

Ohio's Abandoned Housing and Property Issue Overview

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House Bill 294

This bill is sponsored by 42 representatives, being primarily sponsored by Honorable Sally Conway Kilbane. The proposed change would make it easier and faster for counties to foreclose on abandoned houses with delinquent taxes. The whole process generally takes between two to three years and would only take about six months under the new bill. Rep. Sally Kilbane said, ``The time to foreclose is very lengthy, and this is a way to expedite it.'' She predicts it will pass early next year.

The bill says that in lieu of utilizing current remedies to enforce the state's lien for real estate taxes, a County Board of Revision may adjudicate the foreclosure of abandoned land and its disposition by public auction. It speeds the tax foreclosures by bypassing court and authorizing counties to handle tax-delinquent, abandoned houses administratively. Rep. Kilbane's bill proposes that a very select group of real estate foreclosure cases be prosecuted administratively (instead of in the Courts) in the respective County Boards of Revision. This is a voluntary process for each county.

``Abandoned properties'' is defined as properties that are: 1.) certified as unoccupied, vacant, or abandoned (according to criteria established in the legislation) and; 2.) tax delinquent for a.) two years or more in the case of structures, improvements and vacant lots, and; b.) four years in the case of agricultural. The County Treasurer is responsible for publishing a list of tax delinquent properties and notices will be sent out throughout the year.

The cases to be changed over from the Courts to the Board of Revision would only apply to a select group of cases. They apply to derelict, tax delinquent, blight-ridden properties. They typically involve properties where the tax delinquency, costs, penalties and interest exceed the fair market value of the delinquent property. Hence, the statute would primarily only allow one averment in the Board of Revision which is ``payment.'' If ``payment'' cannot be proven, the matter will proceed to an adjudication of foreclosure. The Board of Revision for these cases will have responsibility only for tax foreclosures of Abandoned Properties thereby making the proceeding both a priority, and the exclusive docket of the particular Board of Revision.

The city or county would have the ability to then develop the properties or deed them to nonprofit community groups that repair the properties.

Senate Bill 204

This bill provides definitions for House Bill 294. It also lays out the roles of the positions involved and procedures for all the tasks.

Ohio's Focus

“Vacant properties are like a pollutant, like a toxin to everything around them,” said Reece, who has researched the problem at Ohio State University's Kirwan Institute for the Study of Race and Ethnicity. According to the Columbus Dispatch, in 2005, Franklin County had 9,662 properties whose owners were behind on taxes, 20 percent more than the previous year. In 2005 there was a total of \$14.2 million of unpaid property taxes. According to Policy Matters Ohio in 81 of Ohio's 88 counties the number of foreclosure filings has at least doubled, and in 53 counties that number has at least quadrupled over the past decade. Fifty counties saw increases in foreclosure filings in 2004.

In July 2004, the newly revised Title 47 passed in the city of Columbus. It states that a neglected property registration wherein owners of vacant properties not in compliance with city code, and after failing to comply with orders of either Code Enforcement, the Safe Neighborhood Review Board, or the Court, are required to register, for a fee, those properties and provide and maintain pertinent information with the Neighborhood Services Division, and to specify that failure to do so is a misdemeanor of the first degree.

Mayor Michael B. Coleman is taking this issue with serious concern as he commits to a new \$25 million neighborhood revitalization initiative called HOME AGAIN. In his annual State of the City address the mayor called for spending \$25 million over six years to “end the disease of vacant and abandoned housing in Columbus” by fixing up or tearing down 1,000 properties in six years by forcing compliance and getting the owners to rehabilitate the properties, or, failing that, acquiring and demolishing them. According to The Columbus Dispatch, Coleman stressed the importance of reducing the 3,200 vacant properties in Columbus properties in Columbus saying that “what may look like a statistic to bureaucrats is a very real problem to every family living next to an abandoned house.” A Columbus City Attorney, Rick Pfeiffer, who worked directly with the Mayor to devise the initiative, is committing full-time attorneys to work with City Code Enforcement Officers and Columbus Police to enforce the law against problem properties. Partners in this effort will include Columbus/Franklin County Affordable

Housing Trust Corporation, the Ohio Housing Finance Agency/Authority, and The Ohio Capital Corporation for Housing.

Rebuild Ohio is a new group committed to stop abandonment, restore properties, and revitalize communities. The Cleveland Neighborhood Development Coalition (CNDC) and Greater Ohio, a statewide Columbus-based organization that focuses on land use issues are co-coordinators of Rebuild Ohio. According to CNDC, Rebuild Ohio's goals and objectives for 2006 include conducting two major studies. One will be a needs assessment to survey existing laws and tools that address problem properties in the state and to recommend specific reforms. The other study will attempt to document and quantify the problem, and to estimate the many economic costs borne by individuals as well as the State and local governments. In addition, Rebuild Ohio will engage in activities to raise awareness of the issue and to reach out to all interested parties. Projects of the Advocacy Committee include: identifying current legislative activities that relate to vacant and abandoned properties and ways to complement them; identifying potential legislative allies; identifying a strategy to develop a statewide reform agenda and to identify priority issues; developing a plan of outreach to decision makers; organizations with interests in redevelopment issues, and gubernatorial candidates; developing a statewide media strategy.

The Dayton Daily News reported ``shaming signs'' being utilized as a new strategy to embarrass those who abandon and neglect their properties focusing on the lending industry. The newspaper states that a major bank recently took charge of one of its neglected foreclosure properties because a bank official didn't like seeing his name on a sign.

Ohio's Receivership Law for Vacant Properties

Receivership is a highly specialized civil remedy that requires the close coordination of many critical players. Ohio's receivership law provides local governments and community development organizations with a powerful tool to repair and, in certain cases, to acquire these significantly substandard properties. Receivership could apply to rental properties as well as to those that are owner occupied. Unfortunately, Franklin County does not actively participate in this law.

Section 3767.41 of the Ohio Revised Code authorizes a municipality, nonprofit housing development corporation, or nonprofit organization to file a civil court action that seeks the appointment of a receiver to take control of a substandard or abandoned building. The plaintiff must

provide sufficient evidence that the property's conditions create a public nuisance--a relatively easy task in the case of most abandoned buildings and vacant properties. The court can then issue a civil injunction or abatement order that gives the property owner or responsible party a reasonable opportunity to abate the public-nuisance conditions before the court appoints a receiver.

If the owner fails to comply with the abatement order or fails to respond to the lawsuit (e.g., if the owner cannot be found), the court can appoint a receiver, who can then make the necessary repairs to rehabilitate the property. Because the receiver's costs have a higher lien priority than do existing mortgages and encumbrances on the property, the law requires that all parties who have a financial interest in the property get notice of the civil action and appointment of the receiver. Before the owner can legally reclaim the property, he or she would need to pay the receiver's repair costs and associated liens. Otherwise, the receiver and/or the local government could acquire the property through foreclosure.

(http://www.google.com/search?q=cache:C7gbOCsdUbAJ:www.mvrpc.org/pdf/vacant/reinv_theme_5.pdf+ohio+citation+3767.41&hl=en&gl=us&ct=clnk&cd=1)

Ohio is one state that offers good practices concerning receivership. The Ohio statute provides that both mortgages granted by a receiver and the other expenses of a receiver are a ``first lien upon the building involved and the property on which it is located and are superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those for taxes and assessments.'' This statute also provides that the receiver can initiate the sale of the building, and provides that ``if the owner or any interested party objects to the sale of the building and the property, the burden of proof shall be upon the objecting person to establish, by a preponderance of the evidence, that the benefits of not selling the building and the property outweigh the benefits of selling them.''

Nationally

According to the National Vacant Properties Campaign:

- A study in Austin, Texas found that ``blocks with unsecured (vacant) buildings had 3.2 times as many drug calls to the police, 1.8 times as many theft calls, and twice the number of violent calls'' as blocks without vacant buildings.
- More than 12,000 fires break out in vacant structures each year in the US, resulting in \$73 million in property damage annually. Most are the result of arson.

- Over the past five years, St. Louis has spent \$15.5 million, or nearly \$100 per household, to demolish vacant buildings. Detroit spends \$800,000 per year and Philadelphia spends \$1,846,745 per year cleaning vacant lots.
- A 2001 study in Philadelphia found that houses within 150 feet of vacant or abandoned property experienced a net loss of \$7,627 in value.
- The Midwest region has an average of 11.3% of the total area as vacant land and 3.16 abandoned structures per 1,000 inhabitants.

Massachusetts and Indianapolis effectively utilizes receiverships to save neglected properties. The court may appoint a receiver to take possession of property declared an ``unsafe premise'' (dangerous or unhealthful condition) long enough for rehabilitation of the property.

Lot clean-up programs offer a means for neighborhoods to reverse the neglect associated with vacant and abandoned properties with equity. Most often, they are efforts run by community volunteers with supplies and dumpsters provided by local government. In S. Louis, Missouri, Project Blitz, puts 75,000 volunteers to work every spring on 100 neighborhood ``cleaning and greening'' projects. This program has helped clear more than seven million pounds of trash from streets, alleys and vacant lots. (National Vacant Properties Campaign 2005)

Model Programs

National Vacant Properties Campaign exists to provide everyone - individuals, advocates, agencies, developers, non-profits, and others - with information resources, tools, and assistance to support their vacant property revitalization efforts. The following programs have had recognition by this organization:

- **Neighborhoods in Bloom**
In 1998 Richmond, Virginia launched the NiB initiative as part of a coordinated effort in seven neighborhoods to restore livability and improve neighborhood stability, tackling everything from code enforcement to turning around decreasing homeownership rates. In the first three years of the initiative, the targeted neighborhoods experienced a 19 percent reduction in crime, and have seen an 11 percent increase in the number of occupied homes and apartments. A recent study by the Federal Reserve Bank of Richmond documents the benefits of consolidating and targeting limited public resources for neighborhood revitalization.
- **Neighborhood Transformation Initiative**
In 2000 Philadelphia Mayor John Street announced a

comprehensive, city-wide effort to counter decades of decline, making its neighborhoods cleaner and safer, ensuring quality housing, and helping to recapture jobs and tax revenue lost due to urban flight. NTI is founded on cooperation and innovation at all levels of government.

- Philadelphia Green
Philadelphia Green, a program of the Pennsylvania Horticultural Society, manages neighborhood-based projects emphasizing the critical role of open space to the quality of life in urban communities. Working in partnership with neighborhood residents, community organizations, and city agencies, the program uses greening as a community building tool, linking greening to street improvements, new housing, commercial developments, and other community development projects.
- Project 5000
In 2002, Mayor O'Malley launched Project 5000, an inventive and ambitious effort to return 5,000 vacant and abandoned properties to productive use. Project 5000 was a new approach, combining aggressive tax sale foreclosures with traditional condemnations and property transfers. It called on local law firms, title companies, businesses and realtors for expedient and discounted services. By January of 2005, Baltimore Housing had gained title to all 5,000 properties and increased the number of annual property acquisitions tenfold. Aggressive acquisition and disposition efforts continue. To date, 5,758 properties have been acquired through Project 5000 and, more importantly, 1,700 have already been conveyed, sold, or programmed for redevelopment.
- Cleveland Municipal Housing Court
Within Ohio, only a handful of cities have a specialized division of their state trial courts devoted exclusively to housing and code enforcement cases, and Cleveland has one of the best. Rather than hearing standard criminal and civil cases, housing courts can devote their exclusive attention to complex cases involving substandard housing and abandoned buildings brought by the city prosecutor. Cleveland's Housing Court includes ten housing specialists and inspectors who work, at the judge's direction, with responsible property owners to correct the violations on their properties. Beyond the activity within the courtroom, Housing Court Judge Ray Pianka, a former Cleveland city council member and former executive director of a CDC, works closely with community groups, professional organizations, civic and political leaders, on a wide range of housing and community development initiatives.

- SABER

In 2001 Tucson, Arizona established the Slum Abatement and Blight Enforcement Response Team as a strategy to focus code enforcement and nuisance abatement in key target areas in conjunction with other neighborhood revitalization strategies. SABER brings together the resources of nine city departments, each of which shares responsibilities relating to the enforcement and prosecution of slum and blight laws. By institutionalizing interdepartmental cooperation and coordination, SABER facilitates a more effective response to the problems of vacant and unsecured buildings.

In addition, ``Reclaiming Abandoned Pennsylvania'' (March 2003) is another program worth mentioning. Two state laws vest Philadelphia with the power to take control of abandoned properties. One authorizes the city to sell tax-delinquent properties at sheriff's sale to recover unpaid municipal debts. The other permits the city's Redevelopment Authority to acquire blighted residential properties through eminent domain. Together they give Philadelphia the fundamental tools needed to acquire, hold, and transfer parcels of vacant land. Pennsylvania municipalities are in a better position than many cities across the country to acquire land strategically because unlike other jurisdictions, Pennsylvania permits them to take land without having a set purpose in mind for the use of the land. Municipalities can also assemble the land into developable sites, maintain and insure it during the period of temporary ownership and have the power to convey it to a third party who will be responsible for eliminating blight and redeveloping the site.