



IDEAS FOR SAFER COMMUNITIES

ADDRESSING FORECLOSED AND ABANDONED PROPERTIES

This guide offers ideas to help policymakers, law enforcement agencies, and community partners address the challenges presented by foreclosed and abandoned properties

Nearly 3.2 million foreclosures occurred in the U.S. in 2008, an all-time high. In many jurisdictions, the number and location of vacant properties changed so rapidly that officials had trouble tracking them, let alone formulating an effective response. The city of Cleveland, for example, estimated in early 2009 that at least 10,000 (or one in 13) of its houses were vacant while the county treasurer estimated that the number was 15,000—50 percent higher.

While much of the public’s attention has been focused on the economic repercussions of the nation’s housing crisis, the repercussions for law enforcement have been just as significant: vacant properties generate a host of interrelated problems, from unsafe structures and higher rates of crime to homelessness and strains on municipal services.

Jurisdictions across the U.S. have responded differently, tackling the problem from various angles. Many of the strategies deployed are the result of collaborations across government agencies and among public and private sectors. Police, city attorneys, district attorneys, U.S. attorneys, housing and building departments, health departments, community development organizations, landlords, private developers, banks, mortgage lenders, legislators, and regulators are finding ways to work together to slow or halt foreclosures, stem the decline of neighborhoods, improve quality of life, and plan for new growth.

This document offers a sampling of responses developed by jurisdictions across the U.S. It is intended to serve as a quick reference for law enforcement and government agencies looking for ideas to address vacant and abandoned properties. For ease of reference it is divided into three types of responses: Prevention, Enforcement, and Reuse.

PREVENTION

☐ Measure costs of vacant/abandoned properties

Vacant property can exact a high financial cost on jurisdictions and neighborhoods. Accurate and up-to-date data that summarizes these costs is a prerequisite to developing an intelligent response. It also helps enlist support for an initiative and is useful when attempting to measure outcomes. Factors used to identify costs include the number of police calls for service, number of fires resulting in property damage, cost to demolish, cost to clean vacant lots, loss of property value, code inspection costs, increased need for social services, lost tax revenue, unpaid utility bills, and the cost of filing lawsuits.



The Bureau of Justice Assistance supports law enforcement, courts, corrections, treatment, victim services, technology, and prevention initiatives that strengthen the nation’s criminal justice system. The Center for Court Innovation works with criminal justice practitioners, community-based organizations, and citizens to develop creative responses to public safety problems.

❑ Analyze foreclosures by rate, type, and location

A foreclosure analysis provides practitioners with essential information for formulating a targeted and intelligent response. An analysis should include the number and proportion of each of these elements:

- location (jurisdiction, community, and/or neighborhood);
- whether or not the property is owner-occupied, income-producing, vacant, and/or abandoned;
- whether the total amount of liens collectible against the proceeds of sale exceed the fair market value;
- type (e.g., tax, mortgage, judgement);
- amount filed and completed on individual properties within a span of time;
- sales confirmed by court to lenders; and
- sales to lender who delay or never file a deed with the Recorder of Deeds.

❑ Create the position of Vacant Properties Coordinator

In San Diego, a Vacant Properties Coordinator helps ensure that a jurisdiction's resources are appropriately and effectively marshalled without waste or overlap.

An important question to consider: Which city department is best equipped to serve as the home of a Vacant Properties Coordinator? Responsibilities of a coordinator can include:

- maintaining a database to track the location of vacant properties as well as complaints and responses;
- administering an abatement ordinance to clean and secure vacant properties;
- coordinating responses and communication among relevant government and private agencies;
- communicating regularly with community groups; and
- serving as a liaison to task forces tackling problems—such as mortgage fraud and foreclosure—related to vacant/abandoned properties.

❑ Establish cleanup crews

The problem of dangerous, vacant buildings is so large that Baltimore created dedicated teams to clean and secure vacant properties. While these teams have been in place for decades, management reforms in

2006 reduced the average cleaning and boarding response time from 245 days to 12 days while at the same time increasing the total cleanings and boardings from 13,000 in fiscal year 2004 to 42,000 in 2008. Cleaning up vacant properties not only helps prevent crime and improve safety but also generates revenue: Baltimore collected \$2.3 million in fiscal year 2008 from the resulting liens.

❑ Create a housing resource center

Information and resources can help homeowners, landlords, and tenants cope better with fiscal crises and possibly avoid foreclosure or eviction. Indio, California, for example created a housing resource center with the help of a non-profit Department of Housing and Urban Development-approved counseling agency. The center is staffed with two housing counselors, whose primary goal is to prevent foreclosures. They do this by facilitating discussions between homeowners and banks and encouraging foreclosure alternatives, such as loan modifications, strategies for at least partially repaying overdue debts, or temporary suspension of payment until a homeowner is able to pay.

❑ Educate prospective property investors

Prospective property owners who understand their rights and responsibilities are more likely to abide by zoning rules. In Baltimore, a city attorney and a private real estate attorney regularly speak before property owner association meetings to educate potential investors about laws and regulations pertaining to property ownership.

❑ Notify the public

To hold delinquent property owners accountable, some jurisdictions, like Buffalo, New York, place large signs on properties with serious code violations. The signs list the landlord's name and contact information. Remember that signs must comply with local sign regulations. These signs might also encourage other landlords to remain compliant with building and zoning codes.

❑ Develop a process to clear legal title for heirs

Heirs need clear title to property to be eligible for rehabilitation programs. Therefore, jurisdictions

should try to streamline the process. Consider asking the local bar association or law school to establish legal clinics to address this issue.

❑ Require banks to regularly inspect their properties

After foreclosing on a property, many mortgage holders fail to maintain the property adequately. Indio, California, adopted a municipal law in April 2008 that requires banks and lenders to register properties with the Indio Police Department when a notice of default is issued and when a property becomes vacant. More importantly, the ordinance requires banks to inspect their properties weekly and fully maintain them.

❑ Offer temporary and/or extended financial assistance

In Louisville, Kentucky, \$350,000 in government funds was provided to help 70 families with up to \$5,000 each to cover shelter and utility bills. If the recipient homeowner stays in the home for another 10 years, the loan is forgiven. If the house is sold during the 10 years, the homeowner has to pay back a pro-rated portion of the loan.

❑ Establish an emergency loan program

Jacksonville, Florida's City Council created an anti-foreclosure program to provide no-interest loans of up to \$5,000 to troubled homeowners. This helped 40 homeowners who faced a short-term financial crunch but who could afford to pay their mortgage over the long run.

❑ Contact NeighborWorks America

NeighborWorks America is a national non-profit organization created by Congress to provide financial support, technical assistance, and training for community-based revitalization efforts. The Housing and Economic Recovery Act of 2008 appropriated \$180 million to NeighborWorks to continue the National Foreclosure Mitigation Program. This appropriation provides funds for foreclosure counseling, legal assistance to homeowners facing foreclosures, and administrative expenses associated with the program. For more information, visit www.nw.org.

❑ Encourage the public to help identify vacant structures

Increase public awareness by engaging in a community-wide campaign to help identify vacant structures. In Chicago, residents can call 311 (the city's non-emergency hotline) to provide vacant structure

addresses. Chicago also launched an "Every Minute Counts" campaign that encourages financially stressed homeowners to call 311. Callers are immediately connected to a credit counseling agency for a free telephone counseling session. The counseling agency: (1) provides in-depth assessment of the homeowner's financial situation; (2) serves as a liaison between the homeowner and mortgage company to advocate a repayment plan, loan modification, or other loss mitigation strategies to avoid foreclosure; and (3) provides referrals to local resources for job training, tax assistance, emergency grants, and foreclosure prevention classes. Faith-based organizations also advertise services at Sunday sermons.

ENFORCE

❑ Launch a vacant property registration system

Under the vacant property registration system in Chula Vista, California, out-of-town lenders must: (1) record assignment of a deed of trust; (2) inspect the property upon recordation of mortgage default; and (3) register the property if it becomes vacant and is in mortgage default. The owner must hire a local contractor to secure the property and also post contact information on the property. Owners have 10 days to comply. For non-compliance, the jurisdiction can issue administrative citations and civil penalties and recover the full costs of city enforcement. Another remedy is receivership is also available as a remedy.

❑ Establish a vacant property maintenance and registration ordinance

Components of such an ordinance might include: (1) a requirement that the property undergo a thorough interior and exterior inspection to document conditions; (2) a sliding scale under which the registration fee increases with every year the property remains vacant; (3) Vacant Property Owner Responsibility Code, including stringent standards for cleaning and boarding properties; (4) full contact information of owners, including a requirement that out-of-county owners designate a local agent to act on their behalf; (5) minimum insurance requirements; (6) bond that is forfeited in the event the city is required to demolish the property; and (7) provisions that unpaid fees or costs become a municipal lien.

❑ Require vacancy license and liability insurance

Require an owner to get a license whenever a building is uninhabitable. If the property is fixed up and becomes habitable again, the owner no longer has to retain a license. In Cincinnati, the fee for the initial year is \$900, and the fees then increase to \$2,700 a

year. If the fees are not paid, the jurisdiction can institute a civil action and file a lien on the property on which the jurisdiction can then foreclose. In addition, the owner must maintain liability insurance in the amount of \$300,000 for residential property and \$1 million for commercial property.

Require statement of intent for vacant properties

Require owners of vacant properties to submit for approval a “Statement of Intent” to bring vacant structures into productive use. In San Diego, the Statement of Intent includes: (1) the expected period of vacancy; (2) a maintenance plan during the period of vacancy; and (3) a time line for the lawful occupancy, rehabilitation, or demolition of the structure.

Impose a tax on abandoned property

Pursuant to authority under state law, Louisville, Kentucky, imposes an abandoned urban property tax on properties that have been vacant or unimproved for one year and have been tax delinquent for at least three years or violate certain maintenance standards. The abandoned urban property tax is three times the regular property tax rate.

Establish graduated fees for code violations

Wilmington, Delaware, has implemented a set of stiff, graduated fees based on the number of years the property is vacant (for example, \$500 per year). Several months before assessing the fees, send notices to each owner offering a one-time, one-year fee waiver if the owner rehabilitates, sells, or demolishes his or her property. While the goal of the program is to get vacant properties back into shape and into use, the program also collects revenue to cover the costs of monitoring, citing, and prosecuting non-compliant owners.

Establish “blight penalties”

When property owners fail to take corrective action, Indianapolis code inspectors can issue “blight penalties” which are typically \$2,500 per violation but can go as high as \$7,500. The higher penalties not only offer landowners a strong incentive to meet code requirements but also generate significant income. In 2008, 750 penalties of \$2,500 each generated over \$1.8 million.

Demolish a boarded structure after 60 days

In Minneapolis, the city can fine and demolish a vacant property if it fails to meet minimum standards and has been boarded up for 60 days or more.

Define “nuisance”

Define “nuisance” under state law. For example, if three or more criminal activities occur within 30 days on the same property, the property is declared a nuisance. Note that definitions vary from state to state. Under Ohio law, for example, the definition is more broad than under Texas law. Ohio includes: animal violations, disorderly conduct, endangering children, litter, liquor violations, theft, and open burning.

Make “nuisance” crimes a felony

Arizona has created a state law that makes failure to abate serious nuisances a felony.

Enforce no-trespass statutes

Authorize police, as in Portland, Oregon, to enforce no-trespassing statutes on city-owned properties to remove unauthorized persons.

Evict tenants convicted of crimes

Adopt a law requiring a landlord to evict a tenant who has been arrested within 1,000 feet of the unit for a violent or narcotic crime. Give the jurisdiction the authority to evict the tenant if the landlord fails to fulfill the obligation. Under LA California Ordinance Sec. 47.50, the landlord must evict and if the landlord does not, the city may file an action for injunctive relief or take other appropriate action to require the landlord to comply with eviction.

Expedite tax foreclosures

Seek state legislative changes to ensure that tax foreclosure leads to clear, marketable, and insurable title in a timely fashion, as has been done in Maryland, Michigan, and New Jersey.

Improve efficiency of tax foreclosure procedures

Consider establishing an aggressive program to take title to vacant tax-delinquent properties. Such a program might include: (1) decreased time between tax delinquency and foreclosure; (2) procedures to speed the conveyance of properties to the government, such as elimination of the judicial sales requirement when the amount of the tax lien is greater than the fair market value of the property; and (3) explore the use of a housing court as a venue for tax foreclosures.

Foreclose liens to recover demolition expenses

Texas Local Gov. Code Sec. 214.004 allows a municipality to foreclose a lien on the property if: (1) a building or other structure has been demolished and a lien for the cost of the demolition has been created; (2) that cost has not been paid in more than 180 days

after the date the lien was filed; and, (3) ad valorem taxes are delinquent on all or part of the property.

Assign a community prosecutor

Assign a community prosecutor to develop creative legal responses to vacant structures and the crime that occurs around them. For more information about community prosecution, contact the Association for Prosecuting Attorneys at (202) 626-8226.

Hire or train dedicated prosecutors and investigators to combat mortgage fraud

Because mortgage fraud is so complex, prosecutors and investigators need a thorough understanding of its intricacies. Prosecutors in Wayne County, Michigan, have found that it sometimes takes months of working on mortgage fraud cases exclusively before prosecutors become adept at identifying law breaking and building strong cases.

Create an enforcement task force

Establish a team that brings resources of different city departments together as it relates to enforcement and prosecution. Tucson, Arizona, calls its team SABER (Slum Abatement and Blight Enforcement Response). Baltimore calls its team TEVO (Targeted Enforcement toward Visible Outcomes).

Create a ‘Bank Day’ docket for code violations

While ownership remains with a borrower, the bank retains its lien on the property. That opens up a dispute over who is responsible for taxes and maintenance. Even when lenders complete the foreclosure, they may walk away from the property, leaving jurisdictions to seize it for unpaid taxes, a process that can take years. Jurisdictions need to make banks keep foreclosed homes in good condition until buyers are found. As an alternative, jurisdictions can urge lenders to donate property to community groups or to pay for demolition when houses are beyond repair. These goals can be achieved through a “Bank Day” docket supported by an ordinance that defines “owner” to include lien holders or those in control of the property. Such ordinances exist in Buffalo, New York, Chula Vista, California, and Cleveland, Ohio.

Partner with federal prosecutors to pursue civil asset forfeiture

The U.S. Attorney’s Office in Tulsa, Oklahoma, seized nine properties and gave them to non-profit developers. The federal government does not have to take control of a property until the civil forfeiture action is complete. The state has to take control immediately.

Prosecute predatory/fraudulent lending

Consider partnering with city attorneys/district attorneys/U.S. attorneys to prosecute predatory/fraudulent lending. Baltimore was concerned with disproportionately high rates of foreclosures in minority communities and filed suit against mortgage lenders under the federal Fair Housing Act on the basis that Baltimore prohibits housing or mortgage lending based on race, religion, gender, or sexual orientation.

Use inspection warrants

Create code, as in Texas, allowing inspectors to obtain a warrant for entry to conduct fire, health, and code inspections.

Ensure that commercial building inspectors are properly licensed

Inspecting buildings requires specific training. Jurisdictions may need to train code inspectors and have them obtain a commercial building inspector license. Code inspectors can contact the International Code Council for classes and testing (www.iccsafe.org).

Create a ‘Top 10’ list to focus resources on the worst properties

In Indianapolis, the Mayor’s Office created a Top 25 list, modeled after a criminal most wanted list, to target the worst properties in the city for rapid and comprehensive remediation. Properties on the list, which is continually updated as properties are ameliorated, undergo an aggressive nuisance abatement process that can include repair orders, receivership, land banking, and demolition.

Triage problem properties

Indianapolis has developed a rapid triage process by which police officers and Fire Department personnel enter information about problem properties into portable laptop computers, and the data is transmitted to the Marion County Health and Hospital Corporation, which is responsible for building code enforcement. The Health and Hospital Corporation then prioritizes each complaint; for example, a property that had experienced a fire receives top priority, which means that the Health and Hospitals Corporation will send an investigator within 24 hours; the presence of high weeds or people loitering on a vacant property generates an inspection within 48 hours. The lowest priorities receive on-site inspection within 72 hours.

Seek authority to address vacant, unsecured structures

Establish or enforce statutes, like those in Texas, that allow jurisdictions to require vacating, securing, repairing, removing, or demolishing a building that is—regardless of its structural condition—unoccupied and unsecured.

Post the housing court calendar on the internet

The Baltimore housing department posts information about vacant properties, including Housing Court calendars, on the internet. Officials have found that neighborhood stakeholders use the internet to actively track cases and report non-compliance with court orders, giving the housing department an extra set of eyes and ears to enforce compliance.

REUSE

Consider demolition

Demolition is a common tool for managing properties that are so dilapidated or unsafe that they don't attract viable investors. Buffalo, New York, is administering what it calls the "5 in 5" Demolition Plan. The initiative, launched in 2007, calls for bringing the vacancy rate in Buffalo down to five percent by demolishing over 5,000 properties in five years.

Coordinate demolition with economic redevelopment

The key to successful demolition is coordinating it with economic redevelopment, which means not only tearing down dangerous structures but doing so in a way that makes the property suitable for reinvestment.

Create a demolition strategy

Philadelphia's demolition strategy, which officials use to make informed demolition decisions, includes information about: condition of structure, level of vacancy, nearby anchors (social, cultural, and economic), ownership characteristics, parcel characteristics, proximity to elementary school, neighborhood home sales, household turnover rates, market quality, and proximity to industrial land uses. Questions to consider: How much does your jurisdiction spend on demolition costs per year? Does your jurisdiction have a strategic spending plan?

Create a land bank

Many cities have created land banks through which local governments acquire property and then map strategies for reuse—typically either selling the land

to private developers or deploying it for a public purpose. In Dallas, the Urban Land Bank Demonstration Program seeks to foster the creation of affordable single-family homes on vacant tax-delinquent land.

Create a Weed and Seed program

The U.S. Department of Justice-sponsored Weed and Seed program (www.ojp.gov/ccdo/ws/welcome.html) promotes a multi-agency strategy (including partnerships between police and prosecutors) to reduce crime and promote social and economic revitalization. Dallas has four Weed and Seed sites, including one launched in 2003 in West Dallas, where 40 to 50 percent of the lots are vacant.

Maintain a web site listing vacant property

Columbus, Ohio uses the web to publicize properties available for acquisition.

Draft a Vacant Structure Report

A Vacant Structure Report provides an inventory of existing structures that are currently vacant and suitable for redevelopment/re-use. In State College, Pennsylvania, the Vacant Structure Report includes a picture, tax parcel number, address, square footage, number of parking spaces, zoning, usage, water/sewage capability, and contact person.

Target key neighborhoods for investment

Dallas created the Neighborhood Investment Program in 2003 to funnel city resources to neighborhoods with high concentrations of vacant, tax-delinquent residential lots, structural violations, and streets needing repair. To qualify, neighborhoods need a strong foundation on which to build—specifically, at least 50 percent of residences must be owner occupied. From 2003 to 2005, five neighborhoods received increased police patrols and code enforcement, a full-time community prosecutor, and street, sidewalk, and park improvements. In addition, the Dallas Housing Department has targeted two streets within the Neighborhood Investment Program for massive redevelopment. For both streets, the city has designed a master plan that includes new sidewalks, pedestrian lighting and landscaping as well as new housing and mixed-use development.

Resell tax foreclosed property for less than market value

Under Texas Prop. Code Sec. 34.051, a municipality is authorized to resell tax foreclosed property for less than the market value specified in the judgment of foreclosure or less than the total amount of judge-

ments against the property if consent to the conveyance is evidenced by an interlocal agreement between the municipality and each taxing unit that is a party to the judgment. Note that the interlocal agreement must comply with certain requirements.

❑ Develop a “\$1 Garden Lease Program”

Vacant lots in the Columbus (Ohio) Land Bank are available for lease to community groups, adjacent property owners, businesses, and others interested in beautifying or greening their community. Past projects include community gardens, landscaped pocket parks, green space, and other projects that improve the surrounding neighborhood.

❑ Create a side-yard program

Vacant lots that are too small for redevelopment or are otherwise not developable may, under the side-yard program in Columbus, Ohio, be purchased by an adjacent property owner for a nominal price. The adjacent owner must abut the vacant lot and agree to consolidate the land into one parcel.

❑ Sell vacant lots at affordable prices

Columbus, Ohio, runs the “\$500 Vacant Lot Program” through the Columbus Land Bank. Most properties are in neighborhoods in need of significant investment. These lots are priced considerably below market value and are available to developers interested in building single-family houses for homeownership. To ensure the property is developed according to Land Bank policies, an agreement between the developer and the city is attached to the deed requiring the property to be developed in a certain manner and within a specific time period. If the developers fail to follow the agreement, the city can revert ownership back to the Land Bank. These lots are listed on the “City Property for Sale” link on the City of Columbus web site.

❑ Encourage receivership

Receivership allows private investors to bear the cost of renovating a property while also reaping a financial benefit. Through receivership, a municipality helps a third party—typically a non-profit organization but sometimes an individual experienced in rehabilitating houses—obtain a court order that gives it control over a property. The third party brings the property up to code and then sells it, recouping its investment plus profit based on a pre-determined percentage of the sales price. In Indianapolis, the vacant housing coordinator has created a list of potential receivers, all of whom have been vetted to ensure that they have the

experience and financial wherewithal to carry out successful property rehabilitations.

❑ Broaden receivership laws

Broaden receivership laws to allow for others besides non-profit organizations to serve as receivers. Actively recruit receivers such as community development corporations or individuals with a proven record of rehabilitating properties, as has been done in Baltimore, New Jersey, and Texas.

❑ Make it easier to clear municipal liens

Create judicial procedures for clearing titles to low-value properties whose owners cannot satisfy liens. This may encourage selling and buying the property. Many property owners will pay taxes but will not pay non-tax liens. Non-tax liens may be extremely high, which may prohibit sale or development.

❑ Provide special financing for property in troubled neighborhoods

In New York City, the Community Preservation Corporation, a non-profit lender established by a consortium of banks and insurance companies, focuses on acquisition, refinancing, and improvement lending for small- and medium-sized properties (which represent the majority of vacant structures in New York).

❑ Build greater capacity for community development corporations

Consider these alternatives: (1) create a single central entity to provide land assembly services to community development corporations; or (2) enhance the land assembly capacity of a small number of existing community development organizations, which would then provide services to other CDCs as well as continue to do their own assembly activities. Cleveland, Ohio, follows the first example with a program called Neighborhood Progress Inc., www.neighborhood-progress.org.

❑ Provide financial support to community development corporations

New Jersey established a new fund, the PLAN (Pre-development Loans and Acquisition for Nonprofits) Fund, to support community development organization acquisition efforts. Capitalized at \$10 million, it provides credit lines for acquisitions and land-banking efforts by CDCs with solid track records.

❑ Reach out to real estate agents

Reach out to real estate agents and encourage them to sell vacant structures. Establish a link between the

jurisdiction and real estate agents for publically owned property available for sale.

Purchase mortgages in crisis

Have community housing development organizations buy homes in foreclosure and lease them to the former owners while helping them prepare to repurchase them, as has been done in Trenton, New Jersey.

FURTHER READING

"A Full Response to an Empty House: Public Safety Strategies for Addressing Mortgage Fraud and the Foreclosure Crisis,"
Center for Court Innovation, 2010
available at:

http://courtinnovation.org/_uploads/documents/foreclosure_crisis.pdf

FOR MORE INFORMATION

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