

**Property Acquisition and Disposition Strategies:
An Overview of Issues for the August 15th Roundtable**

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The purpose of this overview paper on property acquisition and disposition is to provide a brief discussion of some of the pertinent issues on this topic, in order to foster a more informed dialogue at the Community Development Institute August 15th roundtable. The paper addresses a number of issues, beginning with the need for a strategy to address the issue, looking at the range of municipal tools available, and concluding with a discussion of the goals of pending legislation designed to address the problem. Property, for the purposes of this paper, will refer to both land and buildings, both residential and non-residential in character.

1. The Need to Address the Issue

Property abandonment is a problem in all of New Jersey's larger cities, as well as some of its small towns and villages. While property abandonment in Camden has reached catastrophic levels, being estimated at 20% or more of the city's buildings, it is a major problem in many other cities, including Newark, Trenton, East Orange and other communities, where it may represent between 2% and 5% of all buildings in the city.

Property abandonment takes place in several ways. An absentee property owner can simply walk away from property, ceasing either to maintain the property or pay property taxes. This is characteristic of multifamily residential buildings as well as commercial/industrial properties. Cities are also experiencing abandonment of single family housing, often as a result of the death or relocation of an owner-occupant, and the inability of the owner and/or her heirs to either maintain or sell the property. While abandonment is highly associated with non-payment of taxes, there are substantial exceptions, particularly in cities such as Jersey City, where expectations of future value may lead owners to continue paying their taxes to avoid foreclosure.

Abandoned buildings and vacant land can have a detrimental effect on an entire community. A municipality with a substantial stock of neglected properties such as, Camden or Newark can often experience neighborhood deterioration or depopulation effects, leading to

negative social, physical and economic consequences. Abandoned properties can impact quality of life. They become illegal drug havens, centers of criminal activity, contributing to unsafe living conditions. Blight caused by vacant buildings poses safety and health hazards to the community. Still further issues are raised by abandoned industrial properties, which raise complex issues of environmental remediation, affecting both their present condition and their future reuse. Lastly, all neglected properties reduce the real estate value of adjacent properties, which make it difficult to encourage people to remain in, or move into, a community, acting as a barrier to revitalization.

From a municipal standpoint, abandoned properties are a problem at several key levels. They are a management problem; simply maintaining an inventory of abandoned buildings and lots in a municipality is a difficult task, particularly in communities with inefficient or outmoded data systems. While there are a variety of potential strategies to prevent – or discourage – abandonment, few municipalities have the financial or technical resources to implement them successfully. Some municipal activities, including code enforcement, may actually hasten abandonment.

Abandonment imposes substantial direct costs on municipal government. Acquisition of property through tax foreclosure, although nominally free, imposes substantial transaction costs. Maintenance of an abandoned building inventory is expensive, while demolition – often necessary because of public safety concerns – imposes a substantial, and increasing, economic burden. Rehabilitation, where feasible, is expensive, and in inner-city neighborhoods, often costs substantially more than the resulting market value of the rehabilitated unit. Finally, abandoned properties, whether taken by the municipality or not, do not contribute to the tax rolls.

Effective redevelopment and revitalization strategies are essential to reverse decades of neglect in New Jersey's older urban areas. Without an effective strategy to address the problem of abandoned properties, these properties act as a barrier to carrying out redevelopment and revitalization. Conversely, with an effective strategy, many abandoned properties can become assets to further the redevelopment of their communities, including historic homes and vacant land suitable for new development or open space. Central to the ability of municipalities to take advantage of these potential assets is the ability to establish effective and efficient systems for property acquisition and disposition. New Jersey's municipalities have struggled with how best

to address property acquisition and disposition, but very few actually have comprehensive strategies to address this complex issue.

2. Municipal Tools for Acquisition and Disposition

Key municipal tools used for property acquisition include tax foreclosure, eminent domain, voluntary purchasing power and gifts. The most common means by which municipalities acquire properties, particularly abandoned property, is tax foreclosure, resulting from the failure of the owner to pay property taxes, and the failure of private bidders to purchase the resulting tax liens at the municipal tax sale. Municipalities are able to acquire properties through eminent domain by taking property from an existing owner for a public purpose. In addition to the power to use eminent domain to further redevelopment, New Jersey municipalities have statutory authority to take property through eminent domain for affordable housing and to address abandoned properties. As with private entities, municipalities can also obtain property by gift or by negotiated purchase. An owner giving property to a municipality or to a non-profit entity can take a charitable deduction for the value of the property.

Municipalities possess a range of property disposition tools established by statute. While the general rule is that a municipality must dispose of municipal property by auction, there are numerous exceptions that allow negotiated sales to private entities, through private sale or through a Request For Proposals (RFP) process. Exceptions to the auction requirement include a variety of specific purposes, including affordable housing development and various educational and social service uses, and the redevelopment statutes. Once a municipality has designated an area as a redevelopment area under the Local Redevelopment and Housing Act, it may sell any property it owns within that area at a negotiated price to a single interested party subject to a disposition agreement requiring the buyer to comply with certain prescribed conditions imposed to effectuate the redevelopment plan.

3. Issues Affecting the Process

There are many issues that impede the conduct of property acquisition and disposition activities by local government. Many municipal agencies responsible for acquisition, maintenance or disposition of vacant and abandoned properties lack the financial resources, skilled personnel, or information management systems necessary to effectively deal with the

issue. Different agencies can be responsible for several aspects of the acquisition and disposition process including the city attorney's office, tax collector's office, redevelopment agency, buildings department, and community development or housing office. Private parties are often reluctant to navigate multiple agencies or offices to undertake redevelopment or revitalization projects. The current process is cumbersome and time consuming, which makes redevelopment and revitalization more difficult.

Property acquisition is an expensive process; as noted, even acquisition of 'free' property through tax foreclosure can impose substantial transaction costs. Maintenance and demolition of municipally-owned vacant property is also prohibitively expensive. Few municipalities have adequate financial resources to address these issues to the extent necessary. Financial pressures on local government also affect disposition, predisposing municipalities to actions that generate immediate cash rather than long-term benefit, financial or otherwise.

Provisions in New Jersey's existing statutes may constrain municipalities and private entities. The tax foreclosure process is cumbersome, and dictates that years pass from the point when an owner effectively abandons a property until the municipality can take it. As discussed further below, New Jersey jurisdictions lack many creative tools to address problem properties that have been pioneered in other states.

Few communities integrate their acquisition and disposition process with their long-range planning or neighborhood revitalization strategies. Most abandoned properties are acquired on a piecemeal basis, rather than as an outgrowth of such plans and strategies. While abandoned properties may be recognized as potential community assets, the lack of strategic thinking or planning prevents them from being treated as such.

4. Thinking Strategically

Thinking strategically about acquisition and disposition of abandoned or vacant properties so that all stakeholders involved benefit – including the community -- presents a significant challenge for municipalities as well as non-governmental stakeholders, such as developers, community development corporations (CDC's), and community organizations.

Strategic and efficient property acquisition and disposition are vital to redevelopment for several reasons. Assembling land on a systematic basis within targeted areas can further revitalization or redevelopment in a distressed neighborhood or community, by enabling both

prospective for-profit and nonprofit developers to carry out development activities in ways that maximize their impact and benefit on the neighborhood, rather than in a scattered, piecemeal fashion. Such a process enables the municipality to pursue comprehensive neighborhood revitalization activities, linking housing, economic development, open space and key neighborhood facilities such as community schools. The municipality's ability to deliver suitable sites in a timely fashion is a critical element in its ability to create a business- and development-friendly climate, in which developers and end users are attracted to participate in the municipality's redevelopment efforts.

Strategic property acquisition and disposition may require many changes in the customary pattern of municipal action with respect to vacant properties. Far greater coordination may be needed among different municipal agencies with roles to play in the process. This may require not only leadership from the top, but reorganization and redistribution of functions and resources within municipal government. More sophisticated information management systems may be needed to make the process work. The municipality may need to form formal or informal partnerships with developers and CDCs to leverage their resources, and ensure that the acquisition and disposition process are effectively tied to redevelopment activities. Community-based organizations such as CDCs play a particularly important role, both in terms of their role as community planners as well as in their implementation of revitalization strategies.

5. Pending Legislation

Two substantial pieces of legislation have been introduced in the New Jersey State Legislature, drafted under the auspices of The Housing and Community Development Network of New Jersey and sponsored by Assemblywoman Watson Coleman (D-Mercer) in the Assembly and Senators Codey (D-Essex) and Singer (R-Ocean) in the Senate, as follows:

- A.2543/S.1675 Abandoned Properties Rehabilitation Act
- A.2539/S.1676 Multifamily Housing Preservation and Receivership Act

Both bills emerged from concerns on the part of CDC members of the Network with respect to the tools available to deal with abandoned properties on the one hand, and multifamily housing at risk of abandonment on the other. They are designed to move these processes into a more strategic framework. Summaries of each of these bills are attached (the full text of these bills is available through the State Legislature web site. <http://www.njleg.state.nj.us>).

The principal goal of the Abandoned Properties Rehabilitation Act is to facilitate efforts by municipalities and other appropriate entities to obtain control of abandoned properties and return them to productive use. Rather than offer a single route to this end, the bill is organized as a “tool kit”, offering a variety of specific techniques designed to be most useful in specific cases. These include different tools to deal with properties depending on whether they are more appropriately demolished or rehabilitated: improvements to the provisions of the 1996 Urban Redevelopment Law, which created provisions for an Abandoned Property List; changes in the provisions governing eminent domain of abandoned properties; expedited tax sale for abandoned properties; special tax sale provisions for abandoned properties; and a consistent definition of ‘abandoned property’ for legal purposes. The bill also contains a series of provisions to encourage homesteading of abandoned properties for owner-occupancy.

In order to further more effective municipal management of the acquisition and disposition process, the bill would permit municipalities to create Municipal Land Reclamation Agencies, which could be a municipal department, an authority, or a nonprofit corporation operating under contract with a municipality, and to assign or delegate to that agency any or all of a long list of municipal powers associated with property acquisition and disposition. By taking advantage of this opportunity, municipalities will be able to create coordinated, effective structures to address these issues.

The second bill, the Multifamily Housing Preservation and Receivership Act, will have a less direct impact on property acquisition and disposition activities by local government, but is still relevant to those concerns. The greater part of the bill revises the New Jersey receivership statutes, providing broader scope for use of receivership as a tool to preserve distressed properties, and clarifying the powers and responsibilities of the receiver, the circumstances under which properties under receivership can be sold, and the conditions under which the owner can obtain restoration of his or her rights. The bill is designed to foster a process by which receivership becomes a tool not merely for short-term abatement of code violations, but for long-term stabilization and preservation of a community’s rental housing stock.