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**Preserving Properties on the Edge:
Rapid Recycling of Distressed and Abandoned Properties**

**W. Dennis Keating
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Introduction

The problems presented by at risk, vacant and abandoned rental properties are national in scope, although their magnitude varies by state and locality. While this phenomenon has had its greatest visibility in the older, industrial cities of the Northeast and Midwest, it is not limited to those regions whose urban areas are undergoing economic and social transformation in the wake of widespread de-industrialization, often accompanied by a significant loss of jobs and population. “Sunbelt” cities, as well as those in the “Rustbelt”, have also seen this phenomenon, particularly as the result of a downturn in the economy, e.g., the high tech crash that hit cities like San Francisco hard, cities like Los Angeles that had to adjust to the restructuring of the defense industry following the end of the Cold War, and the oil patch cities like Denver and Houston that had to cope with sudden downturns in the energy industries. Given the shortage of affordable rental housing available to low- and moderate-income households, the inadequacy of governmental subsidies and regulatory measures to reduce the price of rental housing, and the cost of what newly-constructed rental housing is being developed, localities can ill afford to have any significant portion of the existing housing stock deteriorate to the point of becoming vacant and then abandoned. In addition, those cities struggling with major economic and social problems cannot afford to have such housing not only not pay property taxes but also become a drain on the treasury due to the costs of board-ups, increased need for police and fire-fighting intervention, and eventually demolition, almost all of which may not be recovered through tax liens in a depressed housing market.

The purpose of this paper is first to provide an overview of the problem, then to illustrate preventive approaches, and finally to show how these problem buildings can be reclaimed and made into community assets. Thus, best practices in preserving affordable rental housing are highlighted.

Reference will be made to the need for state enabling legislation allowing cities to undertake innovative approaches to dealing with abandonment. Cities are often limited in their legal ability to take action without such state authorization. Examples include the foreclosure process triggered by tax delinquency, nuisance abatement, the appointment of receivers to take control of abandoned property in order to make necessary repairs, and the creation of land banks to reclaim abandoned properties. On the other hand, cities can reform those programs which they can operate under their general “police” powers to better address abandonment (e.g., housing

code enforcement) without necessarily having to obtain prior state approval.

This paper owes much to the recently-published *Bringing Buildings Back: From Abandoned Properties to Community Assets* (2006) by Alan Mallach of the National Housing Institute. This guidebook for policymakers and practitioners addresses: 1) preventing abandonment; 2) taking control of abandoned properties; and 3) fostering sustainable reuse of abandoned properties. Mallach provides a comprehensive overview that includes examples of best practices (ownership as well as rental housing). I am also indebted to those knowledgeable city officials, community activists, and experts whom I interviewed in the course of researching this paper.

The Affordable Rental Housing Problem

The March, 2006 report on “America’s Rental Housing” by the Joint Center for Housing Studies of Harvard University provides a comprehensive overview of the rental housing situation. In terms of vacant and abandoned housing, the most telling statistic is the loss of 200,000 units annually (p. 3). In the decade 1993-2003, an estimated 2.3 million rental units were demolished or removed:

“Over half of these rentals were in older (built before 1960) one- to four-family buildings located in the nation’s most distressed neighborhoods”. (p. 22, Figure 27) 1.3 million of these lost units rented for \$400 or less monthly, 13 percent of that housing stock (p. 16, Figure 19). Low-rent units in older buildings in distressed inner city neighborhoods occupied by the lowest-income tenants are prime candidates for abandonment as their conditions deteriorate and vacancies rise. The report notes that of the 20 percent of renters earning under \$10,600 annually, 70 percent pay more than half their incomes for housing and another 12 percent pay 30-50 percent, yet 15 percent of these households are still forced to live in structurally inadequate housing (p. 17, Figure 20). Even subsidized tenants face these problems, with half paying more than 30 percent of their income for housing and a quarter paying more than 50 percent, while 700,000 assisted households live in structurally inadequate units (p. 17).

The report also points out that the lowest-income renters are concentrated in high-poverty areas of central cities (partly due to the location of public housing) (p. 15). Much of the structurally inadequate, older rental housing is to be found in these locations.

The Housing Abandonment Problem

First, how is housing abandonment defined? Mallach (2006)'s definition is: "An abandoned property is a property whose owner has stopped carrying out at least one of the significant responsibilities of property ownership, as a result of which the property is vacant or likely to become vacant in the near future" (p. 1). How long must a building be vacant to be considered abandoned? Green Leigh (2003) notes that this varies among cities, with a 1998 survey finding definitions ranging from 60 to 120 days or longer and a U.S. General Accounting Office definition of two years or more (p. 2, n. 2). As Mallach notes, the types of housing that are abandoned vary according to their age and location.

Whatever definition is used, Mallach notes that it is very difficult to determine the magnitude of the problem. He cites varying estimates in selected weak market cities (including my city of Cleveland, Ohio) (Appendix Table A.1, p. 309). According to the 2000 census, the five cities with the highest estimates of abandoned properties in weak market cities were:

1. Philadelphia: 37,500
2. Baltimore: 23,100
3. Detroit: 17,300
4. St. Louis: 17,300
5. Buffalo: 13,600

Mallach notes: "By any account, however, abandoned buildings and vacant lots are widespread, not only in the nation's largest cities, but also in thousands of small cities, towns, and villages throughout the United States" (p. 4).

Approaches to Preserving Rental Housing

There are a variety of approaches to preserving rental housing which will be described below. First, there is housing code enforcement, intended to have owners maintain their buildings according to at least minimal occupancy standards. If adequately enforced, then housing codes should sustain most of the existing rental housing stock. However, much of the history of housing code enforcement is otherwise. Reforms like shifting reliance from criminal to civil penalties and the creation of municipal housing courts have only helped somewhat. The

recognition of the “warranty of habitability” in landlord-tenant leases by the courts and the creation of tenant self-help remedies like rent withholding through court-held deposits also supplemented traditional enforcement methods but have not solved problems faced by many poor tenants in older, substandard buildings.

Second, there have been and are a variety of federal, state and local programs aimed at the rehabilitation of substandard rental housing. However, compared to the need, adequate funding from both public and private funds has always been in short supply. Increasingly, the principal role of housing rehabilitation by non-profit agencies has passed from public authorities to community development corporations (CDCs). On occasion, the receivership remedy has been used to take control from irresponsible, absentee owners in order to try to save derelict buildings, both occupied and vacant.

To try to save tax delinquent, foreclosed rental properties that might otherwise deteriorate beyond salvation, some cities and states have reformed tax foreclosure laws and established land banks to facilitate title transfer to organizations and individuals interested in and able to acquire and preserve such buildings. There are also ongoing efforts to finance repairs either to prevent further deterioration that eventually leads to abandonment and to rehabilitate those vacant and abandoned buildings that are salvageable, particularly in those neighborhoods where this will reinforce neighborhood stability.

For abandoned buildings that are beyond repair, demolition programs have been instituted. Despite the costs involved, these demolitions are necessary to prevent their occupation by criminals, their becoming a health hazard threatening neighbors and neighborhoods, and their loss by arson. In recent times in some communities, the rapid pace of foreclosures due to predatory mortgage lending has far outpaced any of the above responses.

Perhaps, the most difficult task is to try to rebuild on vacant sites left by the loss of abandoned housing (rental and ownership), especially if these are “brownfield” sites. The costs of reclamation, including removing asbestos, lead paint, and other toxic wastes, may make the cost of redevelopment prohibitive.

In addition to Mallach’s book, there are several reports that survey these approaches. Before I discuss specific approaches, I will briefly summarize several of these studies.

In 1997-1998, John Accordino and Gary Johnson (2000) surveyed the 200 most populous U.S. central cities as to the vacant and abandoned property problem. It was found to be most

severe in cities in the Northeast, Midwest, and South. It was not perceived to be as serious in the West. Two-thirds of the cities responding reported that the problem was confined to specific neighborhoods. Multi-family complexes were reported as the second most problematic type of vacant and abandoned property (the first being single-family houses). Code enforcement and tax foreclosure were reported as the top two most effective tools but they found that “most cities appear to lack the staff resources to do a thorough and timely job of code enforcement and tax-delinquent property disposition” (p. 313).

In a 2002 Brookings Institution Center for Urban and Metropolitan Policy and CEOs for Cities research brief, Paul Brophy and Jennifer Vey identified ten key action steps that state and local governments can take to promote faster and better redevelopment of vacant and abandoned properties and improve the quality of urban neighborhoods. They first referred to a 1999 survey of 83 cities with populations of over 100,000 by Michael Pagano and Ann O’M. Bowman (2001) that found on average 15 percent of their land was usable but vacant. With each of the following ten steps, Brophy and Vey provided examples of state and local programs that represent best practices:

1. know your territory;
2. develop a citywide approach to redevelopment;
3. implement neighborhood plans in partnership with community stakeholders;
4. make government effective;
5. create a legal framework for sound redevelopment;
6. create marketable opportunities;
7. finance redevelopment;
8. build on natural and historic assets;
9. be sensitive to gentrification and relocation issues;
10. organize for success.

The National Housing Trust (www.nhtinc.org) updated its inventory of state and local housing preservation initiatives in March, 2006. These include programs for the preservation of multi-family housing.

James Goldstein, Michael Jensen, and Edward Reiskin prepared a 2001 working paper on “Urban Vacant Land Redevelopment: Challenges and Progress” for the Lincoln Institute of Land Policy. They explored the nature of the issue, including the causes and consequences of urban vacant and abandoned land, and identified barriers to redevelopment. They provide examples of best practices in the following cities: Boston, Harrisburg, Philadelphia, Pittsburgh, Portland (Oregon) and Providence.

Nancey Green Leigh prepared a 2003 discussion paper on “The State Role in Urban Land Redevelopment” for the Brookings Institution Center on Urban and Metropolitan Policy and CEOs for Cities. She reviewed state-enabled approaches, includes some state case studies, and concludes with a model state reform agenda. This agenda contains the following ten elements (p. 30):

1. vacant land and abandoned property inventory;
2. brownfield voluntary cleanup program;
3. in-fill directed smart growth initiatives;
4. targeted use of development authorities, tax increment financing and business improvement districts;
5. enterprise zones focused on blight and vacant properties;
6. reformed judicial tax lien foreclosure system;
7. authorization for local land banks;
8. eminent domain use by community land trusts;
9. split-rate taxation;
10. rehabilitation codes.

In these and other studies and reports, there is overlap in recommended approaches. I will next discuss some of the leading approaches in addressing the problem.

Preventing the Deterioration and Abandonment of Rental Housing

Code Enforcement

For older rental housing, perhaps the best antidote to deterioration and eventually abandonment is to maintain the buildings adequately. However, for older buildings with structural problems, particularly those owned by undercapitalized and amateur absentee

landlords and occupied by very low-income tenants, this is no easy task. If routine maintenance, as well as needed capital improvements (e.g., periodic replacement of roofs), is deferred, the likelihood of vacancies leading to abandonment becomes higher. Many landlords in this situation cannot easily pass these costs on to poor tenants. A failure of a building system (e.g., furnace), a sudden increase in energy costs, or the loss of rent-paying tenants can trigger a landlord's retreat from responsible maintenance. Despite the legal requirement that tenants have an implied "warranty of habitability", this does not by itself guarantee adequate maintenance.

To address the problem of urban slums, beginning with New York City more than a century ago, cities have adopted housing maintenance and occupancy codes intended to impose minimal standards (Friedman, 1968). Municipal housing code enforcement has faced numerous problems over its history in achieving its goals. Enforcing these codes against absentee-owned multi-family buildings in the worst neighborhoods has often proven to be ineffective. The reasons include too few housing and health inspectors, a complaint-based rather than systematic inspection policy, using criminal rather than civil penalties which judges are reluctant to enforce, and repeated delays in the court system. Short of nuisance abatement, cities have also been reluctant to order the evacuation of troubled buildings because they are unwilling or unable to provide relocation housing to the tenants and also they do not want to have another vacant building.

There have been reforms to improve municipal code enforcement. Cities have increasingly switched from criminal to civil penalties. Instead of rotating judges hearing housing code violation cases often leading to numerous extensions, many hearings, and few results (Mallach at 44), in some cities specialized housing courts have been established. In cities like Boston, Cleveland and New York, these courts deal specifically with code enforcement issues, among other housing issues within their jurisdiction. While this has not solved all of the issues hampering enforcement, it has certainly been an improvement, especially if there are judges with sufficient tenure, knowledge and dedication to the process. One such example is Cleveland's Housing Court (Jaquay, 2005; Mallach at 45). While imposing fines as penalties for non-compliant landlords, housing courts have also used mediation and tenant rent-withholding as alternatives to obtain necessary repairs.

While many cities license landlords, this is not usually accompanied by annual or periodic inspections. Instead, housing code violations are investigated based upon tenant

complaints. Lack of an adequate number of inspectors due to funding problems is the usual reason for this. An alternative approach is targeting inspections – by geographic area, building or ownership characteristics, and the nature of violations (Mallach at 41-43). However, systematic code enforcement is clearly preferable in deterring deterioration by citing violations before buildings have deteriorated to the point of being at risk of abandonment.

The city of Los Angeles' Systematic Code Enforcement Program (SCEP) is an example of this comprehensive approach. This program won the Fannie Mae Innovations in Government Award in Affordable Housing in 2005. Established in 1998, it resulted from a recommendation of a Blue Ribbon Citizens Committee created because of concern over slum housing conditions. Since its inception, more than 90 percent of the city's multi-family housing (two or more units) has been inspected on a 5-year cycle. To fund the program, landlords are charged an annual fee of \$35.52, which they can pass on to their tenants. Originally, the intent was to have inspections every three years, with the worst buildings being inspected more frequently. There is tenant outreach in conjunction with the Coalition for Economic Survival (CES). Tenants are informed that they can deposit up to half of their rent into escrow for court-ordered repairs under the Rent Escrow Account Program (REAP).

Nuisance Abatement

The Los Angeles Housing Department also participates in the City Attorney's Citywide Nuisance Abatement Program (CNAP) aimed at abandoned buildings and buildings plagued by drug-dealing and gang activity. Nuisance abatement can be applied both to occupied and also to vacant buildings. Mallach (Table 12.1 at 152-153) outlines the provisions of a model state nuisance abatement enabling statute. Cities which apply this remedy can impose fines on owners and also hope to recoup the costs of the repairs that they make through liens imposed on the property if that proves necessary. Mallach (at 46-48 and 150-157) provides examples of good practices from Houston, Minneapolis, Portland (Oregon), and San Diego. Mallach (at 155-156) notes that the neighbors of nuisance buildings can attempt the common law remedy of self-help nuisance abatement. Finally, Mallach (at 156-157) discusses the difficult dilemmas associated with the reach of this remedy, which, if successful, could lead either to the repair of a building or its demolition.

Early Warning Systems

Mallach states:

“A successful strategy for dealing with problem properties begins with a good information system, one that provides information about individual properties as well as neighborhood conditions and trends” (p. 17)

He lists twenty neighborhood information indicators (Table 2.1 at 19-20). He provides examples of good practice from Los Angeles, Minneapolis and Rochester. Creation and use of such an early warning system can certainly aid in targeting both preventive and ameliorative remedies. Any community with a sizable number of abandoned properties should consider establishing such a system as soon as possible.

Rehabilitation Financing

A significant reason for troubled multi-family housing going into foreclosure and then abandonment is often the owner's inability to obtain financing that will sustain the building and assuming for-profit status earn the owner a reasonable return on investment. Such financing can often be in short supply and difficult to obtain, especially for those owners whose credit history is weak. Lenders, especially if public, may also be leery of lending to those absentee owners who might be characterized as slumlords. In addition, if the building itself is the collateral for a loan, a building with structural problems, major code enforcement violations, and poor tenants located in a distressed neighborhood is not going to be regarded as much of an asset to secure a loan. Nevertheless, obtaining refinancing that will bring the building up to code requirements or beyond would be far preferable to allowing it to become abandoned, demolished and ending up as another vacant lot.

Mallach (at 24-28) points to three approaches to address this issue: loan programs, tax relief and insurance assistance. Regarding loan programs, he points toward three examples: the Community Preservation Corporation (New York and New Jersey), Chicago's Neighborhood Improvement Program (using tax increment financing), and New Jersey's program for the moderate rehabilitation of multi-family housing.

Another good example is Chicago's Community Investment Corporation (CIC). Founded as a non-profit mortgage lender 18 years ago with a small loan pool backed by 14

banks, its loan pool last year was \$358 million (CIC, 2005). Cumulatively, it has approved 1,286 loans for \$720 million involving the rehabilitation of 35,000 rental units. Among its programs, is the “Troubled Buildings Program”, initiated in 2003. CIC coordinates this program (through a subsidiary Community Initiatives, Inc.) involving eight departments of the city of Chicago and several non-profit organizations to deal with those buildings with neighborhood gang and drug activity, utility disconnections, and a need for repairs. In 2005, 64 troubled buildings with 1,049 units were repaired. Cumulatively, 221 buildings with 3,805 units have been in the program, with 42 buildings having 877 units being rehabilitated to code standards as of September, 2005. State and local housing preservation financing programs can be found in the National Housing Trust 2006 update.

Under an innovative agreement reached in April, 2006 between the community coalition Housing Here and Now (www.housinghereandnow.org) and two banks – Citigroup and New York Community Bank, Citigroup agreed to take into account past code violations, emergency repair liens and litigation in apartment buildings in New York City before making mortgage loans to their owners. Any needed repairs must be completed before closing, with the New York Community Bank holding repair funding in escrow. The New York State Superintendent of Banks urged other lenders doing business in New York City to adopt a similar policy voluntarily (New York Times, April 7, 2006, A23).

While tax abatements are more typically associated with new construction, Mallach points to New York City’s J-51 tax abatement program for moderate and gut rehabilitation of multi-family buildings. Chicago’s CIC uses two Cook County tax incentive programs for major rehab on affordable multi-family buildings and for preservation of project-based Section 8 multifamily rental housing.

Receivership

Receivership is a legal remedy in which a court can authorize the appointment of a receiver to take control of a distressed rental property and use rents and any other available funding, including loans, to rehabilitate the property. While receivership programs are usually implemented at the municipal level, state enabling legislation is required. Mallach (at 50-59, Tables 6.1 and 6.2) provides comparative examples from state laws of the grounds for receiverships and key statutory features. While receivership statutes are many, their use is very

limited. As Mallach (at 49) notes:

“Legal obstacles often arise from the inadequacy of state statutory provisions, and practical obstacles include uncertainty about financial exposure and the difficulty of finding qualified receivers”.

Mallach (at 49-65) reviews the elements of receivership statutes and the process of using this power, including the appointment of receivers, borrowing, placing liens on the building, and returning control of the property to owners following rehabilitation. For a step-by-step guide to implementing Ohio’s receivership law, see Community Advocacy Clinic (2001). In Chicago’s Troubled Building Initiative, 20 buildings with 246 units have been placed in receivership. For an analysis of the use of Baltimore’s Vacant Building Receivership ordinance, see Kelly (2004) and Mallach (at 99).

Eminent Domain

Governments are authorized to use the power of eminent domain for a public use or public purpose, paying just compensation (Mallach at 88-94). In the event that the owner of a rental property sought by a city refused to sell voluntarily, the city could force the sale. Typically, this would occur in a redevelopment project to eliminate “blight”. Otherwise, cities would rarely exercise this power against individual troubled buildings. Rather, they would more likely use nuisance abatement statutes (see above) to try to compel repairs or to vacate the building (without having to pay compensation). The constitutionality of cities using eminent domain, even to take “blighted” properties, has been at the center of controversy triggered by the U.S. Supreme Court’s June, 2005 decision upholding the right of a city to invoke this power for economic development, even though the properties involved were not blighted. *Kelo v. City of New London*, 125 S. Ct. 2655. More recently, the Ohio Supreme Court overturned the use of eminent domain for economic development, despite a city’s claim that it involved houses in a blighted neighborhood. *Norwood, Ohio v. Horney*, (July, 2006). However, there is no question that vacant and abandoned properties constitute “blight”.

Working with Landlords

Another approach to preservation is for cities and affiliated organizations to train those landlords who need to learn and improve their management skills to better manage their property. This particularly applies to landlords with little or no prior housing management experience, those with inadequate financial resources, and those who acquire buildings through inheritance rather than purchase. Mallach (at 28-29) points to the Cleveland Housing Court as one example. Another is Chicago's CIC's Property Management Training Program, which includes an on-line class. In 2005, 845 landlords/managers attended 37 CIC property management training session (CIC, 2005).

Preservation of Abandoned Buildings

Tax Foreclosure

If all of the above approaches fail, abandoned buildings generating no revenue pay no property taxes. This affects not only the municipalities in which they are located but also school districts, counties, and special taxing districts which receive property taxes. Most likely, the owners of those buildings in the most distressed neighborhoods in weak housing markets are the ones that will stop paying taxes, resulting in tax liens on the property. This then leads to tax foreclosure, which extinguishes private liens, including mortgages. Mallach (at 75-79) describes the process of tax foreclosure and its problems. He then outlines the main issues in the reform of tax foreclosure laws (Mallach at 80-83):

1. ensuring that the tax foreclosure procedure, if carried out correctly, leads to clear, marketable, and insurable title;
2. clarifying jurisdiction and eliminating jurisdictional conflicts;
3. changing tax foreclosure from a two-step procedure to a single enforcement proceeding;
4. reducing the period that taxes must be delinquent, particularly with respect to abandoned properties, before initiating tax sale or tax foreclosure proceedings;
5. reducing or eliminating the period during which the owner of an abandoned property is permitted to redeem after the foreclosure, or imposing additional obligations as a condition of redemption;

6. permitting municipalities to retain liens, or to carry out foreclosures, without the requirement that properties be offered for sale to third-party purchasers, or to establish conditions of sale;
7. providing for consistent treatment of other municipal liens;
8. providing a statutory definition of abandoned property.

All of the above are aimed at preventing tax-delinquent abandoned properties from sitting in a lengthy legal limbo as they further deteriorate and cause problems in the neighborhoods in which they are located. The foreclosure issue has received considerable recent attention where predatory lending (usually for single-family homes) has led to a flood of foreclosures and abandoned houses (e.g., in cities like Cleveland). Mallach (at 118-127, Tables 10.1 and 10.2) emphasizes the need for well-defined intergovernmental agency responsibilities and coordination and the involvement of non-government organizations (e.g., neighborhood associations and community development corporations).

In rem Housing

The term “in rem” refers to a legal action by cities against abandoned tax delinquent properties, rather than against their owners. Keating and Sjoquist (2001) analyzed in rem policy in five cities: Atlanta, Detroit, Cleveland, Los Angeles, and New York. At the height of its abandonment problems, New York City was probably the best known example of trying to take control of these buildings and return them to occupancy under responsible management. According to Keating and Sjoquist (p. 2):

“New York City developed some of the earliest and most aggressive and effective municipal in rem policies to confront housing abandonment. CDCs in New York have made extensive use of tax delinquent properties to provide housing for low- and moderate-income people. Between 1986 and 1997, New York fostered the major rehabilitation of 44,000 units of housing in formerly vacant buildings, the moderate rehabilitation of 97,000 units in mostly occupied buildings, and the construction of 16,000 units of new housing. Over 90 percent of these developments involved in rem properties. During that period, the Tenant Interim Lease Program transferred more than 600 buildings containing 13,576 units to eventual tenant cooperative ownership. Nonprofit owners acquired 5,754 units”.

The scale of both abandonment and the city's efforts to rehabilitate these units far surpassed that of this phenomenon in any other U.S. city. By 2005, New York City's stock of in rem housing had declined to only about 2,400. Keating and Sjoquist found the in rem policies to be least effective in Atlanta, Detroit and Los Angeles (p. 5):

“In rem policy varies from undeveloped (Los Angeles); to struggling to fashion a process that recognizes property rights but intercedes before property deteriorates beyond redemption (Detroit); to a situation in which the legal and administrative infrastructure have been restructured but political differences in the valuation of short-term revenue receipts and longer-term community development goals are unresolved (Atlanta)”.

Keating and Sjoquist identify the following four elements as “critical to successful conversion of distressed, tax delinquent property into productive use” (pp. 2-3):

1. a mechanism to waive unpaid property taxes, penalties, and interest;
2. an expeditious foreclosure process that provides marketable title;
3. the existence of CDCs and other nonprofit housing developers with the capacity to redevelop the distressed properties;
4. ability to sell properties at below-fair market value.

Maintenance and Demolition

A major administrative and budgetary challenge for those communities with a large number of abandoned rental properties, whether scattered or concentrated, is to ensure their not deteriorating further and jeopardizing the health and safety of their neighbors and the neighborhoods in which they are located. This often involves cleaning and boarding them (Mallach at 172-175). More than likely, this will be a public expense, resulting in a lien on the property. For example, in Cleveland, with approximately 10,000 vacant properties, the city has a Clean Cleveland Initiative, which includes cutting overgrown grass and removing debris from vacant properties. Charging an average of \$336 per property, the city in 2005 billed the absentee property owners nearly \$1.9 million for grass cutting and clean-up but recovered only \$750,000 (Plain Dealer, August 23, 2006). In addition to compiling an inventory of vacant and abandoned buildings, some cities have required owners to register the property and pay fees to offset the city's costs. Other cities have required owners to take affirmative action to either rehabilitate the

property or have it demolished by a certain date, with sanctions for failure to comply (Mallach at 143-150). Mallach (at 151) provides examples of good practices from Minneapolis, Portland (Oregon), and San Diego.

For those vacant and abandoned rental buildings with little potential for feasible rehabilitation and productive reuse, demolition becomes the next step. This will typically require the city to demolish and bill the owner, often resulting in another lien on the property. In the case of major cities with large numbers of abandoned units, this can be a very expensive program. For example, in FY 2007, Philadelphia's Neighborhood Transformation Initiative (NTI) plans to complete 1,100-1,200 demolitions at a cost of over \$20 million. During the period FY 2003-2006, Philadelphia spent more than \$142 million to demolish almost 4,000 vacant buildings (Philadelphia NTI, 2006). Mallach (at 176-177) suggests addressing the following four basic questions in deciding whether or not to demolish:

1. what is the quality of the building and does it have particular architectural or historical value worth preserving?
2. what is the existing fabric of the neighborhood in which it is located and does the building's presence contribute to that fabric?
3. what potential redevelopment or revitalization opportunities, if any, will the demolition of the building create?
4. how severe is the nuisance impact or other harm from the building in its present condition, and does that impact outweigh the loss of the reuse potential of the building?

Reuse of Vacant Land

Vacant Lots

Following the loss of abandoned building through demolition (or in some cases arson), cities face the prospect of empty lots that become a nuisance, particularly through illegal dumping. In addition to a city securing and maintaining these lots, involving neighbors and neighborhood and civic groups in this process is key. In some cities, such lots have been given away or turned into community gardens, playgrounds and green spaces (Mallach at 166-172).

Land Banks

In those cities with large numbers of vacant lots, the creation of a land bank may be seen as the best way to both manage them and, more importantly, dispose of those that can be put to productive reuse. In some cities, it is likely that the majority of these lots will be most suitable for the construction of single-family houses, rather than rental reuse. Mallach (at 128-142) reviews the structure of land banks and the process for the conveyance of vacant lots. He discusses sound disposition policies (at 102-116), providing a decision tree for disposition of individual vacant lots (Figure 9.1 at 109). He recommends Frank Alexander's *Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks* prepared for LISC (Mallach at 128, n. 2). Alexander reviews issues such as pricing policy and the enforcement of buyer commitments related to property disposition (Chapter 6). Paramount considerations are to sell at prices that will attract responsible buyers, who will develop an agreed upon re-use of the property within a reasonable time. This contrasts with a policy of simply auctioning off vacant lots to the highest bidder. A leading example is Cleveland's land bank, which works closely with the city's network of CDCs to provide lots at a nominal price for new affordable housing (Mallach at 136; Bright, 2000, Chapter 6); Mallach provides several other examples of good practice.

Redevelopment

To the extent possible, it is desirable to replace the abandoned housing that is removed from the stock. However, as Mallach stresses, this should be done within the context of neighborhood redevelopment and revitalization planning, rather than on a piecemeal and uncoordinated basis. His book includes chapters on: "Neighborhood revitalization planning and abandoned property strategies" (18); "Principles for abandoned property reuse" (19), and "Greening the Urban Environment: Open space as a reuse strategy" (20).

Citywide Programs

In June, 2006, the United States Conference of Mayors published a report entitled *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*. These cities provide a range of approaches. Some represent an attempt to develop a comprehensive

citywide strategy, with a time-limited goal. Among major cities, Baltimore, Boston and Chicago are noteworthy.

In 2002-2003, Baltimore City Mayor Martin O'Malley announced a "Blight Elimination Initiative" or "Project 5000". At the time of his State of the City Address in January, 2002, the city had a housing vacancy rate of 14 percent, with 15,000 vacant and abandoned housing units and 10,000 vacant lots. His initial goal was the acquisition of 5,000 vacant and abandoned properties in two years. The program involved strategic targeting and accelerated code enforcement. Over the period 2003-2006, the city reports the following results:

- 6,000 properties with clear title have been acquired;
- 1,000 properties have been returned to private ownership;
- 2,000 properties have been programmed for a specific development outcome;
- sales revenue has totaled \$4.5 million and taxes and fees collected totaled \$1.8 million (compared to operating costs of \$7.4 million and capital costs of \$14.6 million).

More recently, Baltimore announced that it was using new funding from a city-funded convention hotel to help pay for demolitions in targeted neighborhoods (Baltimore Sun, September 14, 2006).

In his 1999 State of the City Address, Boston Mayor Thomas M. Menino announced a "Leading the Way" comprehensive housing strategy aimed at producing 10,000 new housing units (2,100 to be affordable) and the preservation of 3,000 affordable rental units. The latter goal included preserving 75 percent of the 2,746 governmentally assisted rental units at-risk of becoming market rate through mid-2007, renovation of public housing units through the HOPE VI program, and a pilot rental housing acquisition program of unregulated units. Between 1997 and 2005, the number of abandoned buildings (residential, commercial and mixed use) dropped by two-thirds (350, down from 1,044), reflecting the city's then strong real estate market, and much of the vacant public housing stock was rehabilitated and occupied. Mayor Menino's goal is to reduce 188 remaining abandoned residential buildings to 130 by July, 2007. The city will conduct the next annual survey of abandoned buildings in the summer and fall of 2006. In its June, 2005 midpoint progress report, Boston reported that 1,335 rental units had been preserved so far: 689 expiring use Federal- and State-assisted units, 383 public housing units, and 263 other units.

In addition to the Troubled Buildings Initiative, the city of Chicago has expanded its Vacant Buildings Program. As of April, 2006, the city counted 5,100 vacant buildings, of which 475 were vacant and open. Through an interdepartmental effort in cooperation with the CIC and Neighborhood Housing Services, the city has a goal of reducing the number of open, vacant buildings by 75 percent in one year.

Another noteworthy effort by a major city is Philadelphia's Neighborhood Transformation Initiative (NTI)(Mallach at 180). NTI was announced in April, 2001 as a multi-faceted approach to citywide renewal. Its goals included blight prevention and elimination and redevelopment through land assembly. At that point, Philadelphia had an estimated 26,000 vacant residential structures. In its latest Progress Report (2004) covering 2000-2004, Philadelphia's NTI reported (at p. 5) the demolition of 6,000 housing units and 19,000 housing preservation investments. In a 2-part series in September, 2006, the Philadelphia Inquirer reported that despite these efforts the Redevelopment Authority's rate of demolitions had not increased and the city still had 9,000 dangerous vacant buildings. Delays were caused by such factors as lengthy title searches and rising demolition costs.

For a comparison of the vacant property policies and practices of Philadelphia and Baltimore, see a 2002 Brookings Institution Center on Urban and Metropolitan Policy report by John Kromer. Kromer also wrote a book (2000) about his experiences as a neighborhood activist and then as director of Philadelphia's Office of Housing and Community Development under then Mayor Edward G. Rendell (now governor of Pennsylvania) dealing with neighborhood disinvestment and redevelopment.

New York City continues to try to address its shortage of affordable housing. In 2002, Mayor Michael Bloomberg announced a "New Housing Marketplace" plan to produce 65,000 units of affordable housing by 2008. The city also seeks to preserve approximately 77,000 units of HUD-assisted rental housing, 59,000 units of state-assisted rental units (Mitchell-Lama program), and 40,000 units subsidized under the Low-Income Housing Tax Credit program (New York City Department of Housing Preservation and Development, 2005). Rental housing preservation policies and programs were discussed at a June, 2005 symposium. New York City also offers assistance through several programs for unsubsidized rental housing, e.g., small buildings (up to 20 units) loans, housing education services, and owner services. Through a Third Party Transfer program, in cooperation with Neighborhood Restore, title to physically

distressed tax delinquent properties are transferred to responsible parties without the city directly taking title.

At the same time, a recent report by the Association of Neighborhood and Housing Development and the New York City Public Advocate points out the shortcomings of New York City's housing maintenance code enforcement system, with the authors making 13 recommendations to improve enforcement. As of 2002, almost 90,000 rental units were found to have severe maintenance deficiencies, with those having the highest average number of deficiencies concentrated in several low-income areas. The city's Code Enforcement Division has since initiated a Targeted Cyclical Enforcement Program aimed at the most deteriorated apartment buildings. Its Office of Preservation Services includes a Division of Anti-Abandonment, which identifies at-risk buildings.

Statewide Programs

In some states, statewide housing strategies are or have been developed including policies aimed at the abandonment problem and the preservation of affordable rental housing issues. One example is the 2005 "Building for Success: Illinois' Comprehensive Housing Plan", which includes the preservation of existing subsidized rental housing. It was submitted to the state government by a task force appointed by the governor in 2003.

In 2003, the Pennsylvania Low-income Housing Coalition released a report entitled "Reclaiming Abandoned Pennsylvania". It contains ten proposed reforms in legislation and funding to combat housing abandonment. Among these recommendations were: creating a statewide inventory of abandoned residential property, promoting the use of land banks, modernizing the tax liens act, reforming the eminent domain law, and establishing a private right of action for neighbors to sue to address blight and abandonment. Subsequently, the state enacted legislation requiring counties to maintain lists of the last known addresses of property tax delinquent owners and amended the tax lien law to make it easier for tax delinquent owners to donate their property in exchange for tax forgiveness. After an Ohio Vacant Properties Forum held in October, 2005, Rebuild Ohio was launched in 2006 with the goal of promoting reclamation and redevelopment of vacant and abandoned property in Ohio. Its first two objectives are a statewide needs assessment and documentation of the magnitude of the problem.

In mounting a statewide campaign for state legislation to address these problems, typically, community organizations at the municipal level have formed coalitions that include local governments, neighborhood associations, organizations whose goal is to preserve and develop affordable housing (e.g., community development corporations), tenant organizations, state chapters of such organizations as the American Planning Association, and similar groups to lobby the state government. State legislators from those localities most affected by vacant and abandoned housing need to play a major role in the drafting and enactment of such legislation.

National Campaigns

While abandonment is primarily a local problem, the above examples indicate a recognition of the problem at the state level. In addition, national attention has recently been given to the issue. In 2003, a National Vacant Properties Campaign (www.vacantproperties.org) was launched by four organizations: LISC, ICMA (International City/County Management Association), the National Trust for Historic Preservation, and Smart Growth America. It has four goals:

1. build a national network to support a national movement;
2. give communities the tools they need;
3. make the case for reclamation efforts;
4. provide technical assistance and training.

An example of its assisting communities was a report entitled “Cleveland at the Crossroads: Turning Abandonment into Opportunity”, which was released in June, 2005. In preparing an analysis of Cleveland’s problems and approaches to addressing them, the Campaign staff and consultants (including Alan Mallach) worked with Neighborhood Progress, Inc. (NPI) and the Cleveland Neighborhood Development Coalition (CNDC). After identifying the city’s challenges, the team made several suggestions regarding policies and the capacity of both the city and CDCs. The then-mayor quickly announced creation of a “Zero Blight Initiative” to act upon these suggestions.

In 2006, the U.S. Conference of Mayors (www.usmayors.org) announced the formation of a new mayoral Task Force on Vacant and Abandoned Properties. Together with the National Vacant Properties Campaign and the Fannie Mae Foundation, it has published a *Mayor's Resource Guide on Vacant and Abandoned Properties*, prepared by Alan Mallach. It has also released its report on best city practices in combating problems of vacant and abandoned housing (see above).

Conclusion

Vacant and abandoned rental housing continues to be a significant problem in many cities and urban neighborhoods. Policies aimed at prevention and amelioration are well known, as illustrated by the reports and programs cited in this paper. This includes examples of best practices. Clearly, the more comprehensive the approach, the more authority that local governments have to effectively address the problem, the more funding that they have for both preventive and ameliorative programs, and the more the involvement of partnerships among cities, CDCs and other neighborhood organizations, lenders, the courts, and other interested parties, the better the chances for success. Conversely, if localities experiencing this problem have limited authority, little funding, and no coordinated approach, then the prospects of success are much less. This is particularly the case in those cities with weak, as opposed to strong, housing markets.

Yet, even with the best efforts of municipal governments in cooperation with non-profit organizations, lenders, and others and with support from state governments, economic and social circumstances can still combine to challenge communities. As the above examples indicate, this fight continues at many levels, from the block to the neighborhood to the city to the state and to national campaigns.

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