ¶¶6-9)(quoting 20 Pa. C.S.A § 8301).

In response to the City's petition, a petition to intervene was filed by two organizations (the Society Created to Reduce Urban Blight (SCRUB)[9] and "Save Burholme Park") as well as thirteen individuals who seek to challenge the lease proposal. Most of the individuals seeking to intervene assert that they are citizens, residents and taxpayers in the City of Philadelphia. Two individuals seeking to intervene, Jane Waln Rockhold and Gerry Waln, are descendents of Robert Ryerss who gifted some of the property to the City of Philadelphia. One individual, Kate Friend, characterizes herself as a user of the park but does not assert that she is a taxpayer. Another individual, Charles McKeown, also does not state that he is a taxpayer but is an elected Commissioner in Cheltenham Township representing the District that abuts the park.[10]

The City and Fox Chase agree that the proposed intervenors may participate as *amici curiae* but they argue that the intervenors lack standing based on the Pennsylvania Supreme Court's interpretation of the Revised Price Act, specifically in In re Conveyance of Land Belonging to City of DuBois, 461 Pa. 161, 335 A.2d 352, 359 (Pa. 1975).[11] The Attorney General, as parens patriae, opposes the intervention of these individuals and organizations ("intervenors") on three grounds:

1) the Attorney General, as parens patriae, is the only party authorized under the law to represent the general public in proceedings involving charities;
2) the position or status alleged by the Intervenors does not make them sufficiently effected by the outcome of this suit to qualify them to participate in this proceeding, and;
3) the role asserted or claimed by Petitioners will be satisfied by the amicus curiae appointed by the Court in its Decree of June 19, 2008.[12]

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[9] SCRUB is a non-profit organization that "was created to enforce the environmental laws and rules and regulations of Philadelphia County and to ensure that Philadelphia has neighborhoods that have green spaces and parks and are not cluttered or taken down by buildings and/or billboard signs. SCRUB has many members who live and reside in the Burholme Park area and who regularly use the park." 6/2/2008 Petition to Intervene at ¶ 6.

[10] See 6/2/2008 Petition to Intervene, ¶¶ 1-15.

[11] 7/11/2008 City and Fox Chase Memorandum at 1-2; 8/7/2008 Reply Memorandum at 6-7.

[12] 7/9/2008 Attorney General Brief at 2.

For the reasons set forth below, this court concludes that those individuals seeking to intervene based on their status as concerned taxpayers in the City of Philadelphia may do so. The Inalienable Property Act as set forth in 20 Pa.C.S.A §§8301-06 does not contain the restrictive standing provisions of its predecessor, the Revised Price Act. The section of the Act presently in force that comes closest to setting forth criteria for standing is section 8304 which provides that jurisdiction under this chapter "shall be exercised on the petition of any party in interest." 20 Pa.C.S. A. § 8304 (emphasis added). In the dearth of any case law interpreting that provision, recourse to common law for a determination of "party in interest" is necessary. Under the common law line of public trust doctrine precedent relating to public parks, the individual intervenors have standing as taxpayers for the reasons set forth below.

The Attorney General emphasizes that under Pennsylvania law, the Attorney General is "the statutorily designated guardian of the interest of the general public."[13] He therefore asserts that Pennsylvania courts "have consistently held that the proper parties in a matter involving a charity are the charity itself and the Attorney General.[14] According to the Attorney General, the limited nature of standing in cases involving a charity was set forth and explained by the Pennsylvania Supreme Court in Wiegand v. Barnes Foundation, 374 Pa. 149, 153, 97 A.2d 81, 82-83 (1953). But in Weigand, the Pennsylvania Supreme Court did not state that the Attorney General was the sole person with standing to enforce a charitable trust. Instead, the Weigand court emphasized that determining whether standing exists in such cases also requires consideration of whether

[13] 7/9/2008 Attorney General Memorandum at 2 (quoting In re Barnes Foundation, 453 Pa. Super. 436, 463, 684 A.2d 123, 136 (1996).
[14] 7/9/2008 Attorney General Memorandum at 2 (citing In re Milton Hershey School, 590 Pa. 35, 42-43, 911 A.2d 1258, 1262 (2006))

there is any relevant statutory authority or of whether someone has a special interest in the enforcement of the charitable trust:

> In the absence of statutory authority, no person whose interest is only that held in common with other members of the public, can compel the performance of a duty owed by the corporation to the public. Only a member of the corporation itself or someone having a special interest therein or the Commonwealth, acting through the Attorney General, is qualified to bring an action of such nature.[15]

The statutory authority at issue in the present case is the Inalienable Property Act, 20 Pa.C.S. §§ 8301-8306, because the City relies on it in seeking court approval of its proposal to lease of 19.4 acres of Burholme Park to Fox Chase. Curiously, however, the City and Fox Chase do not cite to specific sections of that Act to support its argument that the proposed intervenors lack standing. Instead, they rely on Pennsylvania Supreme Court precedent interpreting sections of the Revised Price Act that no longer exist:

> As to standing, the Pennsylvania Supreme Court has held that citizens—taxpayers or not—lack any standing to object to sales under the Revised Price Act, the predecessor to the Inalienable Property Act. In *City of DuBois*, the Pennsylvania Supreme Court ruled that "[t]o allow the public at large to object to a court sale, causing long, protracted litigation under the Revised Price Act, *would produce a result inconsistent to the avowed purpose of free alienability of land."* 335 A.2d at 359 (emphasis added); *see also Petition of Borough of Westmont*, 570 A.2d 1382, 1383 (Pa. Commw. Ct. 1990)(citing *City of DuBois* for the holding that "persons who only had tangential interests in private sales of real estate may not intervene in proceedings under the Act"). Thus, while the City and Fox Chase do not oppose the Objectors participating as *amici curiae*, they believe that under the Supreme Court authority, the Pennsylvania law is clear that the Objectors have no legal standing to intervene in this matter.[16]

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[15] Wiegand v. The Barnes Foundation, 374 Pa. 149, 153, 97 A.2d 81, 82 (1953). The Wiegand court also quoted Section 391 of the Restatement of Trusts, as providing:

> A suit can be maintained for the enforcement of a charitable trust by the Attorney General or other public officer, or by a co-trustee, or by a person who has a special interest in the enforcement in the charitable trust, but not by person who have no special interest or by the settlor or his heirs, personal representatives or next of kin.
> Wiegand, 374 Pa. at 155, 97 A.2d at 83 (quoting Restatement, Trusts, Section 391)(emphasis added).

[16] 8/7/2008 City and Fox Chase Memorandum at 6-7.

As this quote illustrates, the City and Fox Chase do not reference specific sections of the Revised Price Act but instead rely heavily on precedent –the City of DuBois—that interpreted that Act to support their argument that the intervenors lack standing.[17] In so doing, they fail to grapple with key distinctions between the Revised Price Act and the Inalienable Property Act. For instance, after the Revised Price Act was repealed, see 20 Pa.C.S.A. § 8200, and to the extent that it was recodified as in Chapter 83 of the PEF code, specific provisions of the Revised Price Act analyzed in City of DuBois no longer appear in the Inalienable Property Act. Significantly, one provision that no longer appears in the Inalienable Property Act is the Revised Price Act's narrow standing provision. See 20 Pa.C.S.A. §§ 8301-8306.

Section 1762 of the Revised Price Act, for instance, narrowly limited standing for those who wished to object to the private sale of property to "[a]ny party interested as heir, devisee, or intending purchaser or any legatee whose legacy is by the express terms of the will or by law charged on such real estate" who "may appear and object to such private sale on account of the insufficiency of the price."[18] It was under section 1762 that the Pennsylvania Supreme Court concluded in City of Dubois that taxpayers would lack

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[17] The City also cites Petition of Borough of Westmont, 131 Pa. Com. 530, 570 A.2d 1382 (Pa. Com. 1999) to support its restricted view of standing. Although the trial court was asked to approve a proposed sale of real property under the Inalienable Property Act, it neglected to do so. Consequently, the Commonwealth court concluded:

> We will not address the applicability of the Pennsylvania Inalienable Property Act because the trial court did not specifically rely upon that Act, and the O'Malley's, as appellants, have not presented a discussion of the Act in their brief. Furthermore, one decision of the Pennsylvania Supreme Court, Conveyance of Land Belonging to City of DuBois, 461 Pa. 161, 335 A.2d 352 (1975) suggests that neither the Nadorliks nor the O'Malley's would have standing in an action brought under the Inalienable Property Act.
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> Petition of Borough of Westmont, 570 A.2d at 1383.

The Westmont court's standing analysis is arguably dicta, although it appears to be the only appellate precedent addressing standing under the Inalienable Property Act. See generally White v. Township of Upper St. Clair, 799 A.2d at 200 (noting that in Westmont it was not clear whether the trial court applied the Dedicated or Donated Property Act or the Inalienable Property Act; in any event, the Commonwealth Court focused just on the Dedicated or Donated Property Act).

[18] City of DuBois, 461 Pa. at 168, 335 A.2d at 356 (quoting 20 Pa.C.S. §1762).

standing to object to a municipality's sale of property. In contrast to this narrow standing provision in the Revised Price Act, the only section in the presently existing Inalienable Property Act that relates to standing is section 8304 which provides:

> All jurisdiction conferred by this chapter shall be exercised on the petition of any party in interest, upon such terms and upon such security and after such notice as the court shall direct by general rule.
> 20 Pa.C.S. § 8304.

Moreover, not only did City of DuBois analyze a different statutory provision than those presently in effect, but its facts differ from those of the present case in three regards. First, the City in the instant case is proposing a lease and not a sale of land dedicated to park use. Second, the conditions imposed on the property at issue in City of DuBois differ from those in the Ryerrs Will and the subsequent ordinances. In City of DuBois, for instance, the property at issue had been deeded to the City of DuBois for industrial or park purposes, with the condition that if the City designated any part of those lands as a park, the land would be withdrawn from industrial purposes and could not be sold or leased for industrial purposes. The Ryerss Will, in contrast, unambiguously donated the land to be used as a park "for the use and enjoyment of the people for ever." Finally, the intervenors do not object to lease of Burholme park land due to inadequate consideration. Instead, they object to the incursion on "the only regional park serving residents of Philadelphia, Abington and Cheltenham."[19]

In contrast to the narrow provisions of section 1762 of the Revised Price Act, Section 8304 of the Inalienable Property Act bestows jurisdiction based on the petition of "any party in interest." Yet while this section 8304 could be construed as providing standing to "any party in interest," that requisite "interest" must still be defined. The

[19] 9/2/2008 Petition to Intervene, ¶ 17.

Attorney General properly notes that standing "requires a substantial, direct and immediate interest in the subject matter of the litigation."[20] In cases involving a charity, the Attorney General asserts, a person seeking to intervene must have a special interest that distinguishes him from the public at large and thus entitles him to assert a position different than that of the Attorney General.[21]

The Pennsylvania Supreme Court in key standing cases has concluded that individuals or entities other than the Attorney General have standing to enforce a charitable trust if they can show a special interest in it. See, e.g., Valley Forge Historical Society v. Washington Memorial Chapel, 493 Pa. 491, 498, 426 A.2d 1123, 1127 (1981)(an "action for the enforcement of a charitable trust can be maintained" by "someone having a special interest in the trust" as well as by the Attorney General or a member of the charitable organization"). In Valley Forge Historical Society, for instance, the Pennsylvania Supreme Court concluded that an historical society had standing to enjoin its eviction from property belonging to a chapel under a charitable trust based on the fact (1) that the settlor had intended the chapel and historical society to aid in the development of patriotism and (2) that the historical society had contributed substantial amounts of money to the enlargement of the chapel. Valley Forge Historical Society, 493 Pa. at 499, 426 A.2d at 1128. This joint nexus of settlor intent and financial contribution provided the requisite "special interest in the trust" that was absent in the various cases involving the Barnes Foundation. See, e.g., In re Barnes Foundation, 453 Pa. Super. 436, 449-50, 684 A.2d 123, 129-30 (1996)(students lacked standing in

[20] 7/9/2008 Attorney General Memorandum at 4 (citing William Penn Parking Garage v. City of Pittsburgh, 464 Pa. 168, 191, 346 A.2d 269, 280 (1975).

[21] 7/9/2008 Attorney General Memorandum at 4 (citing Wiegand, and The Valley Forge Historical Society v. Washington Mem. Chapel, 493 Pa. 491, 426 A.2d 1123 (1981)).

protesting proposed settlement between the de Mazia trust and the Barnes Foundation where they could show no harm); The Barnes Foundation, 21 Fid. Rep. 2d 351 (Mont.Cty. O.C. 2001)(neighbor lacked standing when he sought to hold Attorney General in contempt for failing to act where social event allegedly proscribed under the trust had been held at the Barnes).

Similarly, the intervenors in the instant action in seeking to prevent the leasing of 19 acres of Burholme Park to Fox Chase are, in effect, attempting to enforce a public trust created by the dedication of that land under the June 25, 1895 Ryerss Will as well as the July 27, 1905 and July 16, 1915 City Ordinances that accepted the forty eight acres Ryerss donated to the City for use as a public park "for the enjoyment of the people for ever."[22] In fact, the 1905 ordinance specifically acknowledged the Ryerss Will stating that the ordinance was enacted "[t]o accept the devise contained in the will of Robert W. Ryerss" and "to place the same upon the City plan under and by the name of 'Burholme Park' and to direct the Commissioners of Fairmount Park to assume the custody and maintenance thereof."[23] In so doing, the Ordinance stated that in his Will, Ryerss devised certain portions of "his farm near Fox Chase with his country seat called 'Burholme' and his dwelling house on the hill, with free access thereto, the house to be fitted up and used as a library, reading room and museum, to be free to the public, and the grounds to be

[22] June 25,1895 Will of Robert Ryerss, Ex. 1. One court has suggested that cases referring to municipalities holding dedicated land "in trust" are using the "word 'trust' in a non-technical sense, as denoting merely an obligation arising out of the acceptance of the dedicated property and not as meaning that the City became a trustee for charitable purposes." White v. Township of Upper St. Clair, 799 A.2d 188, 194 (Pa. Com. 2002).

[23] Ex. 2, 5/23/2008 City Petition.

used as a park, to be called 'Burholme Park," and to be free for the use and enjoyment of the people forever."[24]

Under long-standing Pennsylvania common law, a public trust is created where a city by ordinance dedicates land to be used as a public park and then in reliance on that dedication, funds are appropriated by the state, city and individuals to improve and maintain that land. Under those circumstances, the "city holds, subject to the trusts, in favor of the community and is but the conservator of the title in the soil and has neither power nor authority to sell and convey the same for private purposes." Trustees of the Philadelphia Mus. v. Trustees of the Univ. of Pa., 251 Pa. 115, 123-25, 96 A. 123, 125-26 (1915). Accordingly, the Pennsylvania Supreme Court concluded in a seminal 1915 case that taxpayers have standing to contest any improper sale of such dedicated land:

> With reference to the status of intervening taxpayers if there was an absolute dedication of the land to public purposes, under the various ordinances above referred to, and the city has since that time appropriated money for the care, maintenance and improvement of at least portions of the land in question, every citizen and taxpayer has an interest, not only by virtue of his being one of the public to whom the property has been donated but also by virtue of his contribution as a taxpayer towards the funds, which have been used in improving the ground. A sale of the property if improper is therefore a question in which taxpayers have an interest and which they have a right to contest.
> Trustees of the Phila. Mus. v. Trustees of the Univ. of Pa., 251 Pa. 115, 122-23, 96 A.123, 125 (1915).

Nearly a half century later, the Pennsylvania Supreme Court once again recognized the standing of taxpayers to protect land dedicated as a public park. In

[24] Ex. 2, 5/23/2008 City Petition. Because this ordinance constitutes a "formal record " of "acceptance" by the municipality, the charitable trust created would not fall within the Donated or Dedicated Property Act, 53 P.S. §§ 3381 et seq. See, e.g. 53 P.S. § 3382. Under section 3385, "any resident of the political subdivision or any group or organization of residents of the political subdivision shall have the right to file a protest and, in the discretion of the court, shall be entitled to be heard in person, or by counsel or to intervene in such action and to be a party thereto." The individual intervenors would thus have had standing under that Act which also sets forth a clear standard for judicial review. See 53 P.S. § 3384 (whether "the continuation of the original use of the particular property held in trust as a public facility is no longer practicable or possible and has ceased to serve the public interest").

Bernstein v. Pittsburgh, 366 Pa. 200, 77 A.2d 452 (1951), for instance, two taxpayers had standing to assert that the City of Pittsburgh lacked authority to build an open-air auditorium in Schenley Park. Although the court concluded that the proposed auditorium would fall within the general purposes of a park, the key point as to the proposed intervenors was its recognition under common law of the taxpayer's standing "to enjoin the carrying out of the enterprise and compel the use of the park in strict accord with the objects of its dedication."[25]

Taxpayer standing under common law to protect parks dedicated to public purposes was reiterated more recently by the Commonwealth Court. In two opinions, it emphasized how "the standing analysis is different in cases where citizens seek to protect a park, a town square or other land dedicated to a particular public purpose from degradation or intrusion by an inconsistent public or private use." Pilchesky v. Redevelopment Auth. of Scranton, 941 A.2d 762, 764 (Pa. Com. 2008); White v. Township of Upper St. Clair, 799 A.2d 188, 193 (Pa. Com. 2002). In Pilchesky, a taxpayer had standing to file a declaratory judgment action to challenge the transfer of the South Side Sports Complex, a formally dedicated public park, by the City of Scranton's Redevelopment Authority to the University of Scranton. Even though the City Council passed an ordinance authorizing this transfer and the Governor signed a bill removing the restrictions relating to this sale, the Commonwealth court held that the plaintiff, "as a resident and taxpayer, has standing to pursue the claim that the sale of the Complex is not

[25] Bernstein, 366 Pa. at 205, 77 A.2d at 454. The Bernstein court explicitly recognized taxpayer standing to raise the issue of the park's proper use:

> May this open-air auditorium be built on the land conveyed to the City by Mary E. Schenley? If it does not come within the scope of the express purposes for which the land was dedicated the project must, of course, fail,-- a question that may properly be raised by a taxpayer's bill to enjoin the carrying out of the enterprise and to compel the use of the park in strict accord with the objects of its dedication.
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> Bernstein, 366 Pa. at 205, 77 A.2d at 454 (emphasis added).

consistent with the terms of the dedication, which designated the parcel for use as a public park forever and not revocable, and the ordinance which formally accepted the Complex as areas dedicated to sports and recreation for public use." Pilchesky, 941 A.2d at 765 (noting plaintiff invoked public trust doctrine)..

In White v. Township of Upper St. Clair, 799 A.2d 188 (Pa. Com. 2002), the Commonwealth Court concluded that taxpayers and residents had standing to challenge the construction of a 350 foot communications tower in a public park by seeking a declaratory judgment and an injunction. The analysis in White relies essentially on common law relating to the public trust doctrine. Although the court mentions the Donated and Dedicated Property Act, 53 P.S. § 3384, it does so tangentially to note that if the township had concluded that the land no longer served the public interest, it had recourse to seek approval of the different use by applying to the Orphans' Court under the Donated or Dedicated Property Act but it failed to do so. Consequently, the White court did not analyze count I of the complaint at issue under that Act which is significant since under it taxpayers would have had standing. Instead, the White court focused first on common law to conclude:

> We hold that the Residents meet the test for standing set forth in William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 269 (1975). Their interests as taxpayers and residents of the Township are substantial, direct, and immediate thereby conferring on them standing to pursue their claim that the Township has failed to uphold the terms of the dedication of Boyce Park. In William Penn Parking, our Supreme Court held that an interest may confer standing even if it is not a pecuniary one. The interests sought to be protected here are the preservation of Boyce Park to its intended recreation, conservation, and historical purposes; these additional interests of Residents are specifically protected by the Pennsylvania Constitution.[26]

[26] White, 799 A.2d at 197. The White Court then quoted Article 1, Section 27 of the Pennsylvania Constitution:

> The people have a right to clean air, pure water and to the *preservation of the natural, scenic, historic, and esthetic values of the environment.* Pennsylvania's public natural resources are the

Under this common law precedent, the individual intervenors have standing as residents and taxpayers to challenge the proposed lease of 19 acres within Burholme park to Fox Chase. Although the City emphasizes the broad social and economic benefits of such a lease arrangement for increased care of cancer patients, jobs and tax revenue, the White court noted precedent held "that even an important public purpose, such as building a school or fire station, will not justify a municipality's abandonment of the terms of a dedication."[27] Moreover, it observed that "[n]ot only is the sale of dedicated land prohibited, so is the lease of dedicated land."[28] Under the public trust doctrine line of cases, therefore, the individuals would have standing as residents and taxpayers; such standing would not extend, however, to the two organizations SCRUB and Save Burholme Park.

In his opposition to the Petition to Intervene, the Attorney General notes that the intervenors base their request for standing on the claim that the Attorney General "has noted his support for the Burholme lease before any hearing has taken place."[29] The Attorney General denies that he supports the lease. Instead, he states that he cannot determine his ultimate position prior to a full presentation of evidence. However, as the "statutorily designated guardian of the interest of the general public,"[30] a more active role by the Attorney General would be welcome to provide invaluable assistance in defining

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> common property of all the people, including generations to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

The White court noted that because the residents had standing as taxpayers and residents, the constitutional analysis was not necessary to its holding: "However, this analysis is appropriate wherever the terms of a public dedication are mirrored, almost word-for-word, in Article 1, Section 27, as is the case here." White, 799 A.2d at 198.

[27] White, 799 A.2d at 196, n.17 (citing Borough of Ridgeway and Borough of Bangor).

[28] White, 799 A.2d at 195.

[29] See 7/9/2008 Attorney General Memorandum at 6 (quoting 7/1/2008 Intervenors' Memorandum at 9).

[30] 7/9/2008 Attorney General Brief at 3.

not only the standard of review but the relevant facts. Nonetheless, the decision of the Attorney General not to take a more active role in this litigation would not preclude the individual intervenors from doing so. See, e.g., In re Conveyance of 1.2 Acres of Bangor Memorial Park to Bangor Area School District, 4 Pa.D.& C. 4th 343, 346 & n.1 (Northampton Cty. 1988), *aff'd.,* 130 Pa. Com. 143, 567 A.2d 750 (1989).

In conclusion, the Pennsylvania Supreme court has long recognized that the proper procedure for selling or leasing land dedicated to a public use is to petition the court pursuant to the Revised Price Act.[31] The Inalienable Property Act, as successor to the Revised Price Act, lacks the restrictive standing requirement of the prior act. Hence, it is necessary to resort to common law to supplement the definition of "any party in interest" as set forth in section 8304 of the Inalienable Property Act. Under the relevant case law, those individuals seeking to intervene as taxpayers have standing to do so while the other individuals and organizations (SCRUB and Save Burholme Park) do not.

DATE: _____ BY THE COURT:

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John W. Herron, J.

[31] Loebel v. Columbia Borough School Dist., 369 Pa. 132, 137, 85 A.2d 81, 83 (1952).