How Can Municipalities Confront the Vacant Property Challenge?

A Toolkit

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Business and Professional People for the Public Interest

Chicago Metropolitan Agency for Planning

Metropolitan Mayors Caucus

Business and Professional People for the Public Interest
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The Challenge

We are struggling through the worst foreclosure crisis since the Great Depression. Foreclosure is devastating for families who lose their homes. It is also devastating for communities. As the number of foreclosures in a community grows, block upon block is dotted with vacant properties, some of which may sit empty for months or years.

The severity of the challenge varies from neighborhood to neighborhood, but few are unaffected. In some communities, a few vacant properties with overgrown lawns and an accumulation of trash cause problems for neighbors. In others, more troubled buildings attract scavengers, squatters, and gangs, and lead to an increase in fires and crime. And in some communities with many foreclosed properties, the crisis threatens to doom the entire neighborhood to a cycle of disinvestment and decay. A cluster of vacant properties can destabilize a block. A cluster of troubled blocks can destabilize a neighborhood.

In almost every community, the foreclosure crisis is draining government resources and the costs are substantial. A Harvard University study reported that local governments spend between $5,000 and $34,000 to maintain and secure a single vacant property. The challenge is multiplied because the foreclosure crisis hasn't just driven up the need for local government services, it has also driven down property values and reduced the number of homes paying property taxes. As a result, it has significantly reduced the resources governments have to address the challenge.

This challenge is not going away. Illinois has one of the highest rates of foreclosures per homeowner in the country. Illinois communities will likely be living with the consequences of the foreclosure crisis and the vacant property problem it has created for at least the next decade.

The Response

But municipalities are rising to the challenge. Across the country, they are developing innovative programs to reduce the negative impact of vacant properties, stabilize communities, and promote healthy, vibrant neighborhoods.

Drawing on some of the best programs in Illinois and around the country, this guidebook provides detailed information about nine key tools. It will help you to put these tools into use in your own community.

Using This Toolkit

At the outset, municipal staff should meet to discuss the local vacant property challenge. They will need to determine whether current tools are sufficient to address the challenge, and identify the biggest gaps. They should work to establish clear goals and priorities, like stabilizing a particular neighborhood or addressing a particular problem associated with vacant property. Then they can then use this guide to identify the tools that will best further those goals and priorities. Because each municipality faces a unique set of circumstances and challenges, each will want to pick and choose which tools will be most useful.

So with at least nine tools to choose from, how does a municipality know where to begin? Though every community will have different needs and goals, we believe that most municipalities with foreclosure problems would benefit from developing programs that include most or all of the following components:

- A vacant property early warning database, which can help municipalities be proactive in identifying problem properties and neighborhoods, coordinate action among municipal departments, and engage and involve stakeholders in the community (Tool 1);

- Procedures for identifying and contacting the parties responsible for maintaining and securing a vacant property, which will help ensure that owners and financial institutions take greater responsibility for vacant properties in which they have an interest (Tool 2);

- A comprehensive strategy for minimizing the negative impact of vacant properties on the surrounding neighborhood, including code enforcement, nuisance abatement, and vacant property registration requirements (Tools 3, 4 and 5); and

- Programs to recover the costs of property maintenance (Tool 6).

The final three tools describe more aggressive approaches for municipalities facing a substantial vacant property challenge, including severe problems in one or more individual buildings.

Many of the tools described here come into play only after a property has become vacant. But the best outcome is to keep properties from becoming vacant in the first place. A vacant property program should be well coordinated with a vacancy prevention program, and some of the tools described here can be used to prevent properties from becoming vacant. For example, early warning databases (Tool 1) and collaboration (Tool 3) can help municipalities identify properties and neighborhoods atrisk of vacancy, so they can provide home-owners and renters with information and services that might prevent a property from becoming vacant.

Once a municipality begins to design and implement the programs and policies suggested here, they will likely need even more information. They may need to know more about specific data sources, ordinance provisions, model programs, or other key details. These can be obtained by contacting BPI directly or by browsing the more detailed and up-to-date information posted at **http://www.bpichicago.org/Vacant-PropertyResources.php.**

Whether focusing on keeping buildings occupied or on maintaining and securing them when they are vacant, the tools presented here will help municipalities address the challenges presented by the growing foreclosure crisis and the devastation to communities it threatens to leave in its wake. Municipalities that have not yet begun to respond must start to plan now. And those that have already developed policies and programs should consider adjusting or expanding their efforts in order to meet the challenges that lie ahead.

Tool 1

An Early Warning Database

Use an early warning database to identify problem properties and at-risk neighborhoods and to facilitate collaboration.

What is it?

Too often, municipalities only find out about vacant properties after they have started to cause serious problems. An early warning database collects and organizes basic information about conditions that suggest a property is likely to become vacant. Local officials and organizations can use that information to identify at-risk properties and take action before a problem grows or gets out of control. A database can be useful for code enforcement officials, police and fire departments, community development departments, and neighborhood organizations.

A database can be as a simple as a spreadsheet that lists problem properties and indicates whether each property has one or more of the key indicators of vacancy or abandonment, such as tax delinquency, nuisance abatement actions, utility shut-offs, or foreclosure filings. It can also be expanded to include information about the neighborhood where the property is located, such as demographic data, crime statistics, and real estate market conditions. An even more comprehensive database could include information about these properties from various municipal departments. Many municipalities already collect much or all of the information in a basic database, and it is just a matter of putting that information together in one place. Even the most simple database can be used to identify problem properties and neighborhoods, guide decision making, and coordinate activity across municipal departments.

Key Benefits

Identify problem properties
A database helps a municipality identify properties that are vacant or at risk for vacancy, making it possible to intervene earlier and avoid more serious problems for the property or the neighborhood.

Identify at-risk neighborhoods
A database helps a municipality identify where problems are concentrated so it can target resources—like code enforcement—and use them most efficiently and effectively.

Coordinate municipal action
A database helps a municipality share critical information with various local government departments and other key stakeholders and use it to coordinate action and facilitate collaboration.

Key Questions

Who will use the database and for what purpose?
A database should be designed with a clear and detailed understanding of who will use it and for what purpose. This will help determine what information to include and how to organize it. Potential users of an early warning database include those with responsibilities for building inspections and code enforcement, police and fire departments, community development departments, neighborhood organizations, and developers. Databases may be created for any number of purposes, such as to identify problem properties and track actions taken with respect to such properties, and/or to target code enforcement activity or other resources.

Which properties should be included in the database?
One practical approach is to include properties that appear to be vacant or at risk of vacancy based on code inspector observations, neighbor complaints, foreclosure filings, or other indicators of vacancy. If there are certain areas within the community of particular concern, a municipality could include all properties within such areas.

What information should be included in the database?
Start by asking what information is already being collected and ought to be consolidated. Then ask whether you will need additional information in order to serve your purposes. Decisions about which information to include will be influenced by what information is routinely gathered, available on a timely basis and available in a usable form, as well as the technical and financial resources that a municipality can devote to developing and maintaining such a database.

To identify problem properties, include at least one property-specific indicator of vacancy, such as tax delinquencies, code violations, nuisance abatement actions, utility shut-offs, crime reports, or foreclosure filings.

Key Questions

Such information can be aggregated into larger geographic areas (e.g., blocks, census tracts, neighborhoods) to help identify patterns and trends and determine how and where to target resources. For example, municipalities may wish to determine the number of foreclosure initiations on a particular block or within a particular census tract. Area-level information, such as demographic data, crime statistics and real estate market trends can also be very useful in identifying problem neighborhoods and informing neighborhood planning and program development. To identify problem neighborhoods or determine how and where to target what resources, include area-level information, such as population and demographic data, crime statistics, vacancy rates, and real estate market trends.

Where can municipalities get the data for their database?

Various municipal departments may already collect much of the information that is typically used in an early warning database. For example, the buildings department may keep information on code violations and nuisance abatement actions; the public works department may have information on water shut-offs; and the finance department or law department may track municipal liens. Some municipalities subscribe to a database service for foreclosure and other information. Many routinely check community newspapers for legal notices of sale. Under a recently enacted state law, Illinois municipalities will now receive notices of foreclosure initiation and completion of foreclosure. Other information is collected by county government. For example, the county treasurer's office typically maintains information on tax delinquencies.

How should the database be organized?

Properties in the database should be coded by both address and Property Identification Number (PIN). This will make it easiest to find all the relevant information about a specific property. PIN numbers are available from the county assessor. Some databases are organized so that they can be used to generate information in a variety of ways—such as lists, maps and tables—that will aid municipalities in analyzing the data so that it can be used to make decisions. To identify emerging patterns and problems most effectively, the database should be designed so that information can be sorted geographically, for example, by including a field for a geographic indicator, such as census tract, ward or neighborhood.

Best Practices

Determine which vacancy indicators to include in the database.
While databases often include a number of key indicators, practical considerations may limit the number that a municipality may include. Three indicators that appear to be highly predictive of current or impending vacancy are property tax delinquencies, water shut-offs, and foreclosure initiations.

Ensure that data is updated regularly.
A database is only useful when the information is up to date and reflects the current status of the property. Once a property is in the database, there should be a mechanism in place for ensuring that key information, such as the status of code violations, enforcement actions, and foreclosure proceedings, is updated on a timely basis.

Analyze property data in the context of larger geographic areas.
While a database can be useful for identifying and tracking problem properties, it can be especially valuable when parcel-level information is aggregated to identify patterns on streets or blocks or within census tracts or neighborhoods. This can provide valuable insight for purposes of planning, program development and targeting resources.

Share data with all relevant parties.
To maximize the benefits of an early warning database, municipalities should ensure that data can be easily accessed by all of the users for whom it was designed.

Tool 2

Identifying a Party Responsible for Property Maintenance

Identify the right person to contact at a financial institution to ensure that vacant properties are maintained and secured when a traditional property owner cannot be found.

What is it?

More and more property owners are abandoning their homes before a foreclosure is completed and sometimes even before it has begun. When a property is vacant and the owner can't easily be found, a municipality may need to contact a financial institution that has an interest in the property to ensure that the property is maintained and secured. That can be difficult and very time-consuming. These financial institutions are often huge, and, if the mortgage is securitized, there may be many layers of ownership, which makes it even harder for local officials to identify who is responsible for maintaining and securing a property.

But there are relatively simple ways that a municipality can identify both the institution responsible for maintaining and securing the property and the individual within that institution responsible for getting the job done. For example, a national database maintained by the mortgage industry includes essential information about many at-risk properties. And a new state law requires that municipalities receive copies of key court documents, which include some useful contact information. Municipalities should use sources like these to develop procedures for identifying financial institutions with an interest in the property and for contacting the responsible party within that institution.

Key Benefits

Improve property maintenance
By quickly identifying the right person at the right institution, municipalities can ensure that vacant properties get cleaned up before problems grow. Many financial institutions are responsive when municipalities contact them to raise maintenance or security concerns about properties in their portfolio. For example, many financial institutions contract with property preservation companies, which quickly address problems when brought to their attention.

Aid in enforcement
Sending legal notices and other information to the right person at the right institution can ensure that local nuisance abatement programs and vacant property ordinances work more effectively.

Streamline the process
Local officials can develop good working relationships with the right contact people at financial institutions, which can help to get issues resolved more quickly and efficiently.

Key Questions

How can a municipality determine which entity is responsible for property maintenance?
There are three basic ways:

- Examine publicly available documents, such as deeds and tax records, which should name the owner and may include some contact information. In many cases, however, this information will be out of date or will not provide accurate contact information.

- Use the Mortgage Electronic Registration System (MERS), a database created and maintained by the real estate finance industry, which includes detailed information about many mortgaged properties. However, the percentage of properties included in the MERS database varies from jurisdiction to jurisdiction, and in some cases, the MERS listing does not contain the information a municipality may need.

- Use the notice of foreclosure initiation (*Lis Pendens*) filed with the court to determine the responsible entity. Under a new Illinois law passed in the fall of 2009, municipalities will receive a copy of the *Lis Pendens* when a foreclosure is initiated. Similarly, if a foreclosure sale has been completed, municipalities can use the notice of confirmation of foreclosure sale to determine which entity to contact. Under the same state law, municipalities will receive a copy of the notice of confirmation of sale. (See the discussion at the end of this Tool for more information about the new Illinois law.)

Key Questions

How can a municipality find a responsible individual within a large entity? Once a municipality has identified the financial institution, the best way to find the person who is most likely to be responsive is to use a list of "property preservation contacts" maintained by the Mortgage Bankers Association. The list includes the name, e-mail address and phone number for key contacts at many of the major financial institutions and servicers. The list is available online at **http://www.mbaa.org/files/PropertyPreservationList.pdf**. In addition, MERS often provides property preservation contact information for properties registered on its system. When a municipality cannot identify the individual from these sources, a municipality should contact the financial institution's loss mitigation or foreclosure department.

After a foreclosure action has been initiated, a municipality can track down the responsible party using information included in the *Lis Pendens* (see above). The *Lis Pendens* contains the name of the attorney who is representing the entity that initiated the foreclosure. A municipality can contact the attorney and get up-to-date information about the party responsible for maintaining the property.

After a foreclosure sale has taken place, a municipality will receive a notice of sale, which will include relevant property preservation contact information for the new owner of the property.

Best Practices

Be persistent.
Some municipalities report that when they contact a financial institution about a maintenance or security issue, the institution initially denies responsibility. When this happens, it is important to explain why the municipality thinks the particular financial institution is responsible. If necessary, ask to be directed to someone else within the institution who may know more. If the municipality learns that ownership has been transferred, it will need to contact the financial institution that now has the interest in the property.

Maintain contact with the financial industry.
One way to improve a municipality's chances of identifying a vacant property is to maintain open lines of communication with the financial industry. Municipalities can make it easier for a financial institution to contact the municipality when it has a problem with a vacant property by adding themselves to the main financial industry list of contacts within municipalities maintained by Safeguard Properties at **http://www.safeguardproperties.com/content/view/1133/233/.**

New Tool: Illinois Law Now Requires that Municipalities Receive Notice of Foreclosure

Public Act 96-0856, passed in the fall 2009 Illinois legislative session, amends 735 ILCS 5/15-1503 and 735 ILCS 5/15-1508 to include provisions that give municipalities additional tools to identify parties responsible for property maintenance.

How does the Act help municipalities identify a party responsible for property maintenance?

The Act requires that municipalities receive notice of foreclosure initiation (*Lis Pendens*) and confirmation of a foreclosure sale, along with important contact information for owners of potentially vacant property, for every residential property within their borders. A *Lis Pendens* includes the common address of the property, the name and contact information of the attorney representing the foreclosing entity and the name of the foreclosing entity. The notice of confirmation of sale includes the name, address and telephone number of the new owner of the property.

What do municipalities need to do to receive the information required by the Act?

There are two things municipalities need to do:

1. The Act requires municipalities to publish on their web-site and/or post in their main offices a single address to which notices can be sent. Municipalities should do this as quickly as possible so that they can begin receiving this important information. In the event a municipality does not specify an address for notices to be sent, the Act requires that notices be sent to the municipal clerk.

2. Municipalities should establish a system for organizing this information so that it can be retrieved and used effectively when a municipality needs to contact a responsible party. Municipalities will want to track the address of the property, the date of foreclosure initiation, the date of confirmation of sale, the foreclosing attorney and contact information, the foreclosing entity and the new owner of the property upon confirmation of sale along with related contact information. Municipalities that have put in place an early warning database (see Tool 1) or a vacant building registry (see Tool 4) should input the information into the database or registry.

Tool 3 Collaboration

Collaborate among municipal departments and between the municipality and the broader community, in order to maximize resources and reduce the impact of vacant properties.

What is it?

Code enforcement departments often have primary responsibility for ensuring that vacant properties are maintained, but other municipal departments often play significant roles as well. Municipalities can bring these departments together, along with community stakeholders, to better address vacant property problems. For example, police and fire departments, the public works department, and municipal attorneys usually have information about troubled properties. This data should be widely shared to ensure that municipalities set priorities based on the best available information. Departments can also collaborate to carry out certain tasks more efficiently, like conducting joint inspections. Similarly, some issues, like tax delinquency, may be best addressed by municipal officials working closely with county officials. When at-risk neighborhoods straddle municipal boundaries, it may even be useful to collaborate across jurisdictional lines.

Key Benefits

Identify problem properties
Many different local government departments and community actors have valuable information about troubled properties. If there is a good process to share that information, the municipality will be able to make better decisions about problems and priorities.

Coordinate activities
Since maintaining vacant properties and stabilizing neighborhoods typically involve several municipal departments, their work should be well coordinated to best achieve the municipality's goals.

Develop innovative solutions
Maintaining vacant properties and stabilizing neighborhoods is challenging and complicated. Bringing together relevant departments and, when appropriate, community groups, can produce more effective and innovative solutions.

Key Questions

What types of collaboration are possible among municipal departments?
There are many ways municipal departments can collaborate to address vacant property issues. At a minimum, departments can collaborate to exchange information about problem properties and neighborhoods. Departments could also jointly determine priorities for addressing problem properties and/or neighborhoods. Other forms of collaboration include conducting joint inspections and creating an inter-departmental task force to focus on a specific charge.

Which municipal departments should collaborate on addressing vacant property issues?
While code enforcement departments are central to dealing with vacant properties, they can collaborate with any department that has responsibilities that might relate to vacant properties, including community development, economic development, housing, police, fire, public works, and municipal attorneys.

Which groups outside local government should municipalities collaborate with?
Municipalities can partner with community groups, developers, and property owners. When at-risk neighborhoods straddle municipal boundaries, it may be useful to collaborate with neighboring municipalities. And when dealing with county issues, such as tax delinquency, it may be valuable for municipalities to work closely with county officials.

Best Practices

Collaborate in any way possible.
Even small scale, informal collaboration can produce significant results. For example, informal information exchanges between heads of departments, between community groups and department heads or staff, or between staff members from different departments have been very effective.

Set goals where possible.
Goals should be established at the beginning of most formal collaborations so that each party knows what it is getting out of the arrangement and so that there is common understanding about the role each group will play.

Share information.
Productive collaboration relies on a steady flow of information that allows each group to pursue the core aspects of its job more effectively.

San Diego, California: A Comprehensive Approach to the Vacant Property Problem Premised on Collaboration

In the early 1990s, San Diego, California recognized it had a growing vacant property problem. In response, the city set up a task force to address the issue. The task force created a comprehensive program that relied on carrots, such as assistance to property owners renovating vacant buildings, and sticks, such as a more aggressive vacant property ordinance, to address the vacant property problem. What made San Diego's program so successful over the next decade, however, was the unique role collaboration among various city and community actors played in addressing the problem.

To promote such collaboration, the city hired a vacant-properties coordinator within the code compliance division. The vacant-properties coordinator brings together individuals from various municipal agencies to discuss the vacant property challenge. This collaboration among municipal agencies reinforced the success of the municipal attorney's special Code Enforcement Unit, which assists code enforcement officers in locating owners and provides advice about available legal options to address vacant property.

In addition to working with municipal departments, the vacant-properties coordinator communicates regularly with community groups, the real estate industry, and financial institutions to help enlist their support in identifying and maintaining vacant property. The vacant-properties coordinator has allowed San Diego to tackle its vacant property problem by bringing all stakeholders to the table and coordinating their actions.

Tool 4

A Vacant Building Registry

Use a vacant building registry to motivate owners to maintain vacant buildings and return them to productive use, identify the party responsible for problem properties, monitor vacant properties, and defray costs of providing related municipal services.

What is it?

A vacant building registry requires owners (and, in some cases, financial institutions with an interest in a property) to register vacant buildings with a municipality. Effective registry programs also require registrants to pay a fee at regular intervals, which defrays the additional costs of providing municipal services associated with such properties. Fees also create a strong financial incentive for owners to secure and maintain vacant property and return it to productive use. Effective programs require registrants to provide 24-hour contact information, which makes it easier for a municipality to contact the owner or the owner's agent if there is a problem with the property. Some registry programs go further and include provisions that compel registrants to maintain, secure and insure vacant properties, and prepare and implement plans to return them to productive use. Good registry programs are implemented in conjunction with strong code enforcement and often include steep fines for noncompliance.

Key Benefits

Motivate owners
Code enforcement alone isn't always enough to motivate owners to maintain vacant properties. Vacant building registries usually require payment of fees, and these added costs create an additional incentive for owners to maintain their properties and return them to productive use.

Identify responsible parties to contact if there is a problem
Municipalities can use the information collected in the registry to contact the party responsible for a property if there is a problem.

Defray costs
Revenue generated from registration fees helps cover costs incurred by municipalities in monitoring vacant properties and enforcing vacant property requirements.

Key Questions

What parties should be subject to registration requirements?
All registration programs require owners to participate. Since the foreclosure crisis has created more and more situations in which the owner cannot be found and is unlikely ever to be found, some communities, such as Boston, Massachusetts, and Chula Vista, California, require financial institutions with an interest in the property to register and maintain vacant properties.

What properties should be subject to registration requirements?
Municipalities must establish clear rules about what constitutes a "vacant" property. The definition can be based on whether and how long the property has been unoccupied, the physical attributes of the building, or some combination. In the wake of the foreclosure crisis, some communities apply the registration requirement to properties for which foreclosure has been initiated, regardless of whether the property is occupied.

How should the registration fee be structured?
The requirement to pay a registration fee, and to pay renewal fees at regular intervals, are critical factors in motivating owners to take action with respect to their vacant properties. The fee can be structured in a variety of ways to encourage owners to respond. For example, Burlington, Vermont has a flat fee, but it must be renewed quarterly. This creates an incentive to return the property as quickly as possible to productive use. Wilmington, Delaware, uses a progressive fee structure under which the fee increases for each year the property has been vacant. This creates a stronger incentive every year to return the property to productive use. As a further incentive for owners, some municipalities allow exceptions or waivers. For example, both Wilmington and Burlington offer fee waivers under defined circumstances,

such as if the owner is actively engaged in rehabbing the building or marketing it for sale. In Illinois, home rule municipalities have the clear authority to establish fees, but all municipalities should discuss appropriate fees with their municipal attorneys.

What requirements should be imposed on registrants?
In order to hold owners accountable and compel them to maintain and secure vacant properties, effective ordinances couple registration requirements with other obligations. Effective registration programs often include some combination of requirements to (1) identify, provide, and update contact information for responsible parties; (2) secure and maintain the property in accordance with local requirements and ensure periodic property inspections; (3) maintain a minimum level of liability insurance; and (4) develop a detailed plan for maintaining, rehabbing, reoccupying, or demolishing the building. The ordinance must also be clear about how much time owners have to take each of the required actions before penalties will be imposed.

What are the consequences of non-compliance?
Financial penalties provide an additional incentive for compliance and help to cover costs incurred by the community in the event of noncompliance. Such penalties can be in addition to those already imposed through code enforcement or nuisance abatement programs. Failure to register or to comply with any of the requirements imposed on registrants is typically subject to a fine. The City of Chicago's ordinance provides for a fine of not less than $500 and not more than $1,000 per day for non-compliance with any of the vacant property requirements, and each violation is a separate offense. Because some owners will not pay the fees and fines, municipalities should obtain judgment liens for unpaid registration fees and fines, including through administrative adjudication in those home rule communities which have such a process in place for collecting fines. This will increase the likelihood that a municipality will ultimately receive the money to which it is entitled. Another approach to collecting fees and fines, adopted by some home rule communities, such as Evanston and Mount Prospect, is to refuse to issue transfer stamps for the sale of vacant buildings until fees and fines have been paid.

Best Practices

Structure fees to motivate owners to take appropriate action.
Registration should be designed to prompt owners to get their properties back into productive use as quickly as possible. Fines for noncompliance with registration and maintenance requirements create an additional incentive. Specifying circumstances under which fees can be waived or refunded can provide further encouragement to owners and registrants to take appropriate action. Communities where the underlying housing market is basically sound will be better able to motivate owners to take necessary action.

Enforce the program in tandem with code enforcement.
Municipalities must identify properties that should be registered and ensure that the responsible parties comply with registration and other vacant property requirements. When there is a violation, a violation notice should be issued as quickly as possible. Serving notice on all parties with an interest in the property increases the chance that someone will respond. There should be timely follow up if the violation is not corrected, including referral for prosecution, imposition of fines and enforcement of judgments. Some municipalities have found that when the traditional owner cannot be found, letting the banks know the specifics of the building's condition, including by presenting pictures of the property, often results in a quicker response.

Make financial institutions with an interest in the property responsible when the traditional owner is no longer willing to maintain the property.
Communities like Chula Vista, California and Boston, Massachusetts are doing this and believe it is a very important tool for addressing the increase in vacancies due to the foreclosure crisis. It is important to impose responsibilities on such institutions early in the foreclosure process to prevent negative impacts on the surrounding neighborhood.

Make the requirement to register automatic when a property meets the defined criteria for inclusion in the registry.
Making registration an affirmative responsibility enables the municipality to issue a violation notice if an owner fails to register, giving it added leverage in stimulating registration.

Require registrants to develop a detailed plan to transition the property to productive use.
Such plans are a useful way of getting owners to think concretely and realistically about appropriate steps that need to be taken to identify and address problems with their properties. Developing a plan can be the beginning of a process of constructive engagement between the municipality and a motivated owner that can lead to an appropriate resolution with respect to the property.

Tool 5 Targeting Resources

Maximize limited resources for addressing vacant property issues.

What is it?

Targeting resources means creating a process to systematically identify priorities and goals for dealing with vacant properties and developing and implementing plans to address these priorities and goals. It doesn't require sophisticated data collection and analysis. Targeting is usually characterized by sustained, reflective deliberations about how best to allocate resources, as opposed to allocating resources immediately in response to complaints from community members. For example, a municipality might decide that stabilizing certain neighborhoods is a top priority, and then develop a plan to use either a single resource, such as code enforcement, or a variety of resources, including infrastructure investment, property acquisition, or loans or grants for property rehabilitation, to best address those priorities and goals.

Though resources are often targeted based on geography, municipalities can target based on a variety of factors that indicate whether particular properties or groups of properties pose a risk to the community. Different resources may be used differently within targeted areas, because a municipality may have different needs and priorities in different neighborhoods or for different types of properties. Targeting resources does not mean using all of a municipality's resources exclusively in targeted areas or for targeted properties and neglecting other areas or properties. But it does mean using limited resources in a way that will maximize their effectiveness.

Key Benefits

Maximize resources and effectiveness

While municipalities always make hard choices about how best to allocate limited resources, those challenges are even greater now, as many municipalities must draw on a shrinking tax base to deal with growing problems. Municipalities can maximize effectiveness by thinking systematically about how best to target those limited resources

Key Questions

What information can help a municipality determine how best to target resources?

Targeting resources should be a careful, collaborative, and deliberative process, but it does not necessarily require sophisticated data collection and analysis. Decisions about how to target resources can be made on the basis of whatever information municipal officials have gathered in their day-to-day duties. Getting the best information requires bringing together municipal officials from a number of different departments. Such information can be supplemented by property-level and area-level data maintained by various municipal departments or in an early warning database, as well as with area-level information that may be available from outside sources. For example, code enforcement officials may have strong instincts about which blocks or neighborhoods are most in need of coordinated municipal action. These instincts can be supplemented with information about foreclosure filings on that block, along with data from an outside source on crime and real estate market activity.

How can a municipality target resources by geographic area?

Municipalities sometimes decide to focus special attention on one or more defined geographic areas. They can use familiar divisions, such as census tracts, wards or neighborhoods, or any other division that reflects local concerns and priorities. An area could be as large as half of the municipality or as small as half of a block. Once the municipality is broken into different areas, a municipality can use available information, including the crime rate, the number of vacant property complaints, the existence of viable retail, the proximity of public institutions and transportation, and whether or not existing resources are being devoted to an area. With these factors in mind, a municipality will then be able to decide where to target its resources based upon its priorities. For example, one municipality might target resources to areas with low-need and many inherent strengths in order to prevent vacant properties from jeopardizing the stability of a neighborhood. Another municipality might target resources to areas on the brink of decline in order to prevent further destabilization of those neighborhoods. Still other municipalities might focus on communities with the greatest need even if they have relatively little strength in an effort to begin improving the area.

Key Questions

How can a municipality target resources according to the risk vacant property poses to the community?

Municipalities can choose to target resources to particular groups of vacant properties based upon how great a threat those properties present to the community. In order to target resources to any group of properties, a municipality must have a system for classifying individual properties according to indictors of greater risk. For example, a municipality may decide to target its code enforcement effort on properties that have one or more risk factors, such as delinquent taxes or initiation of foreclosure. Or a municipality may determine that a particular type of vacant property, such as multi-family properties, poses a significant threat, and therefore target resources on those properties. A municipality that has an early warning database will have a ready source of property-specific information that can inform its decisions about the most effective way to target resources.

Best Practices

Target municipal resources systematically.

Municipalities should think systematically about how best to use limited resources to tackle the vacant property problem. This means making decisions using a reflective process based upon data and experience, not necessarily or solely in response to complaints from the community.

Combine resources to meet goals.

Once municipalities have identified key goals, they should consider all the resources that can be used to further those goals and be sure that those resources are being targeted and used in a complementary way. For example, if a municipality chooses to target code enforcement in some neighborhoods, it will likely accomplish even more if, in addition to code enforcement, those neighborhoods receive additional police patrols and infrastructure investment.

Consider all available information to target resources.

Concrete information gathered from both formal and informal sources will dramatically improve resource targeting. Anecdotal evidence combined with property-specific and area-level information will help municipalities target specific areas or particular properties. Such information can also help municipalities develop their property maintenance objectives before they make decisions about how to target municipal resources.

Richmond, Virginia: Neighborhoods in Bloom

In the late 1990s, despite an influx of federal funding meant to revitalize communities, a number of Richmond Virginia's neighborhoods were being consumed by blight and crime. For years, the city had received federal Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) funds and spread the money throughout itstwenty neighborhoods. Although the funds helped individual blocks and homes, they did not help to revitalize whole neighborhoods. In an attempt to do more to stabilize and strengthen the communities most in need, in 1999 the city launched a program called Neighborhoods in Bloom, in which it targeted small areas within six of the twenty neighborhoods. These smaller areas, each encompassing about six to eight blocks, would receive the bulk of Richmond's CDBG and HOME funds.

To determine which neighborhoods would receive the funds, the city first created a planning task force consisting of the city manager, representatives of the city's code enforcement division and members of other city departments. The task force identified a number of indicators about the condition of the city's neighborhoods and their development potential, including poverty and crime rates and the number of vacant properties and owner-occupied housing. The staff then developed spreadsheets that used administrative data on those indicators to place each city neighborhood in four categories: redevelop, revitalize, stabilize or protect. The task force recommended that only neighborhoods in the redevelop or revitalize categories—which had the most vacant properties and the highest crime rates—would receive the funds. Representatives of the city's civic associations then toured all the neighborhoods that were being considered for targeting. Six specific neighborhoods were ultimately chosen and approved by the city council based on the task force and civic association input.

Once the neighborhoods were selected, the city and local community development corporations created a two-year plan and budget for each neighborhood that identified properties to be acquired, rehabilitated or demolished. After the first five years of the program, average home sale prices rose 9.9 percent per year faster in the target areas than in the city as a whole. As the program expanded to more blocks in the six neighborhoods, code enforcement officers evaluated code compliance of all properties within the larger area. Two years into the program, a total of 1,418 inspections had been conducted, 1,122 violations had been issued, and 810 violations had been resolved. From 2006 to 2008, 3,105 properties were found to be in violation and 3,093 properties were brought up to compliance.

Tool 6

Recovering Costs of Property Maintenance

Maintain vacant properties and recover a greater share of the costs they impose.

What is it?

Ideally, property owners will maintain and secure vacant properties. But when an owner or other responsible party can't be found or is unable or unwilling to maintain a vacant property, municipalities may take on the burden in order to prevent harm to the surrounding neighborhood. Municipalities have long had the power to engage in such nuisance abatement activities, but they have had a hard time recovering the costs they incur. When municipalities have worked to address nuisances, they have been authorized to place municipal liens on properties to recover the costs of some maintenance activities, like picking up garbage and mowing lawns. But until recently, these liens would be paid off in a foreclosure sale only after other encumbrances, including mortgages, had been satisfied. Now, when the value of a foreclosed property is often less than the value of the mortgage, these municipal liens rarely get paid off.

A new Illinois law partially addresses this problem by creating an additional kind of municipal lien, which allows municipalities to perform certain activities—such as picking up garbage, mowing the lawn, securing the windows and doors, and putting up a fence to keep intruders out—and to get paid for this work. As long as the municipality follows the procedures spelled out in the law, like first trying to locate the owner and then carefully documenting maintenance and security expenses, it can get liens that are given special priority and therefore are much more likely to be paid off in a foreclosure sale.

Key Benefits

Finance property maintenance

Municipalities may be able to recover a substantial portion of the costs they incur to maintain vacant properties. These costs can be quite substantial and are especially burdensome at a time when municipalities have declining resources but increasing demands for services.

Key Questions

What types of property maintenance can a municipality perform and receive a lien?

The Illinois Municipal Code now provides two different ways for municipalities to get liens to recover the costs of nuisance abatement activities. The Code continues to authorize municipalities to obtain non-priority liens for specified maintenance activities, including cutting weeds and grass; removing garbage, debris, and graffiti; exterminating pests; and removing infected trees. The new law makes it possible to obtain priority liens for those same activities, and for securing and enclosing the exterior of an abandoned residential property.

What are the legal steps a municipality has to take to get a lien on a property?

To obtain a non-priority lien, a municipality must file a notice of lien with the county recorder and send a notice of the lien to the person to whom the most recent tax bill was sent. To obtain a priority lien under Illinois' new law, a municipality must follow the same steps required for non-priority liens, as well as new procedures that include making a good faith attempt to contact the owner of the property before performing maintenance and documenting certain steps taken during the process of performing maintenance.

How can a municipality recover its municipal liens?

Municipal liens are most commonly identified in the ordinary course of the title search process before the property is sold. Then, as the property is being transferred, money is taken out of the proceeds of sale to pay off the liens. Municipalities that obtain priority liens under the new law have a greater chance of recovering them in a foreclosure sale. If for some reason municipal liens are not paid at the point of sale, some municipalities attempt to collect them before permitting occupancy.

Best Practices

Expect to recover only the costs of authorized activities.
Municipalities should expect to recover costs only for those maintenance activities authorized by state law. State law precludes municipalities from placing a lien on a property for the costs of activities that are not authorized by statute.

Record all liens.
Municipalities should record all valid liens, no matter how small. The value of liens can add up over time. Having a lien on a property, no matter how small, also helps guarantee a municipality is informed about what is going on with a property.

Record all liens in a timely fashion.
While municipalities may have up to a year to record liens, it is important to record liens often enough that the municipality does not miss an opportunity to collect on the lien when a property is sold.

Notify all parties with an interest in the property.
Providing notice to all parties guarantees that a lien is enforceable and gives all properties with an interest in the property the opportunity to pay off the lien as soon as possible.

New Tool: Illinois Law Now Enables Municipalities to More Easily Recover Municipal Liens for Vacant Property Maintenance

Public Act 96-0856, passed in the fall 2009 Illinois legislative session, amends 65 ILCS 5/11-20 to include provisions that help municipalities recover the costs of property maintenance.

What does the Act do to help municipalities recover the costs of property maintenance in foreclosure?

The Act gives municipalities the option of conducting maintenance activities and then obtaining municipal liens with priority over mortgages in a foreclosure sale. If a municipality receives a priority lien, it can recover the value of its lien from the proceeds of sale after the taxes are recovered but before the mortgage is recovered. This is important because if the lien is a lower prioirity than the mortgage and the value of the property is less than the value of the mortgage, the municipality's lien will be wiped out.

What types of property can municipalities perform property maintenance on and obtain a priority lien?

Municipalities may obtain a priority lien for performing property maintenance activities on abandoned residential property. An abandoned property is any type of permanent dwelling unit that has been unoccupied by a lawful occupant for at least 90 days. Municipalities may perform property maintenance on such properties until the municipality receives a notice of confirmation of foreclosure sale.

What activities does the Act authorize municipalities to do to maintain vacant properties?

A municipality may obtain a priority lien for activities previously authorized by state law, including: cutting of weeds and grass; removal of garbage, debris, and graffiti;

extermination of pests; and removal of infected trees. Under the Act, municipalities may also receive a priority lien for securing or enclosing property. Securing a property includes boarding up the property, locking windows and doors, and otherwise making the property inaccessible to the general public. Enclosing a property means surrounding the property's parcel with a fence or wall or otherwise making the parcel inaccessible to the general public.

What steps must a municipality take to comply with the Act and obtain a priority lien?

In order to obtain a priority lien for property maintenance, a municipality must take certain steps to ensure that interested parties have the ability to maintain the property themselves and to document property maintenance activities undertaken by the municipality. These steps are as follows:

- After a municipality establishes that a property has been unoccupied for 90 days, the municipality must make a good faith effort to contact the legal owner of the property identified on the recorded mortgage. If the owner cannot be contacted or if the owner does not maintain the property, the municipality may maintain the property as long as the mortgagee or servicer of the property has not provided notice to the municipality of its intent to perform the required property maintenance.

- If a municipality receives such notice from a mortgagee or servicer, the municipality must give the entity 30 days to at least initiate the required action before the municipality can perform the required property maintenance.

- If a municipality chooses to perform property maintenance and wishes to obtain a priority lien, the municipality must maintain records, including a dated statement indicating how the municipality determined that the property was abandoned, a description of the actions taken by the municipality to contact the legal owner, and a copy of the agreement with the person or entity performing the property maintenance if the municipality does not perform the maintenance itself.

Tool 7

Receivership

Ensure that someone with the necessary expertise and resources repairs or rehabilitates a vacant property.

What is it?

Receivership is a powerful but infrequently used tool for ensuring that seriously troubled properties are repaired or rehabilitated. Receivership is sometimes used as a last resort when other strategies, like traditional code enforcement, don't motivate an owner to perform necessary maintenance and repairs and a property is a danger to the community. If a property is not being properly maintained, a municipality can go to court and seek to have a receiver appointed to take care of the property. If the court appoints a receiver, this third party is authorized to act as if it owns the property. The receiver can take any step the court authorizes to repair or rehabilitate the property.

Receivers can finance the work with cash loans from banks or the municipality. In exchange, the receiver gives the lender a special certificate, which basically guarantees that it will get the full value of the loan back with interest. If the owner of the property doesn't pay back the receiver's loan with interest, the certificate becomes a lien on the property, which must be paid back before all other encumbrances on the property except taxes. This process provides the receiver with funds needed to repair the property and allows the bank or municipality financing the repairs to make a profit on its loan.

Key Benefits

Repair and rehabilitate vacant property
When other methods fail to motivate an owner to maintain a property, Illinois law can give a receiver powerful tools to ensure that troubled properties are repaired or rehabilitated.

Pay for repairs and rehabilitation
It is often difficult to get financing to repair or rehabilitate a vacant property, but Illinois law gives receivers this critical tool to finance such repair activity.

Key Questions

How does a municipality get a receiver appointed for a property?
Under Illinois law, a municipality may petition the court to have a receiver appointed for a property that violates the minimum standards of health and safety under the applicable municipal ordinances. The municipality must provide notice of the petition to the owner. At the court proceeding, the judge decides whether the circumstances warrant the appointment of a receiver. Generally, judges appoint a receiver where continuing serious violations have made the property unsafe and a danger to the community. (Illinois law also allows entities such as non-profit housing organizations or community development corporations to bring receivership actions, but the law gives more flexibility to municipalities in receivership actions.)

If a judge rules that a receiver should be appointed, who can serve as receiver?
Municipalities usually propose a specific person or organization to serve as receiver, and judges usually accept a municipality's recommendation. In Chicago's receivership program, the city designated a non-profit organization to serve as the appointed receiver for all buildings in the program.

Once appointed, how does the receiver make repairs?
Once appointed, a receiver is authorized by the court to act much like the property owner for the purpose of making necessary repairs. Receivers are empowered to obtain approvals and permits and to make repairs or enter into contracts with others to make repairs. State law allows courts to "authorize the receiver to recover the cost of. . . maintenance, repair and rehabilitation." To pay for the repairs, the receiver can get loans that will be paid back with a special mechanism called receiver's certificates. In exchange for cash, the receiver can give the lender certificates that must be repaid with interest at a rate fixed by the court. If the property owner does not pay off the receiver's certificates with interest, the certificates become a first lien on the property, and are superior to all other encumbrances, except taxes. So as long as the property is worth more than the cost of the repairs, the person who holds a receiver's certificate should be able to get paid back.

Key Questions

Can municipalities petition for a receiver if the property is in foreclosure?
A vacant property that is the target of a municipal receivership action may have a foreclosure pending on it. Receivers can be appointed by a judge in a foreclosure action at the request of a mortgage holder, as well as by a judge in a traditional housing case at the request of the municipalities. While municipalities can have receivers appointed for properties in foreclosure, a municipal receiver must be cognizant of the foreclosure proceedings and make sure that the judge overseeing the foreclosure action, if it is a different judge that the one overseeing the receivership action is aware of the actions the receiver is taking. In some circumstances, a judge overseeing the foreclosure may require a foreclosure receiver, where one exists, to take the actions required by the judge in a non-foreclosure receivership action.

What are the costs associated with receivership?
Receivership can entail significant legal costs. Lawyers are needed to file the petition to get a receiver appointed. If a receiver's certificate isn't paid off promptly, lawyers are also needed to file a lien and foreclose on that lien. Receivership can also require significant financial resources, since municipalities sometimes give receivers cash to pay for repairs in exchange for receiver's certificates. Larger receivership programs, such as Chicago's Troubled Buildings Initiative, can minimize some of these costs by taking advantage of the efficiencies generated by the scale of a program and through the savings that take place as a program improves over time.

When should municipalities use receivership?
Municipalities use receivership infrequently because it is expensive and cumbersome. Municipalities should use receivership when the benefits of property repair and rehabilitation exceed the often large costs of administering and financing receivership. As a rule of thumb, that means it makes sense to use receivership when a property is causing very serious problems, which can be remedied with a significant investment in property repair. Using receivership to remedy these problems can involve either (1) maintaining and repairing the vacant property so that it no longer causes problems to the community, or (2) maintaining and repairing a property so that either the original owner or a new purchaser will purchase back the property by paying off the receiver's certificates and occupy and maintain the property.

Best Practices

Partner with non-profits.
Municipalities often have little or no experience rehabilitating, redeveloping or managing property. But many community development corporations and other non-profits have such experience in these areas, as well as track records in creating productive relationships with and among the municipality, the court, and lenders. These non-profits are often good candidates to be appointed as receivers.

Partner with financial institutions and the courts.
To ensure that receivers have access to the financial resources they need, municipalities should develop strong relationships with financial institutions and the courts. For example, administrators of the receivership program in Malden, Massachusetts, met with judges to educate them about the receivership process and secured a line of credit from local financial institutions before the program began.

Aggressively recover costs.
In situations when a municipality gets a receiver's certificate in exchange for financing the receiver's work, the municipality must be aggressive about recovering those costs, so the money can be used to repair or rehabilitate additional troubled properties. Municipalities must put a lien on the property based on the receiver's certificate for the cost of the work performed and then devote appropriate staff time to managing these liens and foreclosing on them as soon as possible.

Chicago, Illinois: Troubled Buildings Initiative

Chicago's Troubled Buildings Initiative (TBI) is notable for the magnitude of its effort. The City of Chicago established the single-family portion of TBI in September of 2004 and contracted with Neighborhood Housing Services (NHS) to serve as the designated receiver for the targeted buildings.

Working together, the City and NHS identified problematic properties, often already slated for demolition proceedings in housing court. Once such properties were identified, the City petitioned to appoint NHS as the receiver for the properties. Relying on significant resources from the City's Community Development Block Grant funds, NHS then performed property maintenance, remediation, and/or rehabilitation. This partnership has allowed NHS to manage over 120 active receivership cases at one time.

Malden, Massachusetts: Malden Redevelopment Authority (MRA)

The Malden Redevelopment Authority (MRA), a state-created agency that oversees the City of Malden's community development, uses receivership to systematically return vacant and abandoned properties to productive use. The MRA's receivership program thrives because of the comprehensive process and strong relationships it has developed with relevant actors.
The MRA receivership program follows a refined process. First, every two weeks, members of the MRA meet with representatives of relevant city departments to discuss problematic properties in the community. Once these properties are identified, the owners of these properties are given seven days to address problems before the MRA brings a receivership petition in court. Once the court appoints the MRA as the receiver, the court approves the price of repairing the property as set by the MRA's team of rehabilitation specialists. The MRA then repairs the property within 120 days and returns to court and obtains a priority lien on the property for cost of the repairs.
If the homeowner does not repay the lien within seven days of being notified, the MRA forecloses on its lien and auctions the property. Given the demand to live in Malden, the properties are usually sold at auction and the liens are paid. If there is money left over after the buyer pays the lien, then the MRA gives the balance to the original homeowner.

The MRA has developed a strong working relationship with the courts, financial institutions, and city. Prior to beginning its rehabilitation efforts, the MRA met with judges to explain the program. The MRA also had to educate city departments, residents, and businesses about its goals and program.
In addition, the MRA met with financial institutions to secure a line of credit, which helps finance the repairs. The program has greatly reduced the community's number of vacant and abandoned properties. When the program started in 1996, Malden had 100 vacant and abandoned properties. In the summer of 2009, the number was in the teens.

Tool 8

Acquiring Properties

Acquire properties to stabilize or rehabilitate individual properties or to redevelop an entire area or neighborhood in communities with large numbers of vacant properties.

What is it?

In neighborhoods where property values have fallen significantly, owners and private investors may not take proper care of a property. This neglect can cause problems for neighboring properties, and the problems can begin to spiral out of control. In situations where the private market has little incentive to act, the best alternative may be for a municipality to acquire properties.

The municipality can act aggressively to improve a single property that is causing problems, or to improve several properties in an effort to redevelop a larger area. Municipalities can acquire properties individually or as part of a coordinated acquisition and redevelopment strategy. Where neighborhood stabilization or revitalization efforts require acquisition of larger numbers of properties, land banks have proven to be a very effective strategy. Though acquiring properties can be a useful and powerful tool, it is not a quick solution to a pressing problem—the process often takes a very long time

Key Benefits

Return properties to productive use
By acquiring vacant properties that have no near-term prospect of being redeveloped by the private market, municipalities can return them to productive use, helping to stabilize communities more quickly.

Promote redevelopment
Property acquisition allows municipalities to reshape an entire neighborhood.

Key Questions

How can a municipality acquire properties?
Municipalities can simply purchase properties on the same basis as any other private actor. They can also acquire properties through (1) the use of eminent domain; (2) transfers from other government entities, private individuals or non-profits; and (3) the tax sale process. Acquisition through the tax sale process is generally the least expensive way to acquire large numbers of properties, but it is slow and time-consuming.

Are there any models for acquiring properties in a systematic way?
Land banking is the primary model for acquiring properties in a systematic way. A land bank is an entity created to acquire, hold, manage, and develop vacant and abandoned properties for public purposes. Land banks have been created by a number of state and local governments around the country and have succeeded in putting property back into productive use.

Should the municipality partner with non-governmental organizations?
There may be several reasons for a municipality to collaborate when it is acquiring properties. If a municipality is seeking to acquire properties as part of a rehabilitation, revitalization or redevelopment strategy, it is likely to be most effective by working in close collaboration with community development corporations or other neighborhood groups. In some cases, a non-governmental organization may have an easier time acquiring a property, such as when the owner wishes to donate a property for less than market value in order to obtain a tax advantage. Similarly, a non-governmental body may be able to act more quickly and with more flexibility to acquire a property.

When should a municipality acquire properties?
Municipalities should acquire properties when the community benefits of acquiring properties outweigh the financial costs of acquiring, holding, redeveloping, and selling the properties. The community benefits of acquiring an individual property may outweigh the costs of acquisition when an individual property is particularly important to a community or when it is in particularly bad shape. The benefits of acquiring a large group of properties will outweigh the significant costs of such an acquisition strategy when the group of properties is a key component of a long-term revitalization strategy.

Key Questions

Should acquired properties be maintained or demolished?
Municipalities are sometimes understandably reluctant to demolish buildings, but in some cases, a vacant lot may be easier to maintain and do less harm to the surrounding community than a vacant building. Demolition may be justified where the costs of repairing the property along with the costs the property imposes on the surrounding community (including additional police or fire costs and reduced tax revenue) are very significant. This sort of analysis is most likely to favor demolition in neighborhoods where there is limited demand for residential property, and there is little or no population growth currently or projected.

Best Practices

Leverage funding streams.
Where state, federal, private, or non-profit funding is available, an aggressive redevelopment strategy can be pursued with limited municipal funding. For example, Charleston, South Carolina, was able to jump start revitalization in targeted neighborhoods using federal funding under the Community Development Block Grant and HOME programs to stimulate private market activity.

Target resources and set priorities.
Because property acquisition is resource intensive, it is particularly important to acquire properties in a systematic, deliberate way, as part of a larger plan to stabilize or revitalize a community. For example, a municipality may have a bigger impact on a community by acquiring and returning to productive use several properties in one carefully selected area, rather than by acquiring the same number of properties dispersed over a broader area.

Charleston, South Carolina: Homeownership Initiative

The Charleston, South Carolina Homeownership Initiative provides a useful example of a successful land-banking model that does not require additional powers beyond those already allocated to Illinois municipalities. Using federal resources, such as CDBG and HOME funding, Charleston began by targeting a few blocks in one of its hardest hit communities. Through tax sales, purchase, and other opportunities, the City acquired a critical mass of properties in that targeted area and then began to secure those properties, at which point they transferred them to non-profits who were responsible for redeveloping them. Once the City was able to revitalize parts of the targeted blocks, the private sector followed, looking for opportunities, and redeveloped the remaining homes in that community. In this way, Charleston leverages private dollars with a small amount of federal funds.

Tool 9

Demolishing Properties

Demolish vacant properties that pose significant danger to the community and cannot be adequately addressed in any other way.

What is it?

When a property is causing very serious problems that present a danger to the surrounding community, and the owner is not taking necessary steps to address the problem, a municipality may initiate demolition proceedings. After complying with procedures specified by state law and/or municipal ordinance, the municipality can demolish the property. Demolition may cost a municipality less than taking care of a troubled property. What's more, under some circumstances, a municipality can recover the costs associated with the demolition. Carefully targeted demolition can help stabilize property values in the surrounding community and help lay the foundation for redevelopment.

Key Benefits

Remove blight
Demolishing seriously troubled buildings can help stabilize or improve struggling neighborhoods. Demolition may be the best option when vacant properties are hurting the community around them and nothing else can restore the property to productive use.

Prompt owners to take responsibility
Sometimes a threat by the municipality to demolish a property compels recalcitrant owners to take responsibility for troubled properties.

Minimize municipal costs
While demolishing a building is expensive, it is sometimes less expensive in the long run than incurring all of the municipal costs associated with taking care of a troubled building.

Key Questions

What procedures must a municipality follow before demolishing a property? Non-home rule municipalities must follow procedures set out in state statute, including petitioning a court before demolishing a property. Home rule municipalities can either use the court procedures put in place by state statute or establish their own procedures for demolition under municipal ordinance. Such home rule demolition ordinances must still meet relevant constitutional standards, including providing adequate notice and other due process protections.

How can municipalities recover the costs associated with demolition?
Municipalities can obtain liens with priority over all encumbrances except taxes for the costs associated with demolition.

Best Practices

Use in limited circumstances.
Demolition is an expensive, time-consuming and final action and so should be used only in limited circumstances. A municipality should make sure it has exhausted all other available options for bringing the property back into productive use before proceeding with demolition.

Provide adequate notice.
Municipalities must make sure owners are notified of the pending demolition with enough time to demonstrate a good faith effort to address the issues with a property. When faced with a demolition notice, some owners assume responsibility, saving municipalities the upfront costs and time associated with undertaking the demolition.

Chicago, Illinois: Fast Track Demolition

The City of Chicago, under its home rule police powers, has had a Fast Track Demolition ordinance in place since 1993. The ordinance allows the City to demolish vacant residential buildings that are a hazard to the community. Before demolishing a property, the City must give notice to all owners and interested parties. If the owner and interested parties do not adequately address the issues posed by the property, the City can proceed with demolition. This process allows the City to avoid the slow and costly process of seeking a court ordered demolition.

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How Can Municipalities Confront the Vacant Property Challenge?

An Appendix to the Toolkit

Business and Professional People for the Public Interest
Chicago Metropolitan Agency for Planning
Metropolitan Mayors Caucus

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TOOL 1: AN EARLY WARNING DATABASE

The information below supplements the key questions section of the Vacant Properties Toolkit and includes more information on indicators for at-risk properties and neighborhoods.

Who will use the database and for what purpose?

There are many potential users of an early warning database. Each user might benefit from the same data, but will use the information in different ways. For example:

- The code enforcement department might want to target inspections around problem properties or areas, identify and engage owners of problem properties, or enlist community groups as partners in neighborhoods where there are problems.
- The police department might want to watch for crime in and around vacant properties.
- The fire department might want to inspect vacant buildings for fire hazards, or determine whether they are safe to enter.
- The community development department might wish to target specific neighborhoods for city programs, planning or revitalization efforts.
- Developers might want to identify acquisition and development opportunities.
- Community-based organizations may want to identify properties to monitor, reach out to owners of problem properties, or partner with the municipality in maintaining properties or developing programs to address the particular needs of the neighborhood.

What information should be included in the database?

Generally, two types of information are used in early warning databases – information that is specific to properties (property-level data) and information that relates to larger geographic areas, such as a block or cluster of blocks, a census tract or cluster of census tracts, or entire neighborhoods (area-level data). There is overlap between these two types of data, and a municipality creating such a system will determine which indicators are most important and can be obtained most easily and readily for its purposes.

What data can be used to identify problem properties?

If a municipality's objective is to identify problem properties, it's database should include one or more property-specific indicators of vacancy. The following chart summarizes property information that can be used to identify whether a property is at risk for vacancy, and notes where such information might be collected. [1]

[1] This chart, except for the addition of the "foreclosure" category, is excerpted in part from Alan Mallach, *Bringing Buildings Back: From Abandoned Properties to Community Assets*, National Housing Institute, Montclair, New Jersey, 2006, p. 20.

Category	Indicator	Data Source
Property tax status	Tax arrears (duration and amount) Tax liens (number and amount)	County tax collection office
Other municipal liens	Utility liens (number and amount) Nuisance abatement liens	Municipal or county tax collection treasurer, or finance department
Nuisance abatement actions	Nuisance abatement actions by type Receivership status	Municipal buildings or inspection department
Code violations	Complaints Citations Court actions arising from uncorrected violations	Municipal buildings or inspection department
Vacancy and abandonment	Number of utility shut-offs Mail stops and forwarding	Public utility U.S. Postal Service[2]
Crime	Crime reports at address Crime reports on block	Municipal police department
Foreclosure	*Lis Pendens* (a legal document that indicates the initiation of a foreclosure) Notice of Confirmation of Sale (a legal document that indicates the completion of foreclosure)	Notice provided to municipalities under new Illinois law (*See Tool 2)*; also County Recorder of Deeds Notice provided to municipalities under new Illinois law; also County Recorder of Deeds

What are some of the best predictors of vacancy?

It is not necessary and may not be practical for a municipality to include every indicator of vacancy in its early warning database. Municipalities have found the following to be particularly reliable in identifying properties that are likely to be vacant:

- ***Utility Information.*** One of the clearest indicators that a property has become vacant is utility usage. Of all the utility measures, water use is the most effective indicator of vacancy.[3] There are at least two ways to consider water use as an indicator of vacancy. First, if the levels of use are negligible, it is likely that no one is living in the property. Yet in certain homes – such as second homes or vacation homes – this may not be an indicator of vacancy. Thus, a second indicator of vacancy is whether the water has been

[2] An aggregated form of the postal data is available at http://www.huduser.org/DATASETS/usps.html.
[3] Amy E. Hillier et al., *Predicting Housing Abandonment with the Philadelphia Neighborhood Information System,* p. 12, 2003, http://repository.upenn.edu/cgi/viewcontent.cgi?article=1006&context=cplan_papers.

shut off because the bills have not been paid. While water shut-off information is a more accurate indicator of vacancy than low water use information, water shut-off information comes later in the process of vacancy than low water use. Water usage information can also be helpful in detecting serious damage to a vacant property. If there is a sudden dramatic spike in water use after a period where use has been negligible, it is likely that the pipes of a vacant home have burst. These homes must be addressed quickly to avoid mold problems that can have repercussions for neighbors.

- ***Tax Delinquency Information.*** Information on property tax delinquencies – e.g., amount of taxes owed, the duration of delinquencies, notice of tax sales – can also be a particularly useful warning sign for vacancy. Municipalities should be able to access this information through their county treasurers and/or through county data that is available online. For example, the Cook Country Treasurer's office provides such data to municipalities, typically through their finance departments, which can be accessed by entering a log in number and password.

- ***Foreclosure Information***. Initiation of the foreclosure process is a clear indicator that the property may be at risk of vacancy. New legislation in Illinois requires that lenders notify municipalities when the foreclosure process is initiated and when it is completed, and provide relevant contact information. (*See Tool 5* for more information about how to receive notification under the new law.)

What data can be used to help municipalities identify at-risk neighborhoods?

Aggregating the types of property-specific information identified above within larger geographic areas (e.g., blocks, census tracts, or neighborhoods), enables municipalities to analyze conditions, changes and opportunities within such areas to identify those that are at-risk and to inform decisions about how and where to allocate code enforcement and other limited resources. Area-level information, such as general property characteristics, social and demographic trends and real estate market conditions can also be very useful to identify problem neighborhoods and inform neighborhood planning and program development. The following chart summarizes examples of these additional types of information.

Category	Indicator	Data Source
Property characteristics and conditions	Properties by type and use Properties in public ownership as percentage of total properties Number and location of brownfield sites Percentage of properties that are owner occupied Number and percentage of vacant properties by type (prior use, whether vacant building or vacant lot)	Municipal planning or community development office Census data Survey
Residential sales	Number of sales Sales price change from preceding year Days on market change Characteristics of buyers	County clerk or Multiple Listing Service Sample surveys
Home mortgage transactions	Number of conventional home mortgages made Change from preceding year	Home Mortgage Disclosure Act (HMDA) data[4]
Property improvement activity	Number and value of building permits issued Number and amount of home improvement loans	Municipal permitting office HMDA data
Rent levels	Distribution of rental units by rent level and number of bedrooms Change from preceding year	Landlord reporting under landlord registration ordinance Census data
Crime statistics	Number of major crimes per capita Crime rate change from preceding year	Municipal police department
Fire statistics	Number of fires as percentage of structures Change from preceding year	Municipal fire department
Population and demographic statistics	Social and economic characteristics of population School enrollment trends Temporary Assistance for Needy Families (TANF) and other social service demand trends	Census data School district Social service agencies

[4] HMDA data is available at http://www.ffiec.gov/hmda/ or http://www.ffiec.gov/hmda/online_rpts.htm. A report on how to use HMDA data is available at http://www.urban.org/UploadedPDF/1001247_hdma.pdf.

How should the database be managed?

Determining who will manage the database will depend in large part on its complexity and on the staffing resources available. If the database is simple, various personnel could input data themselves or a single person could be responsible for collecting information from various personnel and entering it in the database. If multiple people are inputting data, a municipality could consider identifying a single person who would be responsible for ensuring that information is being updated and entered in a consistent manner. If the database becomes more complex, it might be necessary to hire a technician to maintain it. At even larger sizes, a university or non-profit might be considered for management. A national resource for more information on these complex database systems is the National Neighborhood Indicators Partnership (see http://www.urban.org/nnip).

Additional Resources:

Amy E. Hillier et al., *Predicting Housing Abandonment with the Philadelphia Neighborhood Information System,* p. 12, 2003, http://repository.upenn.edu/cgi/viewcontent.cgi?article=1006&context=cplan_papers.

Alan Mallach, *Bringing Buildings Back: From Abandoned Properties to Community Assets*, National Housing Institute, Montclair, New Jersey, 2006.

TOOL 2: IDENTIFYING A PARTY RESPONSIBLE FOR PROPERTY MAINTENANCE

The information below supplements the key questions section of the Vacant Properties toolkit, and includes additional information about resources for identifying responsible parties.

How to determine which entity to contact?

There are a variety of ways to get information about what parties have a legal and financial interest in a vacant property.

- ***Property Tax Information***: Financial institutions often pay property taxes even when they do not own a property. This means that municipalities can often identify an interested financial institution by contacting the county assessor and requesting the mailing address on the property tax bill.[1]

- ***Record of Deed***: The record of deed for a property lists both the property owner and the mortgagee (the lender or entity that has a security interest in the property). Note, however, that information on the deed – especially the identity of the mortgagee – is often out of date. The bank that originally made the loan almost certainly registered with the recorder of deeds, but that bank may have sold the rights to the loan to another entity, which may not have registered its interest in the property. However, if the property is Real Estate Owned, the record of deed is likely to accurately reflect the true ownership interest. Contact the county recorder of deeds to find the record of deed. [2]

- ***Mortgage Electronic Registration System (MERS)***: MERS is an electronic information system used by the mortgage industry to record property information. A complete MERS listing includes contact information for the current mortgagee, the servicer and the person responsible for property maintenance and preservation. Much of the MERS database is intended for use by financial institutions, but any government entity can subscribe to MERS LINK, a free MERS database, to access relevant information.[3] Municipalities can find a property on MERS LINK by providing the property's common address, the homeowner's social security number, or the homeowner's name.

- ***Lis Pendens***: The *Lis Pendens* is a document filed by a financial institution when it initiates a foreclosure on a property. The *Lis Pendens* includes the name of the bank or financial institution that is initiating the foreclosure, and the foreclosing attorney. The *Lis*

[1] The Cook County Assessor's office provides basic property information here: http://198.173.15.21/ccao/FindMyParcel.asp.

[2] Cook County record of deed information can be accessed here: http://www.ccrd.info/CCRD/il031/index.jsp. DuPage County record of deed information can be accessed here: http://www.dupageco.org/recorder/generic.cfm?doc_id=332. The Cook County record of deed website requires the Property Index Number (PIN) number for a property in order to search for its records, while the DuPage County record of deed website allows searches with just a property address. To determine the PIN contact the county assessor. The Cook County Assessor's office provides PIN numbers here: http://198.173.15.21/ccao/FindMyParcel.asp.

[3] Government entities interested in signing up for MERS can find more information at: http://www.mersinc.org/ppc/index.aspx.

Pendens can be obtained from the county court clerk's office.[4] Additionally, under an Illinois law passed in 2009, municipalities will receive a copy of the *Lis Pendens* directly. Some municipalities report that the foreclosing attorney, identified on the *Lis Pendens*, is often helpful in locating someone who can take responsibility for addressing problems with a vacant property.

- ***Notice of Confirmation of Sale***: The notice of confirmation of sale is a document sent by a bank when a foreclosure sale is confirmed. The notice includes the name, address and telephone number of the new owner of the property. A municipality may contact the new owner with concerns about the property. Under a new Illinois law passed in the fall of 2009, municipalities will receive a copy of the notice of confirmation of sale directly.

Additional Resources:

Linda Pieczynski's blog at http://www.codeattorney.com/ Linda is an attorney whose practice includes a special emphasis on municipal prosecution in the areas of zoning, property maintenance and building code violations. Her blog includes useful information about a number of challenges municipalities face in engaging in successful code enforcement, including contacting financial institutions.

[4] *Lis Pendens* filed in Cook County can be found using a PIN number at http://198.173.15.31/V2/COUNTY/.

TOOL 3: COLLABORATION

The information below supplements the key questions section of the Vacant Properties Toolkit and includes additional information about collaboration.

What types of collaboration are possible among municipal departments?

- ***Exchanging Information***: Exchanging information can help code enforcement officials identify problem properties and address problems with those properties more efficiently. One common example of this level of collaboration is consistently sharing information about problem properties through a common database.

- ***Determining Priorities Jointly***: In planning how to address the foreclosure and vacancy challenge, staff from multiple departments can jointly establish priorities. For example, a municipality could determine that a particular area is a priority or that a particular type of problem, such as crime, is a priority. Additionally, departments might jointly determine the priorities for a particular property. For example, a municipality may determine that the priority for a particular property is to get the property boarded up or occupied. Discussions of priorities can be a first step toward more structured collaboration.

- ***Conducting Joint Inspections***: Code enforcement departments can collaborate with other groups in the field by conducting joint inspections. Joint inspection allows each group to use its comparative advantages to address a problem.

- ***Creating Task Forces***: Task forces provide a more structured environment for bringing together many different departments. Task forces meet on a regular basis and are often organized either around a specific problem property or around broader, long-term issues.

Which municipal departments should collaborate on addressing vacant property issues?

- ***Police Department***: Police are an essential ally for code enforcement officials because they work in the community and often have a great deal of information about problem properties and neighborhoods. Code enforcement officials and police officers should also consider joint inspections. Joint inspections allow the police to pursue criminal action against particularly dangerous owners and code enforcers to shut down criminal hot-spots by citing code violations.

- ***Fire Department***: Code enforcement officials should inform the fire department about which properties are vacant. Such properties pose special hazards to firefighters. Firefighters should not enter a property unaware that it is vacant. Code enforcement officials may also consider conducting joint inspections with fire inspectors so that fire inspectors can identify and abate fire threats.

- ***Municipal Attorney***: A municipal attorney is critical to assisting with enforcement of municipal requirements related to vacant property and can offer advice on complex cases in which the powers of the code enforcement department are in question.

- ***Public Works***: Public works departments secure properties and maintain property exteriors. Public works employees also are often in the community and should routinely inform code enforcement officials upon observation of problem properties.

- ***Water Department***: Water data should be shared between the water department and the code enforcement department because water use is one of the strongest indicators of property vacancy. Code enforcement data on vacant properties should be shared with the water department so that the water department can consider shutting off water on properties known to be vacant.

Which groups outside local government should municipalities collaborate with?

- ***Other Local Governments***: If code enforcement officials share information with the county and other municipalities, all can learn valuable information about which owners systematically avoid property maintenance.

- ***Community Developers***: Code enforcement departments can benefit when community developers take control of properties and rehabilitate them. Code enforcement officials can aid community developers by providing developers with information about properties that may be particularly attractive for rehabilitation.

- ***Neighborhood Groups***: Neighborhood groups often serve as extra eyes and ears for code enforcement officials, helping to identify problem properties and problem owners. Neighborhood groups can help maintain properties as well, organizing neighborhood clean-up days, lawn-mowing events and the like.

- ***Property Owners***: Municipalities can provide assistance and incentives to responsible property owners, including landlords. Some owners, particularly those who are elderly and poor, fail to maintain property simply because they lack the resources, expertise or physical capacity to do so. Municipalities can assist these owners by providing them with information and financial assistance where appropriate. For example, many communities offer loan assistance programs for small home repairs. Code enforcement departments can also encourage owners to maintain their properties by lowering fees for permits and registries if an owner is rehabilitating a property, accelerating the permit process for rehabilitation and providing lien forgiveness for owners engaged in property rehabilitation.

Additional Resources:

Alan Mallach, *Bringing Buildings Back: From Abandoned Properties to Community Assets*, National Housing Institute, Montclair, New Jersey, 2006.

Joseph Schilling, Code Enforcement and Community Stabilization: The Forgotten First Responders to Vacant and Foreclosed Homes 2009. Available at: http://www.vacantproperties.org/resources/documents/SchillingAlbanyLawReview.pdf.

Joseph Schilling et al., The Revitalization of Vacant Properties: Richmond, Virginia, 2002. Available at: http://www.icma.org/main/topic.asp?hsid=1&tpid=17&stid=93.

Daryl Stephens, Mortgage Foreclosure: Police-Community Response 2010. Available at: http://api.ning.com/files/I7BYZBEHeLgT9aMzDhRd3Af-vG8Nn7VIo6qyTmkLNptS35wm3vCU9X3kiO*bABSqhZT1kn8YqfRaKogY5vGj0pEgDkTq4jDl/Stephens_ForeclosuresPoliceReponse.pdf.

TOOL 4: A VACANT BUILDING REGISTRY

The information below supplements the key questions section of the Vacant Properties Toolkit, and includes examples of statutory provisions that address key elements of building registry programs.

A vacant building registry requires owners (and, in some cases, financial institutions with an interest in a property) to register vacant buildings with a municipality. When developing a registry ordinance, municipalities must consider what purposes they want their building registry program to serve. A registry can simply build upon related provisions that already exist in their codes. For example, if a municipality already has existing code provisions relating to vacant property, an ordinance establishing a vacant building registry could just amend the municipal code by adding a handful of provisions focused specifically on registration requirements. If there isn't already a set of municipal code requirements applicable to vacant property, or if the municipality seeks to strengthen requirements pertaining to vacant properties, an ordinance may be more comprehensive in its scope, including both registration requirements and additional obligations, such as securing and maintaining vacant properties and implementing plans to return them to productive use.

This appendix identifies key provisions and options to be weighed in developing an effective vacant building registry ordinance. It is organized as follows:

1. Why Should a Municipality Establish a Vacant Building Registry?
2. What Parties Should Be Subject to Registration Requirements?
3. What Properties Should Be Subject to Registration Requirements?
    a. Vacant Properties
    b. Non-Vacant Properties in Foreclosure
4. What Requirements Should Be Imposed on Registrants?
    a. Registering
    b. How Should the Registration Fee Be Structured
    c. Should There Be Fee-Related Incentives?
    d. Providing Contact Information for Responsible Parties
    e. Securing and Maintaining Vacant Property
    f. Ensuring Property Inspections
    g. Maintaining Liability Insurance
    h. Developing a Vacant Building Plan
5. What Are the Consequences of Non-Compliance?
6. Should There Be an Opportunity to Appeal?

Each provision can be considered separately and then evaluated in terms of how they work together and with related code enforcement and nuisance provisions.

Why Should A Municipality Establish a Vacant Building Registry?

Many ordinances begin with a statement of findings about the conditions that require the municipality to regulate vacant properties. Many also include a statement of the purpose of the ordinance. Following are excerpts from ordinances in Mount Prospect and Oak Forest, Illinois.

A. *From time to time there are structures within the village that are not in compliance with village regulations, have become a threat to life and property or are vacant or abandoned. Therefore, the village board of Mount Prospect makes the following findings and declarations:*
    1. *Noncomplying structures must promptly be made safe and secure to protect the public safety and are declared to be a nuisance subject to the abatement process set forth in this article.*
    2. *Noncomplying structures are dangerous and unsafe in that they are extremely vulnerable to fire, flooding, collapse or other hazards.*
    3. *Noncomplying structures are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods and have an adverse impact on other properties.*
    4. *Structures that were previously used or occupied and have since become vacant have a significant and detrimental impact on the local real estate market.*
    5. *Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal activities, including arson and drug use.*
    6. *Structures that are vacant and unsecured pose serious threats to the public's health and safety and therefore are public nuisances.*
    7. *Immediate abatement of these hazards or rehabilitation of these structures is necessary to prevent unsightly blight and the deterioration of neighborhoods with the consequent adverse impact on the value of adjacent and nearby properties. Such actions are also necessary to secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.*
    8. *Communication between owners of noncomplying structures and the village is essential for effective allocation of public resources and the maintenance of public health, welfare and safety in regards to such structures.*

B. *The purpose of this article is to establish necessary measures to abate the public nuisances, blight, negative housing market impact and other harmful effects associated with noncomplying and vacant structures.*

(Mount Prospect)

A. The purpose of this subchapter is to protect the public health, safety, and welfare by enactment of this subchapter which:

1. Establishes a program for identification, registration, and regulation of buildings which are or become vacant . . . .

2. Determines the responsibilities of owners of vacant buildings.

3. Provides for administration, enforcement, including abatement of public nuisances, and imposition of penalties.

(Oak Forest)

What Parties Should Be Subject to Registration Requirements?

Vacant building registry programs typically apply to property owners. As a result of the foreclosure crisis, however, many owners have left their properties and cannot be found. To increase the likelihood that their properties will be adequately maintained and secured, some communities, like Chula Vista, California, and Boston, impose the obligation to register on financial institutions with an interest in the property. Following are excerpts from the ordinances in these communities defining who must register.

Any Responsible Party/Beneficiary** or their designee shall perform an inspection of the Property that is the security for the Deed of Trust, upon default by the Trustor, within ten (10) days of recording a Notice of Default with the San Diego County Recorders Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the Responsible Party/Beneficiary shall, within ten (10) days of the inspection, register the Property.*

**"Responsible Party" means the Beneficiary that is pursuing Foreclosure of a Property subject to this ordinance secured by a mortgage, Deed of Trust or similar instrument or a Property that has been acquired by the Beneficial interest at Trustee's Sale.*

***"Beneficiary" means a lender or other entity under a note secured by a Deed of Trust.*
(Chula Vista)

All owners must register. . . .*

**"Owner" means every person, entity, service company, property manager or real estate broker, who alone or severally with others:*

(1) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
(2) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratix, trustee or guardian of the estate of the holder of legal title; or
(3) is a mortgagee in possession of such property; or
(4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
(5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, this ordinance shall not apply to a Condominium Association . . . to the extent that such Association forecloses on or initiates the foreclosure process for unpaid assessments due or owning to the Association. Owner also means every person who operates a rooming house; or
(6) *is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.*
(Boston)

What Properties Should Be Subject to Registry Requirements?

Vacant Properties

Most registry programs apply to vacant property, but the definition of what constitutes a vacant property varies among communities. Some communities, like Burlington, Vermont, define vacancy based on how long the property has been vacant or unoccupied. Others, like Evanston, Illinois, define vacancy based on a combination of factors relating to the duration of the vacancy and the physical attributes of the building. Certain categories of vacant property – e. g., seasonal homes or properties under active construction, rehabilitation or repair – are typically excluded from the definition or may be exempted from certain requirements.

"Vacant structure" means any structure or building that is unoccupied by a person or occupied by unauthorized persons for 210 days, excepting permitted warehouse or permitted storage structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis, and those structures being newly constructed within the terms of their building and zoning permits or under substantial rehabilitation for a period of 1 year from the date that the building permit or zoning permit is issued – whichever is later.
(Burlington)

VACANT BUILDING: A building or portion of a building which is:

(A) Unoccupied and unsecured; or

(B) Unoccupied and secured by boarding or other similar means; or

(C) Unoccupied and a dangerous structure; or

(D) Unoccupied and condemned by the director pursuant to applicable provisions of this code; or

(E) Unoccupied and has multiple code violations; or

(F) Unoccupied and the building or its premises has been the site of unlawful activity within the previous six (6) months; or

(G) Condemned by the director and unlawfully occupied; or

(H) Unoccupied for over one hundred eighty (180) days and during which time the director has issued an order to correct public nuisance conditions and same have not been corrected in a code compliant manner; or

(I) Unoccupied for over two (2) years.

But not including: Unoccupied buildings which are undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, legislation, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.

(Evanston)

Non-Vacant Properties in Foreclosure

Recognizing that properties in foreclosure are at high risk of vacancy or abandonment, some communities, like Boston, Massachusetts, apply the requirement to register not only to vacant properties but also to properties for which foreclosure has been initiated, whether or not the property is vacant. For example, Boston's ordinance provides that *"All owners must register vacant and/or foreclosing residential properties . . . ."*

What Requirements Should Be Imposed on Registrants?

Basic requirements include a requirement to register and pay a registration fee. Effective registration programs often include some combination of additional requirements to (1) identify, provide, and update contact information for responsible parties; (2) secure and maintain the property in accordance with local requirements and ensure periodic property inspections; (3) maintain a minimum level of liability insurance; and (4) develop a detailed plan for maintaining, rehabbing, reoccupying, or demolishing the building. The ordinance must also be clear about how much time owners have to take each of the required actions before penalties will be imposed.

Registering

The requirement to register should be an affirmative obligation on owners whose properties are covered by the ordinance. Making registration an affirmative responsibility enables the municipality to issue a violation notice if an owner fails to register, giving it added leverage in prompting registration. Following are examples from ordinances in Mount Prospect and Evanston.

When a structure becomes vacant, as defined [in the ordinance], the owner of the structure shall apply for and obtain a vacant structure registration certificate and pay the fee . . . .
(Mount Prospect)

The owner of a building who knows, or from all the facts and circumstances should know, that his or her building is or has become a 'vacant building' within the meaning of this [ordinance] after the effective date . . . or the owner of a building, which the director determines at any time to be a "vacant building", or the owner of a building whose appeal from the director's determination has been denied by the city manager" must register the building and comply with all of the applicable requirements.
(Evanston)

How Should the Registration Fee Be Structured?

The most effective vacant property registries require the payment of a registration fee, as well renewal fees at regular intervals. Revenue generated from such fees helps municipalities defray the costs incurred in monitoring vacant properties and enforcing vacant property requirements. The added cost of fees is also a critical factor in motivating owners to take action with respect to their vacant properties.

The fee can be structured in a variety of ways to encourage owners to respond. For example, Burlington, Vermont has a flat $500 fee, but it must be renewed quarterly. This creates an incentive to return the property to productive use as quickly as possible.

Wilmington, Delaware, uses a progressive fee structure that kicks in once the property has been vacant for 12 months and increases based on the duration of vacancy, regardless of whether there have been any changes in ownership of the property. This creates a stronger incentive every year to return the property to productive use.

Chicago uses a progressive fee structure in the event that a vacant property is in violation of any provision of the building code or fire code at the time of renewal. Chicago provides a base registration fee of $250, renewable every 6 months. However, if there are any violations at the time renewal is required, the base fee is doubled to $500; at the time of the next renewal, the base fee is tripled to $750 if there are any violations; and at the time of the next renewal, the base fee is quadrupled to $1,000 if there are any violations. The renewal fee remains at $1,000 for subsequent renewals if violations persist.

The following excerpts of ordinance language illustrate these three approaches to designing registration fees.

A fee of five hundred dollars ($500.00) shall be charged for a vacant building permit or renewal of such permits. The fee is to be paid at the time of application or renewal. No permit shall be issued prior to payment of the permit or renewal fee.*

** The permit shall be effective for a period of up to 3 months.*
(Burlington)

The owner of the vacant property as of November 1 of each calendar year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the DLI and based on the duration of the vacancy as determined by the following scale:

i. No fee for properties that are vacant for less than one year;
ii. $500.00 for properties that are vacant for at least one year but less than two years;
iii. $1,000.00 for properties that are vacant for at two years but less than three years;
iv. $2,000.00 for properties that are vacant for at three years but less than five years;
v. $3,500.00 for properties that are vacant for at five years but less than ten years; and
vi. $5,000.00 for properties that are vacant for at ten years, plus an additional $500.00 for each year in excess of ten years.

(Wilmington)

The registration and renewal fee for each registered building shall be $250 (the "base registration fee"). Provided, however, that any vacant building subject to the base registration fee that is in violation of any provision of the building code or fire code at the time renewal is required shall be assessed a renewal fee of $500 for such renewal period (the "doubled period"). If a vacant building in the doubled period is in violation of any provision of the building code or fire code at the time renewal is required, the fee shall be $750 for such renewal (the "tripled period"). If a vacant building in the tripled period is in violation of any provision of the building code or fire code at the time renewal is required, the fee shall be $1,000 for such renewal, and shall remain at $1,000 for each subsequent renewal, if, at the time such renewal is required, the building is in violation (the "quadrupled period").*

**The registration shall remain valid for six months from the date of registration. The owner shall be required to renew the registration for successive six-month periods as long as the building remains vacant. . . .*
(Chicago)

Should There Be Fee-Related Incentives?

As a further incentive for owners to take appropriate action, some municipalities allow waivers or refunds of the registration or renewal fees. For example, Burlington's program includes liberal waiver provisions to encourage well-intentioned owners to try to sell or renovate their properties. Wilmington offers a one-time waiver of the registration fee if the owner is in the process of repairing, rehabbing, demolishing, selling or leasing the property. Cincinnati, Ohio, allows a refund of the fee for the year in which the building is brought into compliance with the building code and approved for re-occupancy, or if the building is demolished and the site restored in compliance with code requirements. Excerpts from these ordinances are provided below.

(1) All but $75.00 of this fee shall be waived upon a showing that the building or structure is being actively marketed for sale or lease and maintained pursuant to the requirements of this article and its vacant building permit or renewal thereof. An owner shall be eligible for the waiver of the fee for no more than 8 permit periods, not including any interim permit period that occurs within a permit period. The full fee shall be tendered with the request for a waiver and shall be refunded of the waiver is granted but for the $75.00. A person who purchases a vacant building shall have this fee waived for the remainder of the permit period and the permit period immediately following.

(2) All but $75.00 of this fee shall be waived when a building is being rehabilitated pursuant to applicable building, fire, and zoning permits and the owner has spent at least 5% of the assessed valuation of the building or structure on rehabilitation, not including the cost of permits, in the prior 3 month period. The full fee shall be tendered with the request for a waiver and shall be refunded of the waiver is granted but for the $75.00.

(3) All but $75.00 of this fee shall be waived if an owner has secured all the duly required state and local permits to demolish the building or structure. The full fee shall be tendered with the request for a waiver and shall be refunded if the waiver is granted but for the $75.00. The owner shall demolish the building or structure within 3 months of securing said permits; this waiver shall be void and the vacant building permit fee shall be owed if the owner fails to demolish within this time. The time to demolish may be extended upon a showing of good cause.

(Burlington)

A one-time waiver of the registration fee or an extension of a waiver for up to 90 days may be granted by the commissioner of licenses and inspection upon application of the owner and upon review and advice of the law department, within 30 calendar days from the date of the bill for the registration fee, or if denied by the commissioner of licenses and inspections, upon appeal to the license and inspections review board, if the owner:

i. *Demonstrates with satisfactory proof that he/she is in the process of demolition, rehabilitation or other substantial repair of the vacant building; and*

ii. *Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or*

iii. *Provides satisfactory proof that he/she was actively attempting to sell or lease the property during the vacancy period.*

iv. *Has paid all past due vacant registration fees and all other financial obligations and/or debts owed to the City of Wilmington which are associated with the vacant property . . . . With regard to an extension of a waiver only, the time period of the extension shall commence on the date of the written decision granting the extension and, in no event shall an extension exceed 90 days. An extension of a waiver shall only be granted once.*

(Wilmington)

The chief building official shall refund the fees for a vacated building maintenance license paid if the subject building is brought into compliance with standards of the [Cincinnati Building Code (CBC)]and approved by the code official for re-occupancy, or the building is demolished and the site restored in accordance with the provisions of [the applicable section of the] CBC, free of soil erosion, weeds, litter, and nuisance conditions within one year of payment of the application fee.

(Cincinnati)

Providing Contact Information for Responsible Parties

In order to make it easier for a municipality to hold registrants accountable for the maintenance of their property, ordinances typically require that registrants provide complete contact information, including their name(s), street address and telephone number. In addition, many municipalities require registrants to identify and provide contact information for any mortgagor(s), lien holders and others with an ownership interest; the individual or property management company responsible for the security and maintenance of the building, including a 24-hour telephone number; and, if the registrant resides outside the county where the property is located, a local person who is authorized to accept service of legal notices or service of process on behalf of the owner. Ordinance provisions should explicitly require that a street address, not a post office box, be provided for owners and persons authorized to accept legal service on behalf of the owner. Owners should also be required to file any changes in the information related to responsible parties. These requirements can make it easier to locate owners when they fail to respond and also speed up the resolution of code violations.

Some ordinances require that the name and 24-hour contact number of the party responsible for maintaining the property be visibly posted on the vacant building. Posting allows anyone who observes a problem at the property to contact someone who can respond and address the issue. Some municipalities believe that such a posting requirement may advertise the vacancy of a

building that otherwise may not appear to be vacant, thereby inviting vandalism or negatively impacting the immediate neighborhood. The benefits and risks associated with posting should be weighed by each municipality.

Following are excerpts from ordinances in Oak Forest and Boston relating to the information that must be provided.

> *The form shall include, as a minimum, the name, street address, and telephone number of the owner; the case name and number of any litigation pending concerning or affecting the building, including bankruptcy cases; and the name, street address, and telephone number of all persons with any legal interest in the building or the premises. The form shall require the owner to identify a natural person 21 years of age or older who maintains a permanent address in Cook County, Illinois, to accept service on behalf of the owner with respect to any notices the Director sends pursuant to this subchapter or service of process in any proceeding commenced to enforce any provision of this subchapter, and file with the Director on the registration form, the name, address, telephone number, of said person. A street address is required. A post office box is not an acceptable address.*
>
> *. . . File an amended registration within 15 days of any change in the information contained in the annual registration. A new registration is required for any change in ownership whatsoever.*
> (Oak Forest)
> *All registrations must state the individual owner's or agent's phone number and mailing address located within the Commonwealth . . . . The mailing address may not be a P. O. Box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain a local individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual or company's name, phone number, and local mailing address. The mailing address may not be a P. O. Box.*
>
> *. . . The property must contain a posting with the name and 24-hour contact phone number of the local individual or property management company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.*
> (Boston)

<u>Securing and Maintaining Vacant Property</u>
Whether or not municipalities have established a vacant building registry, most have enacted requirements for securing and maintaining vacant property.

Municipalities use a range of specificity in their ordinances related to <u>*securing vacant properties*</u>. Some, like Minneapolis, Minnesota, use general language to require that the property be kept safe and secure. Others, like Mount Prospect, spell out more detailed instructions.

The owner and the subsequent owners shall keep the building secured and safe.
(Minneapolis)

The owner of a vacant structure shall immediately lock, barricade or secure all doors, windows and other openings in the structure to prohibit entry by unauthorized persons, in accordance with the vacant structure maintenance standards . . . .
(Mount Prospect)

With regard to *maintaining vacant properties*, most vacant building registry ordinances incorporate the municipality's property maintenance code, while others may also include maintenance requirements specific to vacant properties that must be performed within specified time periods. Examples are included from Boston, Chula Vista and Mount Prospect.

Properties subject to this [ordinance] must be maintained in accordance with all applicable Sanitary Codes, Building Codes, and local regulations concerning external and/or visible maintenance.
(Boston)

The exterior of the Property shall be, in comparison to the Neighborhood Standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the Property is Abandoned.

The Property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that closely matches the color of the exterior of the structure.

Insofar as there is existing or previously existing landscaping, all visible front and side yards shall be maintained to the Neighborhood Standard at the time registration was required. . . .
(Chula Vista)

The owner of a vacant structure shall comply with all regulations of the village. To this end, the owner shall apply for all building, fire prevention and zoning permits necessary to bring the structure into compliance within ten (10) days of obtaining a vacant structure registration certificate.

. . . The owner of a vacant structure shall, within ten (10) days of receipt of the vacant structure registration certificate, complete the removal of all: 1) combustible materials from the structure in compliance with the applicable fire prevention regulations; 2) waste, rubbish or debris from the interior of the structure; and 3) waste, rubbish, debris or excessive vegetation from the yards surrounding the vacant structure in accordance with the vacant structure maintenance standards of this article.

. . . A vacant structure shall be subject to the following vacant structure maintenance standards:

1. *Structure Openings: Doors, windows, areaways and other openings shall be weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials, which are weather protected, and tightly fitted and secured to the opening.*

2. *Roofs: The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the structure.*

3. *Drainage: the structure storm drainage system shall be functional and installed in a manner consistent with village regulations and allow discharge in a manner consistent with village regulations.*

4. *Structure: The structure shall be in good repair, not in violation of village regulations, structurally sound and free from debris, rubbish and garbage. The structure shall be sanitary. The structure shall not pose a threat to the public health and safety.*

5. *Structural Members: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.*

6. *Foundation Walls: The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to public health and safety. The walls shall be capable of supporting the load of normal use and shall be free from open cracks and breaks, free from leaks and be rodentproof.*

7. *Exterior Walls: The exterior walls shall be free of holes, breaks and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.*

8. *Decorative Features: The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.*

9. *Overhanging Extensions: All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be*

protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

10. *Chimneys And Towers: Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.*

11. *Walkways: Walkways shall be safe for pedestrian travel.*

12. *Accessory And Appurtenant Structures: Accessory and appurtenant structures such as garages, sheds and fences shall be free from safety, health and fire hazards and shall comply with all village regulations.*

13. *Premises: The premises upon which the structure is located shall be clean, safe and sanitary. It shall be free from waste, rubbish, debris or excessive vegetation in compliance with village regulations and shall not pose a threat to public health and safety.*

(Mount Prospect)

Ensuring Property Inspections

In order to assess and document the condition of vacant buildings and ensure compliance with safety and maintenance requirements, many municipalities require periodic property inspections. Chicago requires owners to give access to the City to conduct interior and exterior inspections for compliance with code requirements every six months, following reasonable notice. In Oak Forest, the owner must allow for a code compliance inspection of the interior of the vacant building and must pay an inspection fee of $500. Some municipalities place the burden of property inspection on the registrant. For example, Boston requires that the registrant certify that the property was inspected and requires monthly inspections and maintenance for the duration of the vacancy. In East Dundee, Illinois, owners must arrange for inspections to be performed by a licensed inspection company or individual and submit such inspection reports to the village.

After filing a registration statement, the building owner shall provide access to the city to conduct an exterior and interior inspection of the building to determine compliance with the municipal code, following reasonable notice, during the period covered by the initial registration or any subsequent renewal.
(Chicago)

The owner shall allow for a code compliance inspection of the interior of the vacant building and shall pay the $500 fee therefor within 30 days of the inspection. Such inspection will determine the extent of compliance with city property, building codes, health, fire, water and sewer codes. . . .
(Oak Forest)

This registration [of vacant and/or foreclosing properties] *must also certify that the property was inspected . . . .*

The owner, local individual or local property management company must inspect and maintain the property on a monthly basis for the duration of the vacancy. . . .

The Inspectional Services Department shall have the authority and the duty to inspect properties subject to this section for compliance and to issue citations for any violations. The Inspectional Services Department shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonable calculated to ensure that this section is enforced.
(Boston)

Each vacant building registered herein shall be inspected periodically, but not less than annually. The building owner shall, at the owner's expense, submit the inspection report to the Village of East Dundee Building Department. The report shall be prepared by a duly licensed inspection company or individual and will provide information as follows:

- *(A)* ***Building Openings****. Doors, windows, areaways, and other openings shall be weather-tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows, or other openings shall be secured.*
- *(B)* ***Roofs****. The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain or roof drainage.*
- *(C)* ***Drainage****. The building storm drainage system shall be functional and allow discharge in an appropriate manner.*
- *(D)* ***Building Structure****. The building shall be maintained in good repair and be structurally sound. Structure members shall be free of deterioration and capable of safely bearing imposed dead and live loads.*
- *(E)* ***Foundation Walls****. Shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and be free from other cracks and breaks, and free from leaks.*
- *(F)* ***Exterior****. The property must comply with Appendix A – International Property Maintenance Code adopted by the Village.*

(East Dundee)

<u>Maintaining Liability Insurance</u>

Some vacant property ordinances require owners to maintain a minimum level of liability insurance on vacant properties. The added cost of maintaining liability insurance provides another incentive for owners to repair or rehabilitate their properties and also spreads the risk of injury caused by the dangers of vacant property. Because property liability insurance can be purchased only by property owners, requirements to maintain liability insurance should exempt third parties such as banks or mortgage servicers who may be subject to other registration-related requirements. For example, Oak Forest's ordinance requires that owners:

Obtain liability insurance and maintain such insurance for as long as the building is vacant and file evidence of such insurance with the director, as follows: $500,000 for a vacant residential building of one to three units; $750,000 for a vacant residential building of four to 11 units; $1,000,000 for a vacant residential building of 12 to 48 units; $2,000,000 for a vacant residential building of more than 48 units; and $2,000,000 for a vacant manufacturing, industrial, storage, or nonresidential commercial building.

Developing a Vacant Property Plan

Among the most important components of successful building registry programs is a requirement that owners submit a "statement of intent," or vacant property plan, that sets forth the expected period of vacancy, plans for maintaining the property during the vacancy, and a detailed plan and timeline for reoccupying, rehabbing or demolishing the building. Those communities with experience in administering property registry programs believe such a requirement is particularly valuable because it provides a tool for the municipal staff to engage with motivated property owners and help them think concretely and realistically about appropriate steps that need to be taken to identify and address problems with their properties. For example, Evanston requires an owner to have an approved vacant property plan within 30 days of filing the registration form. Failure to have an approved plan within this time period or failure to comply with an approved plan constitutes a violation of the ordinance, subjecting the owner to applicable penalties and remedies. Included below are excerpts from the ordinances in Evanston and Mount Prospect.

At the time a building is registered as required herein, the owner shall submit a vacant building plan. The director may prescribe a form for the plan. If the owner fails to submit the plan as provided for by this [ordinance], the director may determine the plan. The plan shall contain the following as a minimum:

1. *A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured by any means other than conventional methods used in the design of the building or permitted for new construction or similar type. The proposed repair shall result in openings being secured by conventional methods used in the design of the building or by methods permitted for new construction of similar type with board removed. Boarding shall be accomplished with materials and methods described by the Director and available from the Director or on the City website, www.cityofevanston.org. The owner shall maintain the building in an enclosed and secure state until the building is reoccupied or made available for immediate occupancy. If the owner demonstrates that securing of the building will provide adequate protection to the public, the director of community development may waive the requirement of an enclosure.*

2. *For buildings and premises thereof which are determined by the director as being or containing public nuisances, as defined in this chapter, then the*

vacant building plan shall contain a plan of action to remedy such public nuisances(s).

3. *A time schedule identifying a date of commencement of repair and date of completion of repair for each improperly secured opening and nuisance identified by the director.*

4. *When the owner proposes to demolish the vacant building, then the owner shall submit a plan and time schedule for such demolition.*

5. *A plan of action to maintain the building and premises thereof in conformance with this chapter.*

6. *A plan of action, with time schedule, identifying the date the building will be habitable and occupied or offered for occupancy or sale. The time schedule shall include date(s) of commencement and completion of all actions required to achieve habitability. No plan which [fails to provide] for compliance with this chapter or, which will not, as determined by the director, achieve such compliance, within six (6) months, in the case of a vacant boarded building, and two (2) years, in the case of a vacant, unboarded, and code compliant building will be approved.*

7. *All premises upon which unoccupied or vacant buildings are located and the exteriors shall at all times be maintained in compliance with this code.*

8. *Exterior lighting according to standards established by the director and available from the director or on the city web site: www.cityofevanston.org."*

. . . In considering the appropriateness of a vacant building plan, the director shall include the following in his or her consideration and shall make written findings as to each:

1. *The purpose of this chapter and intent of the city council to minimize the time a building is boarded or otherwise vacant.*

2. *The effect of the building and the proposed plan on adjoining property.*

3. *The length of time the building has been vacant.*

4. *The presence of any public nuisances on the property.*

5. *The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address."*

(Evanston)

The application by the owner of a vacant structure [for a vacant structure registration certificate] shall include a "statement of intent" that shall set forth information as to: 1) the expected period of vacancy (including the date of initial vacancy); 2) the plan for regular maintenance during the vacancy to comply with the vacant structure maintenance standards . . .; 3) a plan and time line for the lawful occupancy, rehabilitation or removal or demolition of the structure; 4) measures to be taken to ensure that the structure will be kept weather tight and secure from trespassers and that it is safe for entry by police officers and firefighters in times of exigent circumstances or emergency; 5) measures to be taken to assure that the premises remain free from nuisance and in good order in conformance with the vacant property maintenance standards; and 6) list all persons authorized to be present in the structure and provide notices of trespass to the police authorizing the arrest for trespass of individuals not on the list. (The owner shall update the authorized person list as needed.)
(Mount Prospect)

What Are the Consequences of Non-Compliance?

Most ordinances impose a fine for failing to register, as well as for failing to comply with any requirements of the building property ordinance. Each violation and each day's failure to comply can be a separate offense. Financial penalties provide an additional incentive for compliance and help to cover costs incurred by the community in the event of noncompliance. Such penalties can be in addition to those already imposed through code enforcement or nuisance abatement programs. Mount Prospect's ordinance provides that any violation of its vacant property ordinance is also a nuisance. Municipalities should seek a judgment lien to collect any unpaid fees, fines and costs they have incurred. Some home rule communities, like Evanston, also refuse to issue transfer stamps or certificates of occupancy until such fees, fines and costs have been paid. Language from the Evanston and Mount Prospect ordinances is excerpted below.

A premises upon which is situated a vacant building for which inspection fees or registration fees imposed pursuant to this chapter have not been paid in full is not eligible for city real estate transfer tax stamps. Unpaid fees shall be a lien upon the property.

. . . A certificate of code compliance for vacant buildings issued by the community development department and payment in full of all fees imposed pursuant to this chapter are required prior to any occupancy of a vacant building.

. . . (A) Any person found to have violated any provision of this chapter shall be subject to a minimum fine of one hundred dollars ($100.00) per day per violation to a maximum of seven hundred fifty dollars ($750.00) per day per violation, in addition to any other legal or equitable remedies available to the city. Such other remedies include, but are not limited to, injunctive relief, application to a court of competent jurisdiction for a

receiver, demolition, or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the city may have thereon.
(B) A separate and distinct offense shall be committed each day on which such person or persons shall violate the provisions of this chapter.
(C) The city may enforce this chapter in its administrative adjudication system or through the court system . . . .
(D) Nothing herein contained shall prohibit the city from immediately condemning as provided for in this code a building or taking other immediate action upon a determination that the building is a public nuisance or poses an imminent danger to the occupants of the building, or the public, health, safety and welfare.
(Evanston)

A. Any person found to be in violation of any provision of this article shall be subject to a fine as set forth in appendix A, division III of this code. Each day's failure to comply with an order of the director shall constitute a separate offense. Prosecution under this section is a remedy cumulative to any and all other remedies at law and equity, and in no way preempts, supersedes or bars prosecution for violation of this article under subsection B of this section.

B. Any violation of this article is also declared to be a nuisance and subject to removal or abatement as set forth in this article. An abatement action pursuant to section 23.2505 of this article is discretionary and is not a precondition to prosecution under this section.

(Mount Prospect)[1]

Should There Be an Opportunity to Appeal?

Most vacant property ordinances include provisions for appealing any findings made under the ordinance and/or for seeking a variance from certain requirements. For example, Mount Prospect's ordinance provides for appeals, while Burlington's ordinance provides for both appeals and variances.

[1] Mount Prospect's vacant structure registration form requires the owner to sign an agreement acknowledging as follows:

I understand that failing to abide by [the regulations set forth] and maintain the structure in compliance without further notice may result in abatement of any nuisance without further notice by the Village and all costs, including an administrative fee up to $200.00, will be charged. Failure to pay the costs and penalty may result in the following:

1. *The denial of any future permits or Certificate of Occupancy*
2. *The denial of transfer stamps should property be sold*
3. *Referring the debt to a collection agency*
4. *A lien placed on the property*

A party aggrieved by an action of the director pursuant to this article may appeal such action by requesting a hearing before the village's administrative law judge.
(Mount Prospect)

(a) A party aggrieved by an action of the director shall appeal such action by requesting a hearing to the board of appeals . . . .
(b) Any person subject to the provisions of this article may seek a variance from the provisions of this article before the board of appeals in the same manner that an appeal is taken to the board, and subject to the same procedures as an appeal.
(c) Where a variance is requested by an applicant, the board of appeals may grant such a variance, and render a decision in favor of the appellant, if the following are found by the board:
1) That there are circumstances or conditions that make strict compliance with the provisions of this article unusually difficult or unduly extensive, or would create an undue hardship;
2) That such a hardship or condition has not been created by the applicant; and
3) That the variance requested will represent the minimum relief necessary and will represent the least deviation possible from the requirements of this article.
(d) In rendering a decision in favor of an applicant, the board of appeals shall attach such conditions to such variance as it considers necessary and appropriate under the circumstances to implement the purposes of this article.
(Burlington)

Additional Resources:

For more information about Boston, Massachusetts' program for Vacant/Foreclosed/and Foreclosing Properties, go to http://www.cityofboston.gov/isd/foreclosure.

For a copy of Burlington's Vacant Building Permit Application, go to http://www.ci.burlington.vt.us/codeenforcement/docs/VB%20Permit%20Application%20Form.pdf; for a copy of the Vacant Building Renewal Application, go to http://www.ci.burlington.vt.us/codeenforcement/docs/VB%20Permit%20Renewal%20Form.pdf

For more information about Chula Vista, California's Abandoned Residential Property Program, go to http://www.chulavistaca.gov/City_Services/Development_Services/Planning_Building/Building/Code_Enforcement/AbanResPropertyProg.asp.

For more information about Chicago, Illinois requirements pertaining to vacant buildings, go to http://egov.cityofchicago.org/city/webportal/portalDeptCategoryAction.do?BV_SessionID=@@@@0331240820.1252603963@@@@&BV_EngineID=cccfadeifikhdfecefecelldffhdfho.0&deptCategoryOID=-536883478&contentType=COC_EDITORIAL&topChannelName=Dept&entityName=Buildings&deptMainCategoryOID=-536883466.

For more information about Cincinnati, Ohio's Vacant Building Maintenance License Program, go to http://www.cincinnati-oh.gov/cdap/downloads/cdap_pdf34664.pdf.

For a copy of Evanston, Illinois's Vacant Buildings Ordinance, go to http://www.cityofevanston.org/departments/communitydevelopment/property/pdf/vacant_buildings_ordinance.pdf.

For more information about Mount Prospect, Illinois' Vacant Structure Registration Program, contact Bob Roels, Coordinator, Environmental Health Division, 847-870-5668.

For more information about Wilmington, Delaware's Vacant Property Registration Fee Program, go to http://www.wilmingtonde.gov/VacantProperties/index.htm.

TOOL 5: TARGETING CODE ENFORCEMENT

The information below supplements the key questions section of the Vacant Properties Toolkit and details the indicators developed in one targeted code enforcement program.

How can a municipality target resources by geographic area?

Municipalities sometimes decide to focus special attention on one or more defined geographic areas. To do so, they must first decide how to divide the municipality into specific areas. Municipalities can consider traditional descriptions of geographic areas, including blocks, zip codes, census tracts and neighborhood. Municipalities may also decide to rely on less formal geographic areas that are commonly known and understood in the municipalities. For example, some municipalities have a clearly defined "old part of town" and "new part of town."

Once a municipality has been organized into geographic areas, a municipality can categorize each area based on a set of criteria, or indicators. The indicators serve mainly as a way to group geographic areas and determine which areas are similar and in need of which resources. In Richmond Va.'s Neighborhoods in Bloom Program, for example, the city split its neighborhoods into four categories based on several indicators:

Redevelop: ***Neighborhood has extensive problems***

Neighborhood has high concentration of vacant structures
Neighborhood has significant criminal activity
Poverty level (greater than 50 percent) is high
There is minimal owner-occupied housing
There is no neighborhood capacity for revitalization

Revitalize: ***Neighborhood shows significant signs of decline, contains conservation areas, receives numerous federal grants and has houses that can be rehabilitated.***

Significant number of structures are vacant
There is significant criminal activity
Poverty rate is 30 percent to 50 percent
Some housing is owner-occupied
Neighborhood capacity for revitalization is low
Neighborhood decline may be recent and swift

Stabilize: ***Neighborhood shows marginal signs of decline; code enforcement issues exist***

Some structures are vacant
Criminal activity is resilient (attempts to eliminate have been relatively unsuccessful)
Twenty to 30 percent of households are at or below the poverty level
Owner-occupied housing may be as much as 40 to 60 percent
Neighborhood may have been in a state of decline for a long time
Neighborhood may have had long-term attention in the form of public dollars or planning

Protect: ***Neighborhood has few problems but requires attention to maintain quality of life***

No or very few structures are vacant
Criminal activity is minimal
Owner occupancy is relatively high
Poverty rate is relatively low (less than 20 percent)
Initial signs of decline may be present

Municipalities may identify more than one geographic area that meets its criteria for targeting. A municipality may also decide to target multiple areas, but target each with different tools. For example, a municipality may determine that an area on the brink of decline should be targeted with additional resources for code enforcement while an area with limited strengths and tremendous vacant property problems should be targeted with additional resources for receivership or redevelopment.

For help in creating a set of neighborhood indicators, contact the Urban Institute, which runs the Neighborhood Indicators Partnership at http://www2.urban.org/nnip/

Additional Resources

Frank G. Jackson, Making Cleveland a City of Choice, 2007. Available at: http://www.city.cleveland.oh.us/clnd_images/mayor/initiatives/choice.pdf.

Brooklyn and Curtis Bay, Strategic Neighborhood Action Plan, 2005. Available at: http://www.ci.baltimore.md.us/government/planning/images/BrooklynCurtisBaySNAP.pdf.

Joseph Schilling et al., The Revitalization of Vacant Properties: Richmond, 2002. Available at: http://www.icma.org/main/topic.asp?hsid=1&tpid=17&stid=93.

Alan Mallach, Managing Neighborhood Change: A Framework for Sustainable and Equitable Revitalization, 2008. Available at: http://www.nhi.org/pdf/ManagingNeighborhoodChange.pdf

TOOL 6: RECOVERING COSTS OF PROPERTY MAINTENANCE

The information below supplements the key questions section of the Vacant Properties Toolkit and includes details on how municipalities can recover the cost of property maintenance in both a traditional sale and a foreclosure sale.

How can a municipality recover its municipal liens?

How municipalities recover the cost of property maintenance in a traditional sale

- ***Title Process***: Many liens will be recovered through the normal title review process conducted at the point of sale. When a seller transfers a property to a buyer, the buyer will have a title company conduct a title search. If a municipality has properly recorded its liens, the title company should find them in the title search and refuse to provide insurance for a clean title unless those liens are first paid off by the seller. While most sellers will pay off valid liens at that point, some sellers will attempt to force the buyer to buy the property with the liens attached and have the title company only insure the title accounting for the existing liens.

- ***Transfer Stamps***: Home rule municipalities with transfer stamps are able to leverage those transfer stamps in the sale process by refusing to give the seller the transfer stamp until the seller has paid all of the municipal liens. This provides an attractive option for home rule municipalities in cases where the title search process does not cause the seller to pay the full value of any outstanding municipal liens.

- ***Occupancy***: If all municipal liens are not paid at the point of sale, some municipalities have chosen to attempt to collect remaining municipal liens before occupancy. Municipalities with public water service or certificates of occupancy may threaten not to turn on water service or grant certificates of occupancy before all municipal liens are paid. Some municipalities make such threats before the sale is completed so that the seller is forced to pay the municipal liens. Other municipalities wait until after the sale is complete and, if all liens are not paid off they then, use these remedies to induce buyers to pay the liens.

How municipalities recover the cost of property maintenance in a foreclosure sale

- ***The Problem***: Municipalities doing work on a property that has not yet gone through the foreclosure process should be concerned about recovering the value of their liens at foreclosure sales. Because municipal liens are generally recorded after at least one mortgage on a home, these municipal liens are often junior to mortgage liens in foreclosure. When home values are relatively high, the high value generally ensures that a municipality will recover the value of their liens. For example, assume at the time of foreclosure that a home is worth $200,000, there is a $100,000 mortgage in place, and there are municipal liens worth $5,000. At the foreclosure sale, the mortgage holder will recover $100,000, the municipality will recover $5,000, and the homeowner will receive $95,000. However, in today's market, where home values are relatively low, municipalities may not recover the value of their liens in foreclosure. For example,

assume that a home is worth $200,000 at the time of a foreclosure and that there are municipal liens worth $5,000, but there is a $300,000 mortgage debt in place because the home was originally worth $500,000. At the foreclosure sale, the mortgage holder will recover $200,000, and the municipality will recover $0. Municipalities must understand this dynamic in order to gauge how likely they may be to recover the value of their liens.

- ***Priority Liens***: In Illinois, to circumvent the risk that they will not be able to cover their liens at foreclosure sale, municipalities can obtain a priority lien. When a municipality has a receiver appointed to maintain a property *(see Tool 7)* the municipality receives a priority lien and is no longer junior to the mortgage debt in foreclosure. Alternatively, as a result of a new Illinois law, municipalities can now obtain priority liens for the maintenance of vacant property provided the municipality follows the steps outlined in the new legislation. (This new legislation is discussed in greater detail in the main text.)

- ***Special Assessments***: Municipalities may consider making the costs associated with property maintenance a special assessment on a property tax bill. In order to get the costs of municipal maintenance on a property tax bill, after proper notice, the property must be cited with a code violation relating to cutting of grass and weeds, the removal of garbage and debris, as well as a few other activities; certain documentation must be provided, the fine must go through the same review procedures as other building code violations, and a lien must be placed on the property. While some of these provisions create a heavy burden on municipalities and may make the special assessment option undesirable, there may be some times where a property presents a significant enough problem that the potential benefit will outweigh the burden.

TOOL 7: RECIEVERSHIP

The information below supplements the key questions section of the Vacant Properties Toolkit.

What Are Common Challenges in Receivership?

- ***Initial Financing***: Though rental income and receiver's certificates allow municipalities to defray the cost of repairing properties, these mechanisms have limitations. Rental income can be unpredictable as tenants move in and out and parts of buildings are closed down for repairs. Also, lenders may be wary of lending to receivers because receivers do not have title to the property. Because a receiver's lien is a significant encumbrance on a property, banks may be reluctant to lend to someone who wants to purchase the property.

- ***Timing***. Even a municipality which aggressively forecloses on liens will face an obstacle to recovering costs because a municipality must wait 15 days after filing a lien before a foreclosure hearing can be conducted and another 60 days after the entry of a foreclosure order before the redemption period has expired. In the time it takes for the municipality to recover the lien from the value of a property or from an owner, the property may decline in value for the same reasons the property was initially in trouble. Municipalities that operate a large scale receivership program should consider addressing this problem in two ways. First, municipalities should consider filing a lien as soon as the municipality accrues significant costs. Additional costs can then be added to the lien proceedings as it makes it ways through the foreclosure process. Second, municipalities should consider having receivers perform only the maintenance necessary for property stabilization. Further property rehabilitation can take place once a new owner takes possession of the property. In this way, the municipality does not put a substantial part of its resources at stake on each property in receivership.

How Can Non-Profit Organizations get a Receiver Appointed?

The Abandoned Housing Rehabilitation Act allows a variety of organizations to petition for and become receivers for distressed properties. An organization is eligible to be a receiver if it is an Illinois corporation, agency, partnership, association, firm, or other entity which has two or more people, is conducted on a non-profit basis, and has among its purposes the improvement of housing. Municipalities are not organizations under this law.

An organization can ask a court to become a receiver if the property has been continuously unoccupied for a year, the property is a nuisance, the organization intends to use the property for low- and moderate-income housing after the property is rehabilitated, and the organization provides notice of the proceeding to the property's owner, judgment creditor, tax purchaser, or other party that has a legal or equitable interest in the property. Once in court, the organization

must submit a rehabilitation plan for the property and show that it has sufficient resources to be a receiver.

After the court appoints an organization as the receiver, the owner has two years to regain control of the property. If the owner is successful in regaining control, the owner must repay the organization's expenses for rehabilitating the property. If the owner does not regain control within two years, the organization can gain title to the property, and then use the property for low- and moderate-income housing.

TOOL 8: ACQUIRING PROPERTIES

The information below supplements the key questions section of the Vacant Properties Toolkit and includes details of the tax sale process and a specific example of a successful land banking program.

How can a municipality acquire properties?

- ***Purchase Properties***. Municipalities can simply purchase properties on the same basis as a private actor. Such purchases, however, are subject to both financial resource constraints and political approval. In the current environment, there are increasing federal resources available for such purchases through programs such as the Neighborhood Stabilization Program (http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/).

- ***Eminent Domain***. Municipalities can acquire properties through the use of eminent domain, which requires that a property be taken only for a public purpose and that the owner receive just compensation. Under Illinois law, municipalities may use eminent domain to take individual blighted properties even if they are not part of a larger redevelopment area.

- ***Transfers***. Municipalities can receive properties through transfers from other government entities, private individuals or non-profits. Some property owners may wish to transfer properties to a municipality or a non-profit, such as a community development corporation, either for free or at a discount, in order to gain state and federal tax advantages.

- ***Tax Sales*.**

How does the tax sale process work?

Many owners who have abandoned their properties stop paying property taxes. In Illinois, the property taxes are then "sold" to a third-party tax buyer. The owner may "redeem" the property within two years, by paying the tax buyer for the taxes the owner had failed to pay, plus interest. If the owner does not redeem the property within two years, the tax buyer takes title to the property.

How are the taxes "sold"?

Unpaid property taxes are are "sold" by the county at an annual tax sale. At the tax sale, individuals bid on the taxes for each property in an auction-style format. When an individual bids at an annual tax sale, they pledge to pay the full value of the property taxes to the various taxing entities, including the municipality, county, and other taxing bodies, immediately. A winning bidder is the individual that bids the lowest interest rate. This is the interest rate that dictates how

much the property owner must pay in order to redeem the owner's property taxes from the winning bidder. Essentially, the lower the interest rate the easier it is for a property owner to redeem the owner's property taxes and the less money the property tax buyer will make in the transaction. If taxes are not sold at an annual sale, two things can happen. If the property is worth more than the debt, then the property is forfeited to the State of Illinois. If the property is worth less than the debt, it goes to a scavenger sale. At a scavenger sale, taxes are sold for less than the value of the taxes and the taxing district often receives far less than the full value of the outstanding property taxes.

Why acquire properties through the tax sale process?

Acquiring properties through the tax sale process is almost always cheaper for municipalities than buying a property on the open market. If a municipality purchases the property taxes on a property and if the property taxes are not paid back within two years, the municipality will acquire absolute title to the property. Additionally, if a property is not being maintained between the time a municipality purchases the tax on a property and the time the municipality acquires the property, the municipality can petition the court to prevent waste on the property, including doing so by appointing a receiver for the property. Once a municipality acquires the property, the municipality can abate all unpaid municipal property taxes on the property. There are, however, costs to acquiring property through the tax sale process, including legal fees and holding costs for acquired properties.

How can a municipality acquire a property through the tax sale process?

If taxes are owed to a municipality, the municipality may participate in the tax auction for that property on the same basis as other entities. This requires the municipality to abide by all the requirements of the tax sale process, including paying the full value of the taxes when they are purchased and bidding based upon the interest rate the municipality is willing to charge the property owner. Any taxing district, including a municipality, can bid at the scavenger sale.

With the help of a willing county government a municipality can also acquire a property through a tax sale without paying cash for the value of the property taxes. This means that the county can acquire the taxes to the property without having to pay cash up front and then acquire the property in two years if the owner does not repay the property taxes. In effect, the county agrees to pay the taxes on the property instead of paying cash, and then uses its authority to extinguish the taxes, including the amount owed to taxing entities besides the municipality. After a county acquires the property, it can transfer the property free and clear to the municipality in which the county is located.

Are there any models for acquiring properties in a systematic way?

Land banking is the main model for acquiring properties in a systematic way. Land banks are governmental or quasi-governmental entities established to acquire troubled properties, hold them, ensure adequate property maintenance and ultimately convey them in a way that returns them to productive use. Land banks can generally acquire, hold and convey property more effectively and efficiently than traditional government agencies because land banks are created to carry out those narrow tasks, can develop the necessary capacity and highly-specialized skills,

and can operate free of much of the bureaucracy that makes it difficult for governments to acquire and convey property.

Under existing state law, Illinois municipalities can engage in the core functions of land banking – strategically acquiring, redeveloping and disposing of vacant properties to bring those properties back into productive use. To do so, a municipality or group of municipalities could create a team of municipal staff members or even a separate committee within municipal government to focus on the problem of acquiring and redeveloping vacant properties.

A major challenge for municipalities engaging in land banking is finding the funding necessary to acquire property. This problem can be partially addressed by acquiring properties thorough the tax sale process. In addition, where state, federal, private or non-profit dollars are available, an aggressive redevelopment strategy can be pursued without much direct municipal funding.

Land banks could work even more effectively to return troubled properties to productive use if Illinois law were amended to authorize municipalities to give land banks some of the powers they have been given in other states. For example, land banks could be authorized – like counties – to make "no cash bids," in order to acquire properties more easily. To make it easier to sell a property and return it to productive use, land banks could also be granted the power to extinguish all outstanding city and county taxes on a property. A variety of systems can be put in place to ensure that land banks are accountable to the jurisdictions that create them. For example, land banks can be governed by boards comprised in whole or in part by local government officials. Land banks can have their own dedicated staff, or be staffed by employees that work for relevant government departments.

Additional Resources

Frank Alexander, Land Banking as Metropolitan Policy, 2008.
http://www.brookings.edu/papers/2008/1028_mortgage_crisis_alexander.aspx

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Living Cities, Purchasing Properties at Scale: Lessons on Acquiring REOs During the Foreclosure Crisis from Pioneering Project, 2009.
http://api.ning.com/files/kUQU9L5Wi0mZzeHd-twUmYNtAaEO*SK0o4LNP52Rg2s6uF0ZRSaLYf6uHyZANcIW7PQqUypAjbH8Fr6h*vat9qpHx5sVSTK-/20090916AcquisitionCaseStudy.pdf