

Combating Blight in Tennessee Communities

Preliminary Report

Senate Joint Resolution 103, passed by the Senate in 2011, directed the Tennessee Advisory Commission on Intergovernmental Relations to

- study the overall effects on local governments when blighted properties are left vacant,
- recommend solutions that will assist such local governments to return such properties to beneficial reuse, and
- report its findings and recommendations, including any proposed legislation or interim reports upon conclusion of its study, to the Chairmen of the Finance, Ways and Means Committees of the Senate and the House of Representatives.

Origin of SJR 103

The initiative for this study came from Senator Randy McNally at the request of the city of Oak Ridge, which he represents. Oak Ridge is unique in its history and founding as home to the uranium enrichment facility built as part of the World War II era Manhattan Project, the project that produced the world's first atomic bomb. Tens of thousands of workers were brought into the area between 1942 and 1945 to build and staff the facility now known as the Oak Ridge National Laboratory. About 60,000 acres were acquired for the project, and about a thousand residents were moved out. To accommodate the massive number of workers moved into the "secret city", houses were either brought into the area or built on site. Streets were constructed, and utilities installed.¹ The houses, most of them small, were meant to be temporary dwelling units. Plans were to move them out when the war was over. However, the temporary dwelling units were never moved. Instead, they were sold to private owners, and the units sit there still today, some vacant, some occupied. The buildings are now more than 70 years old, and many are in various stages of disrepair. Many are owned by absentee landlords and are not properly maintained.²

Nature of the Problem

Urban blight and decay is a problem in large and small communities across the state. It is a problem that dates back to the early days of the 20th Century, and it affects various facets of a community. Unchecked, blight can be a plague on a place, a street, or a

¹ Oak Ridge, Tennessee – History, Secret City History, <http://smithdray1.net/angeltowns/or/orth.htm>, (accessed October 5, 2011).

² Meeting with City of Oak Ridge staff. July 20, 2011.

neighborhood and can impose significant costs on the overall community. A recent study by the Brookings Institution discusses the negative impact of abandoned or vacant properties on a community. "...Vacant land and buildings not only drain value and reduce revenue, they require government action, and thereby increase expense. Derelict buildings and abandoned property exert a significant drag on local economic and fiscal health. They heighten the need for fire safety and police services, code enforcement, property maintenance, and demolition while damaging the quality of life and the value of surrounding properties..."³ In 2010, the city of Philadelphia commissioned a study to develop an analysis on the costs of vacant property blight to the city. The study found: "...Vacant property reduces market values by 6.5 percent citywide and by as much as 20 percent in neighborhoods with the most empty lots and structures. The report estimates that 17,000 vacant properties are tax delinquent and rob the city of \$2 million in tax revenue each year."⁴

The "Great Recession" also had a tremendous effect on many communities. The reductions in property values and high leveraged mortgages led to a massive number of foreclosures; which in turn led to destabilization of neighborhoods and large areas of some cities. This crisis inflicted damage in areas that previously were thriving in the mid-2000s. For example, Memphis has had foreclosure rates that put the city in the top one-third of hardest hit metro areas. The crisis also extends into the suburbs, not just central cities. Again, in the Memphis area, foreclosures in Shelby County grew more than twice as fast in the suburbs as in the city of Memphis over the last decade.⁵

Problems with Enforcement

Some communities have aggressive programs to combat blight, while others do not. Various tools are employed. The adoption and enforcement of property maintenance codes are an important element in such a program. Code enforcement is a delicate and complicated process that attempts to create a balance of enforcement of community standards, a level of regulation, and a respect for private property rights, including the constitutional right of due process.

The activities of redevelopment agencies, both public and private, in acquiring and redeveloping vacant properties represent a different approach in reducing and controlling blight. The process of enforcement through the court system and in tax foreclosure sales also presents problems in community programs to reduce blight.

Many communities encounter significant problems in trying to reduce blight. Some of these problems are summarized on the following page.

³ Mallach, Allan and Jennifer S. Vey. May, 2011. *Recapturing Land for Economic and Fiscal Growth*. Brookings-Rockefeller Project on State and Metropolitan Innovation.

⁴ Frasier, Jeffery. Fall 2011. *The Cost of Blight*. The Pittsburg Quarterly. http://www.pittsburghquarterly.com/index.php?option=com_content&view=article&id=857&Itemid=170&showall=1 (accessed October 5, 2011).

⁵ Mallach and Vey. May, 2011.

- Community attempts to enforce minimum property standards inevitably raise private property rights issues. An inspector cannot enter a house without the permission of the occupant or in the case of a vacant house, the owner. The inspector can go upon a property only to observe problems that are visible from a public place.
- Getting property owners into the court system can be cumbersome. An enforcing officer can cite an owner to court, but the officer has to have someone on whom to serve the citation. Absentee owners can be difficult to find.
- The court system can also be cumbersome. A judge has wide latitude when deciding how much time an owner has to comply with local codes, and the officer and the owner can go back and forth to court when compliance takes place over a period of time. The judge can impose a maximum fine of only \$50 per violation, and a fine of this amount is not much of a penalty.
- Tax foreclosure sales can take several years to complete. Taxes must be in arrears for some period of time that varies from county to county before a sale can take place, and then the owner has a right of redemption for one year. This process can prevent a new owner from having an interest in redevelopment until the period has passed. It also presents obstacles in obtaining a clear title.

Possible Remedies

While there are problems with systems and programs for combating blight, there are a number existing laws that can be used by Tennessee municipalities. A municipality that uses these laws effectively can make progress in addressing blighted property.

Code Enforcement

Any effort to reduce or eliminate blight has to involve aggressive code enforcement with inspectors actively identifying problem properties and initiating action rather than waiting for a complaint to be filed. The adoption of building, housing, and property maintenance codes provides a foundation for building standards and maintenance. Certified building and property inspectors are also required. However, code compliance is just the first step. An enforcement program must also have a good working relationship with the court system, either municipal courts or general session courts. Where the workload is sufficiently heavy, the appointment of an environmental court works better than other solutions. Programs for the prevention of blight are very important as is a grant or loan program for rehabilitating property owned by low-income residents.

Administrative Inspection Warrant

When a property owner refuses to allow inspection of blighted property, the local enforcement officer can obtain an administrative inspection warrant from a court of local jurisdiction. A state law enacted in 2003 gives a municipality legal authority to make

inspections when codes violations are present on a property.⁶ A detailed guide to properly use this tool is available from the Municipal Technical Advisory Service.⁷

Administrative Hearing Officer

Recently passed legislation authorizes municipalities to adopt an ordinance creating an administrative hearing officer to hear code violation cases.⁸ This approach could be an improvement over the normal court system because it allows for a fine for violations of up to \$500 in place of the court's \$50 limit and because the administrative officer can speed up the process of corrective action. A heavier fine could provide more incentive for property owners to maintain their property. Counties have expressed interest in gaining similar authority.

Housing Authorities

Many municipalities have a local housing authority. Under the existing housing authorities law,⁹ the authority has broad powers to combat blight and completely redevelop properties and whole sections of a community. However, many such authorities limit their activities to managing housing projects and managing the federal Section 8 housing voucher program.¹⁰ Much more could be done under this law with an active program to acquire blighted properties and provide for private or housing authority redevelopment.

Tax Sales

Owners of blighted properties often neglect to pay their property taxes and become delinquent. After proper notice and a waiting period, the county trustee can conduct a tax sale, and the property can be purchased by a nonprofit, a private owner, or the municipality. While the process is lengthy, it does allow ultimately for a property to be brought into code compliance or demolished when the municipality or a community development corporation gains control of the property.

Land Banking

Land banking is not widely practiced or understood in Tennessee. A land bank is a public or private authority created to hold, manage, and redevelop tax-foreclosed property.¹¹ It can be used as a legal and financial mechanism to transform vacant,

⁶ Tennessee Code Annotated, § 68-120-117.

⁷ Ashburn, Melissa A. 2010. *Administration Inspection Warrants*. Municipal Technical Advisory Service, University of Tennessee.

⁸ Title 6, Chapter 54, Part 10.

⁹ Tennessee Code Annotated, Title 13, Chapter 20.

¹⁰ The Section 8 housing voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford safe, decent, and sanitary housing in the private market. See http://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8 for more detail.

¹¹ de Wit, Jessica. *Revitalizing Blighted Communities with Land Banks*. www.umich.edu/~econdev/landbank/. (Accessed November 14, 2011.)

abandoned, and tax-foreclosed property back to productive use.¹² This would enable a municipality or a properly established non-profit corporation to acquire blighted properties; hold them for rehabilitation, demolition, or redevelopment and re-subdivision; and put them back on the market for productive re-use. The system has been used extensively in areas with significant numbers of abandoned properties and population loss. One of the leading land bank programs in the country is in Genesee County, Michigan. In a report to the U.S. Department of Housing and Urban Development, Sage Computing noted that

*land banks acquire properties through tax foreclosure, intergovernmental transfers, nonprofit transfers, and open market purchases. . . . They allow state and local taxing authorities to recoup delinquent back taxes.*¹³

A bill was introduced in 2011 in the General Assembly to authorize any local government unit to create a land bank authority.¹⁴ The bill did not move in the Senate and was taken off notice in the House State and Local Government Committee. The bill could be brought back up in 2012 should the sponsors choose to do so. A land bank authority may not be a tool that every municipality or county would want to employ, but it could be an important addition in some areas.

Reuse of Vacant Land

A most important aspect of any program to combat blight is to return vacant land to productive use, and it a difficult goal to accomplish. However, these properties have the potential to be a significant asset. The recapture of the value of the properties can contribute to local tax revenues and, through planned redevelopment, can add new housing that complies with local codes, new businesses and green spaces and parks to add to the quality of life of the area.

State laws define, and often limit, local governments' ability to repurpose vacant and underutilized land and buildings and to properly maintain these properties.¹⁵ Many times tools are needed that only state government can provide. New spending or hard-to-find resources may not be necessary at all but rather simply changing outmoded laws and practices. Such changes might include

- empowering localities to use tax foreclosure as a flexible means to gain control of problem properties and lay the groundwork to recover unpaid taxes and sustain revenue growth;
- equipping localities to hold, manage, and dispose of properties in ways that support specific, long-term economic development goals, including the growth of regional industry clusters;

¹² Ibid.

¹³ Sage Computing, Inc. August 2009. Reston, VA. *Revitalizing Foreclosed Properties with Land Banks*. Prepared for the U. S. Department of Housing and Urban Development, Office of Policy Development and Research.

¹⁴ House Bill 1777 (Miller) and Senate Bill 1885 (Kyle).

¹⁵ Tennessee laws will be delineated in TACIR's forthcoming report on this topic.

- enabling localities to use code enforcement and nuisance abatement flexibility to help eliminate blight and stabilize neighborhoods; and
- giving localities greater standing in mortgage foreclosure to minimize the harm to neighborhoods from abandonment, neglect, and lender walkaways.

Giving local and regional leaders the ability to transform vacant properties from a local liability to a community asset, spurring business growth, job creation, and neighborhood revitalization should be central to any such strategy of local and regional economic development.¹⁶ A local effort is now underway to draft new legislation for tax foreclosure sales led by the Tennessee Association of Property Tax Professionals. A legislative committee of that group is working with the Comptroller's Office to develop the bill by summer of 2012.

DRAFT

¹⁶ Mallach and Vey. May, 2011.