

Reclaiming  
Abandoned  
Pennsylvania II

# From Liability to Viability

A Technical Resource Guide for Action

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## Reclaiming Abandoned Pennsylvania II

# From liability to viability

A TECHNICAL RESOURCE GUIDE FOR **ACTION**

### INTRODUCTION: THE PURPOSE OF THIS TECHNICAL RESOURCE GUIDE

In March 2003, the Housing Alliance of Pennsylvania (then the Pennsylvania Low Income Housing Coalition) published *Reclaiming Abandoned Pennsylvania* — a report that offered ten changes to state law aimed at helping local governments fight blight. The report, the first of its kind to analyze the state legal framework regarding abandonment, was enthusiastically received throughout the state and is now in its third reprinting. Our experience in preparing and releasing that report made clear that blight is a common denominator in the Pennsylvania experience — every Pennsylvanian has a relationship to blight. It is a problem that demoralizes people. It lowers property values, discourages neighborhood investment, deprives municipalities of tax revenues and undermines civic pride. We further learned that leaders at the local and state levels understand the seriousness of the problem and are seeking solutions.

Within a few weeks after the release of *Reclaiming Abandoned Pennsylvania*, new legislation, based on our recommendations, was introduced in the State House and Senate. With our ideas receiving strong bipartisan support, we fully expect that by the close of this legislative session local leaders will have several new tools to address vacant property. We update you on this policy reform agenda throughout this report.

After the publication of *Reclaiming Abandoned Pennsylvania*, we spoke to over 400 municipal and civic leaders across the Commonwealth about residential abandonment. We listened as local leaders shared important concerns and questions about how

to deal with an increasing number of abandoned homes and to eliminate their negative effects. Hundreds of conversations later, we understand that state policy reforms are not enough.

**Community and government leaders need information about different approaches and strategies they can use to address abandonment.** They want to take strong action yet feel hampered not only by limited resources and outdated laws, but by a lack of accurate information on proven solutions. Local leadership is yearning for new, creative ideas to solve tough problems, usually on a shoestring. As a result of these discussions, this Technical Resource Guide was born — its goal to bring information to local leaders who are on the front lines fighting to restore our neighborhoods to good health.

**This Housing Alliance of Pennsylvania Technical Resource Guide explores the latest thinking, research and best practices on residential abandonment with an emphasis on those tools that are currently available under Pennsylvania law.** We have brought together in one place descriptions of relevant state laws and discussions of reforms to these laws that will help them work better for you. We have compiled lists of available funding sources to make it easier to tap into them, even knowing that they continue to be inadequate. And we have tried to provide a **framework for organizing local efforts to address vacant and abandoned property — a structure for creating a vision for a renewed community.** It is our hope that this Technical Resource Guide will permit local governments to establish a detailed, proactive plan to tackle abandoned properties.

At the same time, it is increasingly clear to us that the state's current legislative, programmatic and funding structures are cumbersome, outdated and inadequate to meet the needs of local communities in addressing blight and abandonment. For example, we have three different foreclosure laws, none of which allows a municipality the flexibility it needs to transfer a property to a new buyer with proven capacity, resources and a legal obligation to fix up the property. Also, we have no state-funded programs explicitly focused on eliminating abandonment. **While we have made considerable progress, there remains a pressing need to modernize and streamline the "system" of acquisition and disposition of vacant and abandoned property to make it faster, cheaper and easier.**

Blight is a common denominator in the Pennsylvania experience — every Pennsylvanian has a relationship to blight.

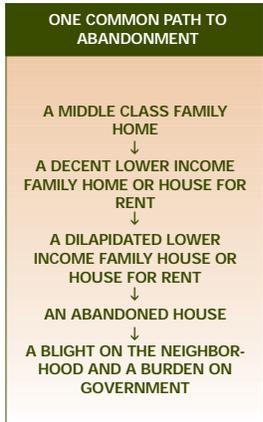


### Who is this Technical Resource Guide for?

This Technical Resource Guide was created to assist:

- mayors
- state officials
- lenders
- city councilpersons
- municipal officials
- county tax claim bureaus
- redevelopment authorities
- community development corporations
- civic leadership
- philanthropic organizations
- you

Leaders at the local and state levels understand the seriousness of the problem and are seeking solutions. Within a few weeks after the release of *Reclaiming Abandoned Pennsylvania*, new legislation, based on our recommendations, was introduced in the State House and Senate.



**DIAGNOSIS:**  
**Why Do Pennsylvania's Older Communities Have Abandoned Residential Properties?**<sup>1</sup>

Although residential abandonment has had an impact on some Pennsylvania communities for over three decades, as it dramatically increases and spreads, many of us struggle to understand why homes in our older communities have fallen out of the market, their value seemingly unrecognizable to the region's residents. There are a number of economic and demographic trends that can help to explain this statewide phenomenon.

**1. Pennsylvania cities have lost significant population, primarily to surrounding suburbs.**

	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
% Net Change in Population 1970-2000	-21.5%	-19.7%	-14.4%	-22.1%	-35.7%	-25.7%	-18.8%

Source: U.S. Census Bureau, 2000 Census.

**2. Many cities are left with more houses than households.**

This in turn leaves property owners, in some neighborhoods, with little or no ability to sell their homes for a profit. Discouraged at their inability to attract new owners, Pennsylvanians began walking away from their homes and are still walking. These unoccupied houses deteriorate until they become uninhabitable without substantial investment.

	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
Total Households	20,059	40,338	10,256	58,071	143,739	17,861	16,137
Total Housing Units	21,881	44,971	11,220	60,198	163,366	20,294	18,534

Source: U.S. Census Bureau, 2000 Census.

**3. Pennsylvania cities have some of the nation's oldest housing stock.**

Over half of Pennsylvania's homes are 40 years old or older. In our cities, the percentages are far higher. Typically when homes reach 40 years old maintenance costs increase and homeowners are forced to replace basic systems and make improvements themselves, hire outside contractors or defer maintenance and watch the quality of their homes decline.

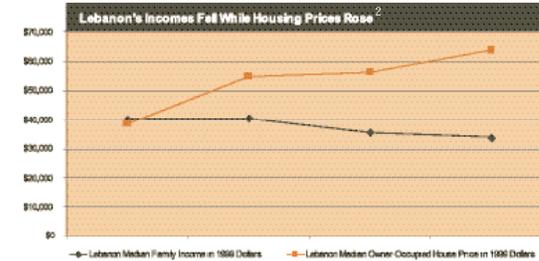
	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
Owner-Occupied Houses Over 40 Yrs Old	81%	80%	88%	82%	84%	82%	95%
Rental Housing Units Over 40 Yrs Old	73%	79%	75%	80%	81%	70%	84%

Source: U.S. Census Bureau, 2000 Census.

**4. Homeowner income in real dollars is dropping while home prices rise.**

While income in real dollars dropped in the last 30 years, leaving consumers with less money to invest in housing, housing prices increased. As a result, homeowners with declining real income are asked to pay higher monthly housing costs. This creates the greatest risk for elderly owners on fixed incomes and low-income homeowners.

For example, in Lebanon, housing prices rose substantially in the past three decades while median family income in real dollars fell.



Source: Comprehensive Housing Affordability Strategy (CHAS) 2000 Census Special Tabulation Data, U.S. Department of Housing and Urban Development.

**What is our definition of an abandoned property?**

For the purposes of this Technical Resource Guide, we define an abandoned residential property as "a chronically vacant and uninhabitable unit whose owner is taking no active steps to bring it back into the housing market."<sup>3</sup>

**Median Family Income in 1999 Dollars**

	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
1970	\$36,221	\$41,579	\$40,352	\$41,587	\$38,848	\$36,529	\$38,899
1979	\$38,853	\$40,524	\$40,583	\$37,607	\$40,456	\$36,280	\$36,650
1989	\$38,757	\$37,250	\$36,736	\$40,486	\$38,920	\$36,891	\$33,696
1999	\$36,758	\$36,446	\$34,045	\$37,036	\$38,795	\$36,630	\$30,782

**Median Household Owner's Value in 1999 Dollars**

	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
1970	\$33,062	\$57,537	\$38,044	\$40,514	\$54,102	\$40,362	\$40,302
1980	\$48,524	\$61,956	\$54,994	\$47,919	\$63,888	\$54,195	\$49,111
1990	\$38,005	\$54,511	\$56,596	\$61,694	\$81,624	\$55,976	\$52,180
2000	\$56,114	\$83,757	\$93,854	\$97,759	\$57,759	\$62,096	\$54,803

**Median Household Gross Rent in 1999 Dollars**

	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
1970	\$326	\$378	\$344	\$385	\$408	\$356	\$356
1980	\$376	\$417	\$378	\$438	\$437	\$374	\$378
1990	\$363	\$400	\$398	\$376	\$468	\$404	\$455
2000	\$368	\$410	\$398	\$550	\$484	\$398	\$435

Source: Comprehensive Housing Affordability Strategy (CHAS) 2000 Census Special Tabulation Data, U.S. Department of Housing and Urban Development.<sup>4</sup>



**5. Federal government mortgage policies encouraged purchase of new suburban homes over existing city homes.**

From 1945 to 1965, the Federal Housing Administration (FHA) provided strong incentives for white households to purchase a new house in the suburbs. FHA-insured mortgages were only available for white purchasers of race-restricted new suburban housing. FHA had an explicit policy of refusing to insure mortgages on older houses in urban neighborhoods. As a result, white home buyers who left their older housing were able to obtain FHA-insured mortgages with low interest and low down payments on new suburban houses. African-American households were excluded from government-insured mortgages altogether.<sup>5</sup>

**6. When urban rental markets lag, landlords abandon properties where market rental income is less than maintenance costs and taxes.**

This is a particularly significant part of the abandonment story in places such as Altoona where median rents in real dollars have stayed

almost the same over 30 years (1970 — \$326; 2000 — \$369). Landlords in locations with stagnant rents often make a business decision to rent units for as long as possible without any ongoing maintenance (and often without paying taxes) until the condition of the property makes it impossible to attract tenants. Owners siphon all the value from the property and leave the community with blight.

**7. Municipalities do not consistently enforce building maintenance standards.**

In Pennsylvania, over one-third of municipalities do not have a property maintenance code — a legal standard for maintaining buildings and structures to ensure the health and safety of the community. The two-thirds of municipalities that have such a code often do not have necessary resources to enforce it.<sup>6</sup>

**8. Hesitant tax collection and foreclosure procedures are common.**

Many jurisdictions do not or cannot take timely action against delinquent taxpayers, choosing to file liens against the property rather than

beginning foreclosure proceedings. As a result, outstanding tax liability on many properties has grown to a level where it equals or exceeds the property's market value. When this occurs, it becomes more beneficial for the owner to simply walk away from the property.

**9. Elderly homeowners die without transferring their property to a responsible owner.**

For many cities and towns, for example Wilkes-Barre, a significant cause of single-family housing abandonment is the death of the owner. Homeowners die without wills or their heirs are uninterested in taking responsibility for the property. In Wilkes-Barre, 39% of all homeowners in 1999 were over 65. This means that in the next decade, two out of every five houses are vulnerable to abandonment if the owner dies without successfully transferring the property to a responsible new owner.



**Elderly Own One-Third of Houses in Some Pennsylvania Cities**

	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
Percent of Owner-Occupied Housing Units Where Owner is 65 or Older (2000)	31%	32%	33%	31%	35%	39%	28%

Source: U.S. Census Bureau, 2000 Census.

**Vacant Units Have Increased Dramatically in Many Pennsylvania Cities and Towns During the Last Three Decades**

Vacant Units	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
1970	768	1,652	351	31,218	11,785	832	684
1980	1,318	3,194	611	65,490	13,079	1,357	1,432
1990	1,957	3,258	519	71,034	16,269	1,290	1,517
2000	1,591	3,280	932	70,009	18,742	2,278	2,380
Vacant Units as Percent of All Housing Units	Altoona	Erie	Lebanon	Philadelphia	Pittsburgh	Wilkes-Barre	York
1970	3.5%	3.9%	3.4%	4.6%	6.2%	4.0%	3.6%
1980	5.9%	6.8%	5.7%	9.6%	7.3%	6.3%	7.4%
1990	6.7%	7.2%	4.7%	10.5%	9.6%	6.2%	8.2%
2000	5.9%	6.7%	8.3%	10.6%	11.5%	11.3%	12.9%

Source: U.S. Census Bureau, 2000 U.S. Census.

Data on vacancy status have been collected by the United States since 1940. Vacancy status and other characteristics of vacant units are determined by enumerators obtaining information from property owners and managers, neighbors, rental agents, and others. Local officials have repeatedly questioned the accuracy of the Census Bureau's vacancy numbers. Nonetheless, until the state conducts a statewide inventory, or supports the development of local inventories, they are the only numbers available.

The only information most municipalities currently have that are partial indicators of abandonment are Census vacancy numbers. These numbers represent houses that appeared vacant when the census worker knocked on the door or based upon information from property owners and managers, neighbors, rental agents and others who stated they were vacant. Clearly a vacant house is not necessarily an abandoned house, and many municipalities dispute the accuracy of the data. However, this is all that we have.

*“In most older Pennsylvania cities, neighborhood housing markets are too weak to attract the level of private investment needed to generate large-scale vacant property acquisition and development activity. The only approach that will work in these cities is a public intervention, led by municipal government, to acquire vacant property every year in support of blight removal, site assemblage, new construction, or preservation strategies leading to reoccupancy and reuse.”*

John Kromer  
Fels Institute of Government

**The Reclaimed Land Asset Model reframes government roles, redefines government approaches and strategies and requires new laws.**



THINK  
DIFFERENTLY



# Think differently!

We propose a Reclaimed Land Asset Model that treats abandoned land as a **potential asset**

For decades, Pennsylvania's towns and cities regarded abandoned properties as a burden on government, which in fact they are if left unabated. Abandoned properties decrease tax revenues, increase crime and reduce the attractiveness of city neighborhoods to new and existing residents. The traditional government reaction to abandoned properties has been to try to recover past taxes through foreclosure and to board up the property to limit crime and deterioration. The government's job has been neither to control nor contribute to the fate of these properties. Abandonment has been viewed as just one more unmanageable symptom of an inevitable decline.

An important paradigm shift is taking place in our approach toward abandonment — a new way of thinking that we call the Reclaimed Land Asset Model. **The Reclaimed Land Asset Model is based upon a growing recognition that the land provided by abandoned properties is a critical ingredient in the revitalization of Pennsylvania's older cities and towns.** Its key assumption is that the reinvigoration of older communities depends upon their having land to redevelop to create new attractive spaces for people to live and work, to inject aging housing stock with modern alternatives and to compete with suburban greenfields for residents and jobs. **Abandoned land when returned to productive use creates a rare opportunity for older communities to modernize and grow.**

At first this new model looks simple — replace pessimism with optimism, see blighted properties for what they could be rather than the eyesores that they are. If only it were that simple. In fact, the Reclaimed Land Asset Model reframes government roles, redefines government approaches and strategies and requires new laws.

**To transform abandoned properties from liability to viability as the title of this Technical Resource Guide suggests, local government must play an active leadership role in inventorying abandoned properties, clearing title to the land and marketing it for redevelopment — in short, creating a reclaimed land asset.** It simply will not happen otherwise. Without intervention, blighted and abandoned property will get worse. Active leadership is not an easy path to take. Taking on additional roles when local government is already overwhelmed, attacking a modern problem with outdated, cumbersome tools (state legal tools were often written early in the century) and addressing a significant problem with inadequate resources is incredibly difficult. However, for the municipalities that tackle these substantial challenges, the potential rewards are great.

Private market developers understand that inexpensive land with existing infrastructure is gold. They also understand that in many cities, decades have passed with no new construction of housing, retail centers or office buildings and there is pent-up demand. The private market will not absorb the risk and expense of trying to assemble a developable site by tracking down owners who have abandoned their property or died, clearing the title, identifying any potential environmental risk and preparing the site for construction. When given that choice, experience has shown us they will choose the easier-to-develop greenfields that are shovel ready.

But developers will go where opportunity lies. When cities and towns are able to make developable land available, it attracts attention and investment. In fact, in some cases, land in older

cities can be made more attractive than green space. There will likely be less opposition to growth and, therefore, a less costly battle to build. There is already much of the needed infrastructure such as sidewalks, streets, water, sewers and roads, which are very costly to develop. Older cities and towns provide the nostalgic rebirth of the small downtown shopping area, the front porch community where neighbors know one another, lovely old architecture, historic beauty, a slower and less car-dependent life and access to parks. In fact, if older cities and towns are able to

make developable land available, they can spur desirable reinvestment.

Local leaders — government, business and civic leaders — who take on the challenge of transforming the blighted and abandoned houses that inhabit so many of Pennsylvania's older cities face a daunting task. The laws, funds and programs are challenging to access and utilize. But, in fact, many are taking on the challenge. They are gaining the support of their state representatives and senators in getting needed regulatory relief, support and fund-

ing. They are getting the support of the Governor's staff, the Department of Community and Economic Development and the Housing Finance Agency. They are slowly, little by little, transforming their towns into viable new hubs of population, industry and housing.

In this Technical Resource Guide, we discuss the changing roles of government and civic leaders in addressing abandonment and the experience of other cities and towns as they refocus their efforts to attract private investment.<sup>7</sup>

In their report, *Seizing City Assets: Ten Steps to Urban Land Reform*, authors Paul C. Brophy and Jennifer S. Vey identified "ten key action steps that state and local government take to promote faster and better redevelopment of vacant and abandoned properties, and ultimately improve the quality of urban neighborhoods."

### The Ten Steps to Urban Land Reform

1. **Know Your Territory:** Inventory your properties.
2. **Develop a Citywide Approach to Redevelopment:** Philadelphia, Baltimore and other cities have created neighborhood typologies and determined how to revitalize, stabilize or maintain the market in each type of neighborhood.
3. **Implement Neighborhood Plans in Partnership with Community Stakeholders:** Include residents, businesses, and non-profit organizations in the planning process.
4. **Make Government Effective:** Establish collaborative roles for government agencies and monitor to ensure effectiveness.
5. **Create a Legal Framework for Sound Redevelopment:** Reform state and local laws to provide valuable tools to reclaim abandoned properties.
6. **Create Marketable Opportunities:** Actively market vacant sites with appropriate zoning.
7. **Finance Redevelopment:** In addition to state and federal funds, use Tax Increment Financing (TIF), tax abatements and municipal bonds to finance.
8. **Build on Natural and Historic Assets:** Areas around waterfronts, parks, business clusters and historic districts offer a competitive advantage.
9. **Be Sensitive to Gentrification and Relocation Issues:** Be sensitive to market dynamics that may force people from their neighborhoods.
10. **Organize for Success:** Form alliances within the state and the region to revitalize urban markets.<sup>8</sup>

### Benefits of the Reclaimed Land Asset Model: Municipalities that Redevelop Abandoned Properties Increase Tax Revenue, Population and Jobs

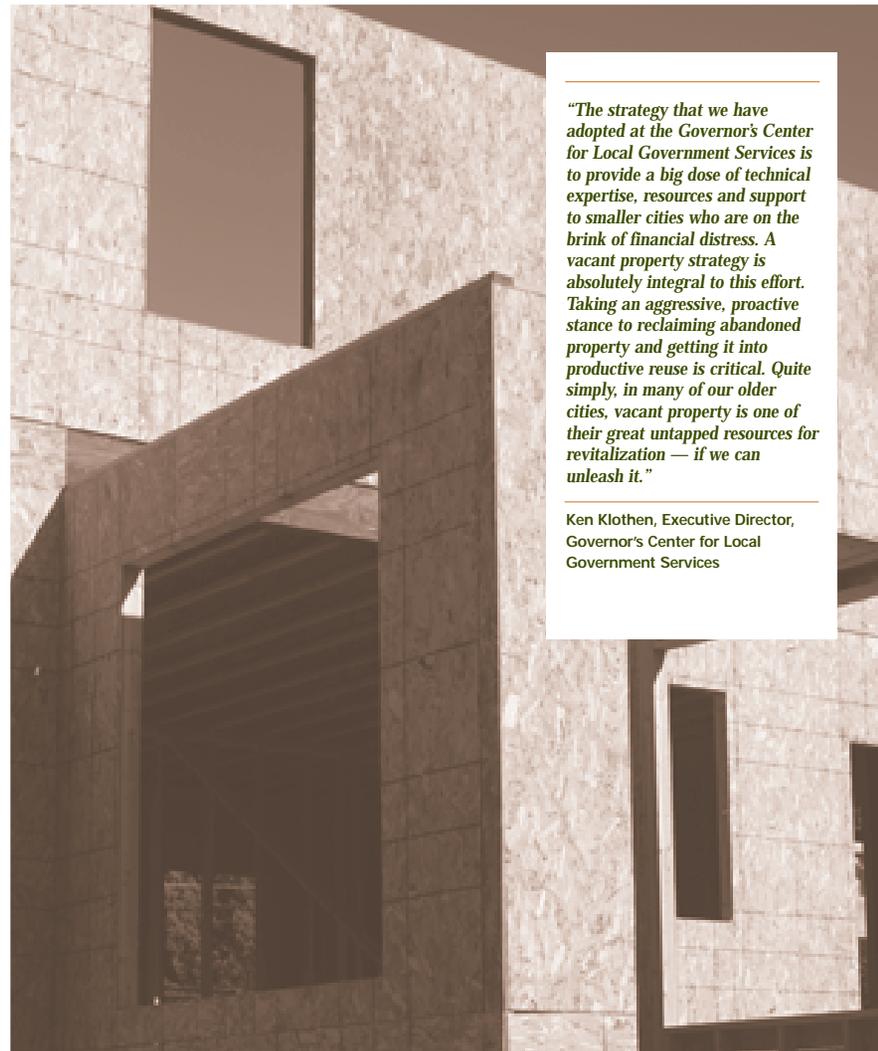
Redeveloping abandoned properties is a proven road for an older community to grow its tax, population and employment bases. In 2003, the United States Conference of Mayors surveyed the nation's cities to determine whether they had redeveloped abandoned properties and the benefits achieved as a result of redevelopment. Municipalities of varying sizes reported that

new residential, commercial or office development on abandoned properties has created tax revenue growth between \$.5 million and \$150 million, employment growth of between 15 and 40,000 new jobs and population growth of up to 250,000 new residents.

Tax Revenue, Job and Population Gains As a Direct Result of Redevelopment of Abandoned Properties (Listed from lowest population) <sup>9</sup>				
	City Population	Tax Revenue Gains (actual unless noted)	Job Gains (actual number of jobs gained unless noted)	Population Gains (estimated)
Bedford Heights, OH	11,375	\$425,000	not available	5,000
Wyandotte, MI	28,006	\$3-1 million (est)	15	15,000
Bangor, ME	21,473	\$1.6 million	160	26,595
East St. Louis, MO	21,542	\$3-8 million (est)	7,000 (est)	20,000
Jackson, MI	36,316	\$1.5 million	500	15,000
Everett, MA	28,007	\$1.6 million	11,000 (est)	0
Lima, OH	40,091	\$250,000	1,000	25,000
Middletown, CT	43,167	Not Available	46	5,000
Binghamton, NY	47,280	\$5 - 2 million (est)	500 (est)	10,000
Malden, MA	56,240	\$200,000	50	10,000
Taylor, MI	65,868	\$430,000	210	55,000
Clifton, NJ	78,672	\$1.1 million	800	not available
Trenton, NJ	85,403	not available	1,000	10,000
Dearborn, MI	97,775	\$1.3 million	130	not available
Gary, IN	102,746	\$20 million	2,400	71,264
Erie, PA	103,717	950,000 (est)	1,950 (est)	not available
Elizabeth, NJ	120,568	\$7.3 million	3,300	6,000
Dayton, OH	166,179	\$1.4 million	700	75,000
Richmond, VA	197,790	\$100 - 150 million (est)	1,000 (est)	5,000
Akron, OH	217,074	\$1.85 million	700	5,000
St. Paul, MN	287,151	\$20 - 30 million (est)	40,000	50,000
Boston, MA	589,141	\$3-10 million (est)	300 est	100,000
Detroit, MI	951,270	\$15-50 million (est)	1,000	250,000
Chicago, IL	2,896,016	\$78 million (est)	3,000	not available

**Reclaimed Land Asset Model Requires New Roles — A Few Examples**

Tool/Resource	Old Abandonment Framework	Reclaimed Land Asset Model
Foreclosure	To recover past-due taxes	To obtain clean and clear title to land in order to get it back on the tax rolls
Role of private market	Private market will return without government intervention	Private market developers will come to invest if you provide low-cost developable land
Donation	Government should never own low-value residential properties	Cheapest way to obtain properties with clean and clear title; strategically accept only those you would take or need anyway to assemble a site
Knowledge of location and scope of abandoned properties	We know they exist through citizen complaints and our own observations	Inventory all abandoned properties as well as the viable properties surrounding them to obtain detailed information about the types and locations of abandoned property to identify opportunities for redevelopment



*“The strategy that we have adopted at the Governor’s Center for Local Government Services is to provide a big dose of technical expertise, resources and support to smaller cities who are on the brink of financial distress. A vacant property strategy is absolutely integral to this effort. Taking an aggressive, proactive stance to reclaiming abandoned property and getting it into productive reuse is critical. Quite simply, in many of our older cities, vacant property is one of their great untapped resources for revitalization — if we can unleash it.”*

Ken Klothen, Executive Director,  
Governor’s Center for Local  
Government Services

**New Government Roles and A Pressing Need for Collaboration and Communication under the Reclaimed Land Asset Model**

**Many different county and municipal departments need to be brought together to effectively combat residential abandonment.**

A municipality that creates one or more teams with representatives of the relevant departments to work jointly to bring abandoned properties back into productive reuse can be far more effective.

**Who are the city, county and private market players who need to work together to create an effective abandonment program?**

**Blighted Property Review Committee** (until 2002 called the Vacant Property Review Committee) — This committee, mandated by the Urban Redevelopment Law, must declare a property to be blighted in order to condemn it.<sup>10</sup>

**City Council and Mayor** — Strong leadership has been part of every successful effort to combat blight. In addition, in most cities the Mayor and City Council must vote to permit liens to be waived and property transferred.

**District Justices** — Judges hear code enforcement cases and enforce the property maintenance code where one exists. Where the justice system doesn't vigorously enforce the code, properties often begin to spiral downward.

**Fire Department** — Unoccupied buildings are often the subject of accidental fires and arson. The National Fire Protection Agency reports that, in 1999, an estimated 11,400 structure fires in vacant properties caused 24 civilian deaths, 66 civilian injuries and \$131.5 million in direct property damage.<sup>11</sup>

**Information Technology Division** — Technology allows you to inventory where abandoned properties are and then to map out a strategy for abandonment prevention and the management of abandoned properties.

**Law Department or Lawyer for Redevelopment Authority or City** — Acquisition and disposition of abandoned

property are both legal procedures with strong due process requirements. A lawyer with knowledge of all the tools, restrictions and requirements under the various laws is critical to an effective strategy. Aggressive code enforcement also demands a strong prosecutor.

**Lenders** — Lenders have the authority to foreclose upon a property when the owner fails to make mortgage payments in a timely manner. Where lenders provide options to owners to work out their debt, it may prevent abandonment. When lenders do foreclose but market the property aggressively, a new owner will hopefully maintain it.

**Licenses and Inspections/Code Enforcement/Property Maintenance Department** — About two-thirds of Pennsylvania municipalities have a property maintenance code and a small staff of inspectors who cite owners if they do not maintain their properties.

**Neighborhood Watch, Community Development Corporations (CDCs) and other Community Groups** — These groups can very effectively keep tabs on property maintenance in the neighborhood. Both Harrisburg and York have deputized community groups to find potential violations and to write letters informing the owner of the violation and explaining that failure to repair will result in a report of the property to the Inspection Department. This is an example of one role community groups can play. In addition, they engage civic energy, create neighborhood leadership, and pioneer best practices.

**Offices of Housing and Community Development/Community Development Block Grant (CDBG) and HOME Recipients** — Municipal entitlement communities, whether state, county or municipal, have flexible federal funds that they are able to use to help owners without financial resources bring their properties up to code, help to finance demolition and subsidize new development.

**Planning Commission** — Combating abandonment requires a clear vision and

strategy for how abandoned properties should be reused to most benefit a particular neighborhood and the city or town as a whole.

**Police** — The police are on the streets more than any other municipal department. There is a documented relationship between crime and blight. If a property is a site for crime, the police should inform the inspectors to cite the owner and, if unoccupied, to clean and seal the property.

**Redevelopment Authority (RDA)** — This state-authorized agency has the power of eminent domain and spot condemnation and the ability to hold and assemble land for future development.

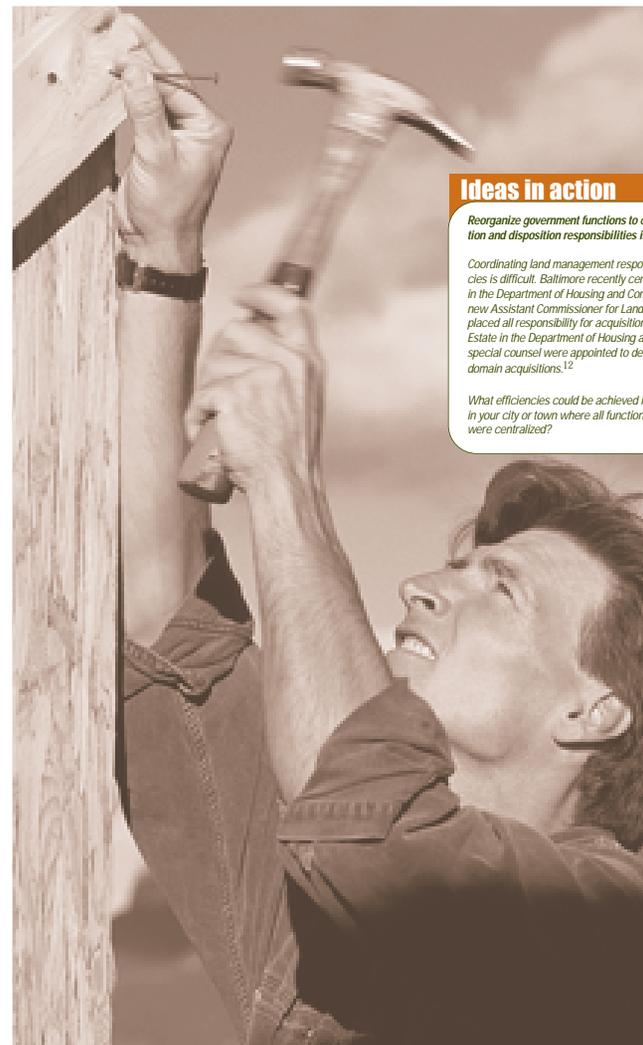
**School District** — Pennsylvania school districts tax property and often must agree to forgive all outstanding property tax debt in order to allow the property to be transferred to a new owner with clear title.

**Sewer and Water Departments** — Sewer and water departments often place liens on property for failure to pay. These liens must be removed for the property to be transferred with clear title. In addition, water cut-off due to lack of payment is the single best indicator that a home will be abandoned in the cities of Philadelphia and Erie.

**Tax Claim Bureau** — This county office has the power to foreclose upon delinquent properties in all cities but Philadelphia, Pittsburgh (and Allegheny County) and Scranton. Power to foreclose in these other cities is vested in a variety of agencies.

**Treasurer's Office** — The treasurer is traditionally the keeper of information regarding who owns a property and whether or not the taxes have been paid. In addition, it is this office that often must agree to forgive municipal debt to permit the property to be sold with a clear title.

**Utilities** — When households are unable to pay their utility bills, it is a clear sign that they are experiencing financial difficulties and may be unable to keep their homes. Early intervention can be very helpful if the municipality learns of the problem quickly.



**Ideas in action**

*Reorganize government functions to centralize all property acquisition and disposition responsibilities in one department.*

*Coordinating land management responsibilities among several agencies is difficult. Baltimore recently centralized all acquisition activities in the Department of Housing and Community Development under a new Assistant Commissioner for Land Resources. Trenton, NJ, placed all responsibility for acquisition in a new Division of Real Estate in the Department of Housing and Development. Separate special counsel were appointed to deal with foreclosure and eminent domain acquisitions.<sup>12</sup>*

*What efficiencies could be achieved if there was a single department in your city or town where all functions related to abandoned land were centralized?*

**Take Stock: Determine The Scope and Location of Abandoned Properties**

*Without dependable information on abandoned properties it is impossible for a city or town to coordinate a systemic response. Yet we do not know the number of abandoned properties in Pennsylvania municipalities nor do we know their locations. As a result, it has been left up to local governments to conduct inventories — to collect parcel-based information, analyze it and share it with all levels of government and often with community and private developers in order to create both a targeted strategy toward abandoned properties and market the availability of those properties to potential investors.*

**An inventory tracks the condition and current use of every parcel of land.** By identifying the condition of every home on a block or in a community, inventories provide municipalities with an invaluable foundation for an effective reclamation strategy.

With an ongoing inventory, abandonment no longer seems like it happens overnight. It can be tracked and evaluated and different strategies can be created to deal with neighborhood types with one or two abandoned properties compared to neighborhoods that are 50% vacant. An inventory gives you a fresh, focused look at your community and will make evident patterns that can help you to identify the most effective intervention points.

One neighborhood inventory in Southeastern Pennsylvania helped a local CDC understand that there was no market for its two-story row houses because they were perceived as offering inadequate living space. The inventory showed that while over 60% of two-story row houses were abandoned, less than 30% of three-story row houses faced the same fate. Based on this data and confirming interviews, the neighborhood carried out a strategy to demolish the worst of the two-story homes, rehabilitate the three-story homes and where two-story homes existed on viable blocks, merge two houses into one unit thereby creating a new, larger housing option that has proven to be very popular.

While all communities would like to have a parcel-by-parcel map of all properties at

their fingertips, where minimal resources are available to fund an inventory, a cost-effective alternative is a survey completed by housing inspector staff or college students listing abandoned properties.

Multiple conflicting database systems often hamper government data. In many cities, each agency acquires a customized database that may not have the ability to communicate with any other agency's database. Another challenge to integration is the practice of many government agencies to treat their information as proprietary and for use solely within one division or department. In these circumstances, there is often substantial resistance to sharing information with a general audience. Yet, bringing government records together into one centralized location is extraordinarily helpful to efficient and effective government performance and essential to creating a coordinated land management system.

**An inventory also creates an accessible, cost-saving source of information for developers** who are seeking investment opportunities but lack the manpower or willingness to go to ten separate city agencies for information on one parcel. Opening this centralized information source to the public requires a thorough discussion of privacy concerns and potential for abuse. Most inventory managers choose to make the majority of the information available to a wide audience in order to market poten-

tial redevelopment opportunities but, where legitimate privacy concerns exist, offer certain information to a limited set of authorized users.

**What is an Inventory?**

A vacant property inventory is a visual census (walk by and look at property's condition rather than surveying the owner) of the type, use and condition of the exterior of properties in a neighborhood. The first effort in Pennsylvania to inventory and map abandoned properties occurred in Philadelphia in 1993 where 60,000 lots and properties were surveyed for condition and use.

Today, communities across the state are beginning to inventory their abandoned properties to understand their location, their impact on the surrounding neighborhood and their strategic potential. Imagine what a difference it would make if every municipal official had ready access to up-to-date information on the location and status of vacant and abandoned properties in their community.



**Surveys Conducted with Handheld Computers, Such as Palm Pilots, Provide the Most Comprehensive Inventories but Paper and Pen Surveys Make Good Sense for Some Communities:**

Paper and Pen Survey		Handheld Computer Survey	
Pros	Cons	Pros	Cons
No start-up time — Can perform quick study, analyze and roll out strategy very quickly	Inconsistent address format: takes weeks to geocode (match written address with official address) — e.g., W. Washington, West Washington, Washington Street	Already lists address based on official records — takes only a couple of hours to geocode	Start-up time required to rent or buy units and software
Fast training	Large expenditure of time to input handwritten entries into database	Place in cradle and information transfers to database in hours	Need to train on devices — training can be accomplished in an hour
Inexpensive because no equipment needed and little training	Limited in how many factors can record — stories, sales or rent, condition and vacancy	Can record many different factors on multiple screens	Funding needed: Personal Data Assistants (PDAs) can be bought for \$300, user-friendly software for \$150 or they can be rented from organizations
Working day is five hours — one person for every .5 square miles	Typographical errors inputting data — e.g., occupied, occupy, occupied	Reduce input errors — increases quality of data	Philadelphia Association of CDCs rents fully programmed handheld computers
	Inconsistent data — every community can create different survey with incompatible information	Standardized, every survey provides same information in same format	
		Faster input — Once familiar with device and definitions, one can survey a property in two minutes	

**Ideas In action**

**Philadelphia's Neighborhood Information System**  
*The University of Pennsylvania created and maintains Philadelphia's inventory as part of an integrated parcel-level database. Basic information is provided over the Internet for everyone's use while other data must be purchased. In order to compile the database, information was integrated from eight different agencies. The City Planning Commission provided city-wide parcel coverage. Licenses and Inspections contributed information about housing code violations, demolitions, clean and seals, and vacancy. The Philadelphia Gas Works shared information about shut-offs. The Revenue Department offered information about property tax arrearages and lien sales. The Water Department provided information about shut-offs, suspended service, delinquency, and vacancy. The Board of Revision of Taxes provided owners' names, sales dates/prices and land and building characteristics. The Office of Housing and Community Development contributed digital photographs of vacant lots and houses and results of a vacancy survey and, finally, the Post Office provided the addresses of homes with suspended mail service. This information was integrated into a GIS mapping application allowing city officials and community development agencies to list or map a parcel, a neighborhood or the entire city. The website for the Neighborhood Information Systems can be found at <http://www.cml.upenn.edu/nis>.*

**Integrate Existing Government Data into the Inventory Database**

Once the inventory is complete, you can then add data maintained by local government agencies to create a comprehensive and very helpful picture of each parcel.

- Types of information typically added to an inventory database:
- Ownership
  - Code violations
  - Building permits
  - Utility shut-offs
  - Tax delinquencies
  - Liens on the property
  - Fires on the property
  - Crime or complaints about the property
  - Assessed and market values
  - Zoning restrictions



**How Do You Collect Visual Data on Properties?**

To conduct an inventory, teams of two volunteers (typically neighborhood residents or high school and college students) walk through a neighborhood with clipboards or handheld computers and record what they see, checking off boxes with clear objective data about every property. This data includes the number of stories, whether any windows are boarded, whether the lot is maintained or contains long grass or garbage and many other factors. Prior to the survey, volunteers receive a quick training. If paper and pen are used, volunteers use a different form for each property and check off lists. If a handheld computer is used, volunteers are shown how to bring up relevant screens and how to move to the next record. The most important aspect of training is that everyone understands the features and conditions they are looking for and records them using the same criteria. Inventory forms are primarily made up of objective questions. Can you imagine how different everyone's response would be if subjective questions were asked, such as what kind of condition is the house in? Often volunteers are given a digital camera so that an actual picture of the property can be added into the database as well.



**Now, map it!**

Once you have the necessary information about the conditions of the buildings, code violations, accidental and arson fires, utility shut-offs, tax delinquencies and other key pieces of information in a single database, you can map the information using Geographic Information System (GIS) software.

**GIS Defined**  
Simply put, a GIS combines layers of information about a place to give you a better understanding of that place. What layers of information you combine depends on your purpose — finding the best location for a new store, analyzing environmental damage, viewing similar crimes in a city to detect a pattern, and so on.

GIS mapping software allows you to visually track factors that impact neighborhood viability from the condition of the houses to criminal activity to public and private investment in different geographies such as a Councilmanic district, an elementary school feeder area or a neighborhood. GIS maps will show potential developers an area's assets, potential funders an area's challenges and government leadership both. If your municipality does not have GIS mapping capability, there are many places to contract out this work from your local university to a host of consultants around the state to your county planning or community development office. To view a variety of currently available GIS maps from around the state, visit PA Magic, a mapping and geographic information consortium, at [www.pamagic.org](http://www.pamagic.org) and Pennsylvania Spatial Data Access system (PASDA), Pennsylvania's official geospatial information clearinghouse, at [www.pasda.psu.edu](http://www.pasda.psu.edu).

**Data will need to be maintained and updated.**

A one-time snapshot does not allow you to see trends, comparisons over time, evolving markets, or the impact of current programs. Specific employees within an identified agency should be given responsibility for refreshing the data regularly.

**Who should own and operate the vacant property information system?**

According to John Kromer, an expert on urban revitalization and abandoned property at the Fels Institute at the University of Pennsylvania, the local government should not be the keeper of the inventory database in most instances. This is because the owner of the database should have a strong interest in (1) maximizing users of the information, (2) training potential users and using technology to increase accessibility and (3) improving the user friendliness of the database. The owner of the database should not be worried about turf issues — which information belongs to which government agency — or limit available information because of a very conservative fear of legal exposure. In many cities, this describes a local university or non-profit far better than it describes the city.



**A Parcel Snapshot From Inventory Data and Possible Actions**

**Parcel at 24 E. Washington Street:**

Two-story single-family attached house, occupied, sagging porch, paint peeling, lot untended surrounded on either side by well-tended single-family dwellings in good condition. Electricity was cut off last month to property. Water bill unpaid for one month. Tax delinquencies for last six months. Prior to that bills paid on time. Private owner.

**Action:** Abandonment prevention. This owner is having difficulty maintaining this property. Find financial assistance and other interventions to help the owner remain in his or her home.

**Parcel at 104 5th Street:**

Vacant lot. Garbage, graffiti and tall weeds. Midblock property. Next door property also vacant. All other properties on block are occupied. Owner — City. Property demolished as imminently dangerous in 1999.

**Action:** Green lot for use as community garden or park. Contact neighborhood groups to identify group to maintain lot after initial clean-up. Speak with local horticultural groups or retailers about providing training and donating mulch and other needed planting materials for garden.

**REFORM NEEDED**

The Housing Alliance of Pennsylvania recommends that Pennsylvania help local governments to create an inventory of abandoned properties. Pennsylvania's investment in industrial brownfields inventories, grants provided to finance municipal inventory efforts and compile information on a state level, has increased the ability of localities to bring industrial properties back into productive reuse. A similar approach with respect to residential properties would provide new opportunities to unleash the value of these properties as well.



# Blight prevention

Identify at-risk properties and prevent future abandonment

## Fact

One abandoned home on a block brings down surrounding home values by \$6,715.

Dr. Anne Schlay  
Blight Free Philadelphia



A recent University of Pennsylvania study found that a predictor of homelessness was the number of abandoned homes in a neighborhood. Thirty five percent of families who entered the homeless system had utilities shut off within the previous six months.

*“Preventing families from losing their homes offers significant benefits to the families and significant cost savings to the jurisdiction. In Philadelphia, for instance, government must invest \$22,000 to keep one family in a homeless shelter for one year.”*

Dennis Culhane, PhD, University of Pennsylvania, School of Social Work

### Early Warning Signs that a Property is at Risk of Abandonment<sup>13</sup>

- Vacancy
- Unmaintained grounds or structure (unmowed lawn, tall weeds, trash on lawn)
- Tax delinquency
- Code violations that are not corrected
- Proximity to abandoned properties
- Utility shut-off
- Mortgage foreclosure
- Absentee ownership

Abandonment prevention policies sound to some like the old adage “closing the barn door after the horse has run away,” but the reality is that abandonment is a continuing problem and blight prevention is an effective neighborhood stabilization and revitalization tool. **We recommend a three-part approach to preventing abandonment:**

1. Identify at-risk properties through early warning signs.
2. Use code enforcement and financial assistance to prevent abandonment.
3. Prevent mortgage foreclosures through prosecution of predatory lenders and encouraging lenders to offer “work out” plans.

Once properties are identified as at risk, it becomes possible to reach out to owners to help them to take necessary action to save their properties. Often an owner has little information about available credit counseling or grant and loan programs. If the owner is intent on leaving the home or circumstances make preserving home ownership an impossibility, the owner may be encouraged to donate the property to a local non-profit or to the city in return for a tax deduction for the charitable donation or a waiver of taxes due. Having a clear strategy for where to target limited resources, such as intervening in only seriously at-risk properties or properties in specific strategic neighborhoods, will allow you to achieve goals most effectively.

### Ideas in action

*Identifying Properties At Risk of Abandonment<sup>14</sup>*  
In Minneapolis, a local university helped a neighborhood association develop a set of criteria to identify properties in the neighborhood that were at risk of abandonment. Indicators included building condition, estimated market value, and tax delinquency. Using GIS, the university mapped the properties and created a list of owner contact information for each at-risk property. The neighborhood association used the list for outreach, including face-to-face meetings, phone calls and targeted mailings. The association began with property owners believed to be high risk in order to connect them to needed financial assistance through a local community development corporation. As a result, many of the high-risk owners retained ownership of their properties. Building on this success, the neighborhood association is contacting moderately at-risk property owners in an attempt to stabilize those properties as well.

### WAVE THE RED FLAG

#### Identifying Properties At Risk of Abandonment

Recognition of early warning signals by government, whether through discussions between various government employees or an inventory database, can identify properties that possess two or more of the danger signs of possible near-term abandonment. Citizen complaints can be helpful at identifying other vulnerable properties. While no single indicator will accurately predict whether the owner will abandon the property, knowledge that two or more indicators exist, such as utility shut-off and persistent code violations, will help you to shrink the list of homeowners who may abandon their homes in the short term by 60% or more.

## Ingredients of an Effective Code Enforcement Plan

### Code enforcement can prevent abandonment:

(1) it prevents owners from deferring maintenance and allowing their properties to deteriorate to a point where repair costs greatly exceed available funds and (2) the popular broken window theory that even minor damage to a property such as a broken window sends a signal to the entire neighborhood that people don't care about their properties, that the law isn't going to enforce standards and this accelerates neighborhood decline. Code enforcement sends the opposite message. If a broken window sends a social signal that the community does not care about property maintenance, fixing the broken window will create an environment where the community will begin to care about such things: windows will not remain broken and property conditions will improve.<sup>15</sup>

**Approximately two-thirds of Pennsylvania cities have a Property Maintenance Code, most commonly the Uniform BOCA Code — an international model code in the family of Uniform Construction Codes that Pennsylvania adopted in 2003/2004.**<sup>16</sup> Unfortunately, even local governments with a property maintenance code are rarely able to proactively enforce property maintenance standards across the jurisdiction. Small inspection staffs limit their ability to systematically inspect properties or do more than respond to citizen complaints. In addition, even where a citation has been issued, a District Justice who does not see the connection between a sagging porch and neighborhood decline may not impose penalties or strict deadlines for compliance.

### Encourage Voluntary Compliance Through Education and Outreach

Increasing voluntary compliance with key property maintenance standards is a good place for government to begin its efforts at improving the condition of neighborhood houses. When property standards are maintained without the need for government intervention, tax revenue can be targeted elsewhere and neighborhoods can be left to thrive. While

this strategy will not return deteriorated neighborhoods to sudden health, it can help in stable neighborhoods. Below we have provided some suggestions for how you can improve voluntary compliance.

#### Publicize code requirements.

For people to maintain their properties in compliance with the code, they need to know what the code requires. Widely distributed brochures or flyers should specify: (1) the standards that properties are expected to meet, (2) inspection requirements, (3) common code violations and (4) penalties for failure to comply. Making property owners aware of the standards set by law along with the more common code violations allows owners to correct these violations before an inspector is sent out and might reduce the number of correction orders and follow-up inspections needed.

Dissemination strategies can include inserts in tax bills, brochure mailing, articles in local papers or newsletters or presentations to neighborhood watch groups, landlords or apartment managers. Another idea is to post the code along with a summary of the owners' responsibilities on your borough, town or city website or use local public affairs cable broadcasting where available.<sup>17</sup>

#### Reward code compliance.

Offer carrots as well as sticks to encourage code compliance. Pennsylvania's Local Economic Revitalization Tax Assistance Act

(LERTA)<sup>18</sup> gives localities the power to offer tax abatements on improvements to property for up to ten years. The basic premise underlying this type of tax incentive is that the abated taxes, rather than being collected by the local government, will be expended directly on private development and used to finance public improvements. Philadelphia has offered tax abatements of up to \$51,500 of the home's increased market value based on home renovations and improvements where the market value of the house is less than \$193,125.<sup>19</sup> Other jurisdictions have offered awards for substantial rehabilitation or a reduced licensing fee for landlords.

#### Enforce code consistently.

Consistent code enforcement sends the message that without regular maintenance, there will be an inspector knocking on your door. Where staffing is inadequate to cover all neighborhoods, select neighborhoods based on the level of abandonment or specific types of properties (i.e., multi-family and rentals) and let everyone know you are coming.

#### Provide technical assistance on how to perform repairs.

The popularity of home improvement shows makes clear that people are interested in learning how to fix up their properties. Cable television, a government's website, or an annual home remodeling fair

financed by vendors who pay registration fees to exhibit their products and services can be good ways to share home maintenance tips. If you are planning to co-sponsor a remodeling fair, consider including a prominent booth for your inspection staff to talk one-on-one with owners and explain what is required under the code and an "Ask the Expert" booth, staffed by architects and contractors, providing free home improvement advice.

### Use Aggressive Code Enforcement to Ensure Property Owners with Resources Do Not Defer Maintenance

Two-thirds of Pennsylvania's municipalities practice code enforcement. Virtually 100% of those have limited resources and capacity to systematically inspect homes and cite owners for violations. Code enforcement is an effective tool where government can intervene before repairs become too numerous and expensive for the owner to complete. A municipality that seeks to use code enforcement as an effective tool, should consider some of the recommendations below.

#### Ensure that a property maintenance code is in place.

The majority of Pennsylvania municipalities that have a property maintenance code use the International Uniform Property Maintenance Code often called the BOCA Code. This code offers state-of-the-art provisions and makes it possible to adopt a code quickly.

#### Enforce code vigorously against owners who refuse to make repairs but are financially able.

Repeated citations, reinspection fees, and charges in court provide strong incentives for owners to bring their properties up to code.

#### If an owner refuses to correct a condition that harms the neighbors, the law gives you the right to enter the property to abate the nuisance.

The process to abate an unsafe structure must be carried out in a manner that gives the property owner proper notice and the chance to remedy the condition.<sup>21</sup> Where the property owner does not eliminate the dangerous condition within a reasonable time (30-90 days), the municipality has the ability to tear down the structure or repair the dangerous condition and obtain repayment of costs from the owner.<sup>22</sup> The most common method for obtaining repayment is to place a priority lien on the property.

### A Carrot and Stick Approach<sup>23</sup>

#### Use Code Enforcement and Financial Assistance to Prevent At-Risk Homes from Abandonment.

In a national survey of cities, 100% of the respondents listed code enforcement as the single-best way to deal with property blight.

#### Consistently enforce written policies, procedures and inspection checklists to avoid charges of discrimination or arbitrariness.

Where you do not have resources to inspect all properties, create a clear policy for prioritizing neighborhoods or properties based on objective data, such as housing that is structurally sound but shows signs of minor to moderate deterioration. If you do not record the reason for your policies, your municipality may be subject to a fair housing lawsuit asserting that you targeted certain homeowners or landlords based on race, national origin or another protected class.

#### Use landlord registration requirements to help ensure owners maintain their rental properties.

Many Pennsylvania cities and towns have enacted ordinances requiring property owners to register or obtain a license in order to lease residential properties. The majority of landlord registration ordinances mandate inspections of a rental property prior to occupancy by tenants and sometimes require additional inspections each time a new rental contract is signed. A landlord may have his rental license revoked if the property is not maintained. Registration ordinances often require owners who live outside of the municipality to assign a manager and/or a local agent to rapidly respond to government concerns. In addition, many landlord registration laws, like those in Allentown, require an up-to-date list of all tenants and impose behavior standards on tenants as well.<sup>24</sup>

Landlord registration is typically financed by annual registration fees assessed on each unit or property. **The courts have upheld annual registration fees to finance the program but do not allow a municipality to make a profit from this fee revenue.**<sup>25</sup>

## Ideas in action

*Richmond, VA, began its "Neighborhoods in Bloom" targeted investment program in 1999. The city targeted six neighborhoods with the goal of focusing its neighborhood revitalization resources. For four years, the city has followed this philosophy, annually directing \$5 to \$7 million in Community Development Block Grant and Home Investment Partnership funds and \$750,000 in capital improvement funds to these six targeted areas to improve physical conditions and strengthen communities. Program objectives emphasize increasing home ownership to enhance community stability and attracting private investment as key to growth and sustainability. As of*

*March 2003:*

- 179 vacant lots and houses have been acquired.
- Property assessments have increased 19%.
- The number of properties with code violations has been reduced 64%.
- 76 houses have been built and sold.
- 63 houses have been rehabilitated and sold.
- 188 owner-occupied units have been repaired, many with financial assistance.
- Sidewalks and curbs have been repaired or installed in each area.

*Today, crime in the six neighborhoods is down and property values are up.*<sup>20</sup>

**Information required on the landlord registration statement may include:**

- Name and primary address of record owner of the premises
- Name and primary address of record owner of the rental business
- Name and primary address of corporate officers if owner is a corporation
- Name and address of local agent — a municipal resident authorized to accept service of process
- Name and address of managing agent of the property, if any
- Name, address and phone number of person to contact in the event of an emergency
- Name and primary address of holder of recorded mortgage

**Share inspection staff among municipalities.** Municipal governments who join together to share inspection staff enjoy notable cost savings and are eligible for state funding. Code enforcement and property inventorying present important opportunities to share resources and obtain cost efficiencies not possible when working alone. By cooperating, municipalities can avoid duplicate personnel, facilities and equipment.<sup>26</sup> The Commonwealth's Shared Municipal Services Program Code Enforcement Initiative will fund initial administrative expenses needed to create a shared code enforcement program.

**Make Financial Assistance Available to Property Owners Without Resources to Bring Their Properties Up to Code**

Where homeowners or landlords do not have the money to make needed repairs, grant and loan programs can help owners arrest deterioration of their properties and remain in their homes. Home repair loans, deferred loans due upon sale or transfer and grants are the most common financial assistance programs offered to low-income homeowners. These programs are typically funded through U.S. Department of Housing and Urban Development (HUD) CDBG and HOME funds, which can be used for home repair activities.<sup>27</sup> Limited home repair dollars can impact the health of a neighborhood rather than the viability of a single home where a targeting strategy is in place to focus home repair dollars in a neighborhood rather than provide money throughout the municipality in response to requests.



**Use New Laws Passed in the Last Five Years that Have Added Powerful Weapons to a Municipality's Code Enforcement Arsenal**

**The Municipal Housing Code Avoidance Amendment to Title 18 of the Crime Code, Act 70 of 1998, imposes increased fines and criminal penalties for repeat offenders in all municipalities.**

**A person commits a misdemeanor of the second degree** where they are convicted for a fourth or subsequent violation of the same subsection of a municipal housing code (building, housing or property maintenance code), the violation has been continual and uncorrected, there has been no reasonable attempt to correct the violation and the violation poses a threat to the public's health, safety or property. **Penalty:** Fine of up to \$5,000; Imprisonment up to two years.

**A person commits a misdemeanor of the first degree** when the offense is based on five or more convictions and all conditions above apply. **Penalty:** Fine of up to \$5,000; Imprisonment up to five years.<sup>40</sup>

**The Municipal Housing Code Avoidance Act, Act 135 of 1998, imposes increased fines and criminal penalties for repeat offenders in Third Class Cities.**

Where an owner has been issued four or more violations of the same section of the ordinance on the same property, the violation poses a threat to public's health, safety or property and no reasonable attempt was made to correct the violation, the penalties are as follows:

- First and Second Code Avoidance Violations: Fine up to \$1,000 per month.
- Third Code Avoidance Violation: Fine up to \$5,000 per month.
- First and Second Code Avoidance Violations Posing a Threat to Public Health and Safety: \$500-\$1,000 — can cite every five days.
- Third Code Avoidance Violations Posing a Threat to Public Health and Safety: Fine between \$1,000 and \$10,000; Imprisonment up to 90 days.

**The Municipal Code and Ordinance Compliance Act, Act 99 of 2000, requires purchasers of a building (from an individual seller or at tax sale) known to have one or more substantial code violations to bring the structure into code compliance within one year of the date of purchase.**

Where the purchaser fails to comply, he or she is personally liable for the cost of maintenance, repair or demolition and a fine of between \$1,000 and \$10,000.

**Ideas in action**

*New Jersey uses a tougher club to ensure compliance — if a landlord is not duly registered, he or she is not able to use the court system to evict a tenant. New Jersey registration applications require the landlord to list a local agent along with the landlord's full name and primary address. This information helps to locate owners and hold them accountable for the condition of their properties and the behavior of their tenants.<sup>28</sup>*

**REFORM NEEDED**

Ohio, New York and New Jersey have created new tools to obtain repayment for repairs performed to cure a nuisance. Ohio allows a municipality to add the cost of repairs to abate a nuisance to real estate taxes. New York allows a municipality to sue the owner of the property to obtain costs incurred in demolishing or repairing a building. New Jersey gives the municipality the ability to go after other assets of the owner to cover repair or demolition costs.<sup>29</sup>

**Proof of Effectiveness in Preventing Abandonment**

A study of one grant program, Philadelphia's Basic System Repair Program (BSRP), showed that grant programs can be effective in preventing abandonment. BSRP provides grants to low-income homeowners to fix major systems such as roofing, plumbing or electrical as a community revitalization tool. Temple University in a report, entitled *Blight Free Philadelphia: A Public-Private Strategy to Create and Enhance Neighborhood Value*, found that BSRP funded grants to 12,000 homes between 1995 and 2000 with an average grant of \$3,088. Of the 12,000 homes that received grants, only 117 were found to be abandoned in 2000. That is less than 1% of grants when more than 4% of all Philadelphia residences are abandoned. The program is funded through federal Community Development Block Grant (CDBG) money and state funding.



**District Justice's Unwillingness to Enforce Property Maintenance Codes**

Pennsylvania's District Justices preside over summary offenses including property maintenance code violations. In recent interviews, municipal code enforcement officials stated that many District Justices fail to aggressively prosecute code violations. Some local officials said that District Justices' reluctance to fully and consistently prosecute violators comes from their belief that, they have more pressing cases, while others said they believe that particularly in smaller towns, Justices who are elected may not want to offend property owners in their districts. Officials called for education of District Justices to increase understanding of the importance of code enforcement in preventing abandonment.<sup>30</sup>

**Ideas in action**

**Loans Often Unhelpful to Low-Income Homeowners**

*Low-income homeowners often cannot take advantage of home repair loan programs because they are ineligible due to a poor credit record or because they cannot afford to take on more debt. Philadelphia has introduced two new sub-prime loan products, both funded through the Neighborhood Transition Initiative to try to better meet the needs of low-income homeowners. The Mini-PHIL provides loans of \$1,000-\$10,000 at reasonable interest rates to be used for emergency repairs and to help pay for existing debts at higher interest rates. The PHIL-Plus allows borrowers to take out up to \$25,000 for home repairs and payment of existing debts. It is premature to evaluate the performance of these products in increasing low-income homeowners' ability to pay for home repairs.*

**Ideas in action**

**Two creative code enforcement efforts:**

*Lebanon's Stunlord Ordinance permits the Department of Public Safety to place a sign on the properties of delinquent owners who have steadfastly refused to make needed repairs including their names, addresses and, if published, their phone numbers. While the ordinance has rarely been used, the mere threat of erecting such a sign has prompted many owners to make repairs.<sup>31</sup>*

*Harrisburg and York have increased their inspection capacity by recruiting citizen help. The Harrisburg Citizen Inspection Program trains neighborhood residents to inspect the exteriors of buildings and send notice to the owners that their properties violate the Property Maintenance Code. If the owner does not remedy the problem, a Bureau of Codes inspector is called out to inspect and issue appropriate citations.<sup>32</sup>*

**REFORM NEEDED**

A 2004 study by the Pennsylvania Legislative Budget and Finance Committee entitled *Commonwealth and Local Government Efforts to Ameliorate Blight* found: (1) little, if any, technical assistance is given to local governments about effective code enforcement and (2) the District Justice system is often slow to respond to code violations. The Committee recommended that Pennsylvania's Department of Community and Economic Development (DCED) develop model property maintenance code programs, provide technical assistance to local governments on code enforcement and provide training for District Justices to discuss the consequences of failing to enforce the property maintenance code and allowing properties to deteriorate. The Housing Alliance echoes these recommendations.

**Encouraging Lenders to Offer “Work Out” Plans to Delinquent Homeowners to Avoid Mortgage Foreclosure or, Where They Choose to Foreclose, to Market the Property Aggressively**

In the fourth quarter of 2002, Pennsylvania had the fifth highest mortgage foreclosure rate in the nation — 1.89% of all mortgage loans in Pennsylvania and 12.11% of sub-prime loans ended up in foreclosure. This represents a growth in the rate of foreclosure of 67% from a decade ago (fourth quarter of 1990) yet during this period, the actual number of delinquent loans remained fairly stable. What does this mean? Lenders are initiating the foreclosure process faster and more frequently upon delinquent borrowers. This is particularly true of sub-prime lenders who are 14 times more likely to foreclose than conventional lenders.<sup>33</sup>

Mortgage foreclosure costs the lender money and the owner his or her home. Both parties benefit more from a “work out” program that permits a homeowner to make payments over time or allows for a loan modification. Studies have shown that retention “work outs” are very effective at keeping borrowers in their homes particularly if they are offered early when the borrower’s financial stress is still manageable.<sup>34</sup> The municipality should encourage local mortgage lenders to routinely offer “work out” plans.

**Where lenders do foreclose, they should be encouraged to market the property aggressively regardless of its market value.** Without a rapid sale to a new owner, the home will deteriorate and bring down surrounding property values. If there is no existing market for the property, the lender should transfer the house to a non-profit or government agency for redevelopment with outstanding loans waived rather than holding on to a property with a negative net value.

**Prosecute predatory lenders who provide loans that the owner cannot afford or impose terms that increase the risk of mortgage foreclosure.** Often prior to accepting a predatory loan, owners owned their homes free and clear. Educate your housing consumers that trustworthy lenders do not distribute flyers or canvas neighborhoods knocking on doors to see if anyone wants a loan today. Encourage them to carefully review the terms of any home repair contract or home equity loan. If they have already signed a loan agreement and there is any indication that the loan was for an amount the owner could not realistically pay or the fees seem excessive, recommend that they see a legal services attorney or a HUD-approved housing counselor immediately.

**Where all else fails, there are two actions owners can take that will suspend foreclosure and allow them to keep their homes.**

**HEMAP:**  
When lenders refuse to suspend mortgage payments temporarily or to accept partial payments, owners can go to a housing counseling agency that will help them apply for HEMAP, the Homeowner’s Emergency Mortgage Assistance Program. HEMAP, administered by the Pennsylvania Housing Finance Agency, is a loan program designed to protect citizens who, through no fault of their own, are financially unable to make their mortgage pay-

ments and are in danger of losing their homes to foreclosure. To be eligible for a HEMAP loan, homeowners must have received an Act 91 Notice from their lender informing them of their delinquent status and advising them that help may be available through the program. In addition, applicants must be: (1) suffering financial hardship through no fault of their own; (2) at least 60 days’ delinquent on monthly mortgage payments; (3) occupants and owners of the home in foreclosure; and (4) able to demonstrate reasonable ability to resume normal mortgage payments after assistance ends. HEMAP recipients receive loans to help bring delinquent payments current and may be eligible for continuing monthly payment assistance. Total assistance cannot exceed 24 monthly payments or \$60,000. For more information, go to <http://www.phfa.org/programs/hemap>.

**Chapter 13 Bankruptcy:**

Another option is for families to attempt to hold onto their homes under Chapter 13 of the Federal Bankruptcy Code. Chapter 13 bankruptcy may be used to stop a house foreclosure, make up missed mortgage payments and keep the house. Homeowners must use a lawyer to pursue this avenue.

***Blight Free Philadelphia: A Public-Private Strategy to Create and Enhance Neighborhood Value,** a study by Temple University’s Research for Democracy, recommends that municipalities establish “Blight Free Zones” that are anchored by private and non-profit employers and commercial areas.*

The Blight Free Zone approach leverages private investment by local businesses up-front as a condition of spending scarce public funding, rather than making large public expenditures with only a hope of a private investment response. Partnerships between existing businesses (or other economic generators) and adjacent neighborhoods become a prerequisite for government investment.

While *Blight Free Philadelphia* recommends targeting community revitalization dollars to achieve the greatest impact, the study also made clear that government intervention to rehabilitate a single abandoned home was in and of itself a positive investment for government when one abandoned home on a block was shown to bring down surrounding home values by \$6,715.<sup>35</sup>

**Tax Foreclosure vs. Mortgage Foreclosure**

**Tax Foreclosure** — a local government forecloses on a property and sells it at tax sale to satisfy a tax or other municipal debt of at least one year’s payments

**Mortgage Foreclosure** — a legal procedure in which a lender, mortgage company or other financial institution sells a property when a homeowner defaults on a mortgage

**REFORM NEEDED**

There are currently three bills in the State Legislature intended to limit predatory lending. Their status will be updated regularly on [www.housingalliancepa.org](http://www.housingalliancepa.org). Two key components of an effective strategy to ensure homeowners are treated fairly by lenders are discussed below.

Return time period covered under the Homeowner’s Emergency Mortgage Assistance Act (PA) back to pre-1998 levels. In 1983, the Pennsylvania General Assembly passed the Homeowner’s Emergency Assistance Program (HEMAP),<sup>36</sup> considered a best practice in many parts of the country. HEMAP allowed a homeowner to go as long as three years without resuming full mortgage payments.<sup>37</sup> In 1998, HEMAP was amended to shorten the three-year loan period to two years and to require no less than a third lien position for the state. If Pennsylvania removed these 1998 amendments and returned to the original qualification criteria, 31% more Pennsylvania families could be assisted.<sup>38</sup>

Double or triple the maximum mortgage amount offered protection under Act 6 to protect thousands more Pennsylvania households.<sup>39</sup> Act 6 provides protections to homeowners whose principal loan balance is \$50,000 or less. A homeowner protected by Act 6 must be sent a 30-day notice of foreclosure that includes an itemized listing of the amount needed to cure default. Act 6 also limits attorneys’ fees charged by the lender to \$50 in order to prevent the original debt from growing due to fees added on during the foreclosure process. The protected borrower may pay the past-due payments and stop the foreclosure up to one hour before the bidding at sheriff’s sale.



**Ideas in action**

*Philadelphia’s Neighborhood Transformation Initiative (NTI) created a strategy for investment and growth with abandoned properties as a critical focus. Philadelphia has more than 60,000 abandoned houses and lots and although there are several areas of concentration, 300,000 residents live on a block with one or more abandoned properties. NTI created a typology for city neighborhoods, defining each as either:*

- Regional choice
- High value and appreciating
- Steady
- Transitional
- Distressed
- Reclamation

*The city then defined a government role within each kind of neighborhood that ranged from investing in streetscape improvements in steady markets to large-scale site acquisition in reclamation markets. The program was financed by a \$250 million bond issue.*

# New tools

A recent legislation that offers new tools to address abandonment

Governor Rendell and many members of the State Legislature have made bringing abandoned properties back into productive reuse a priority. Over the last five years, they have passed a number of new laws that offer a new piece to the puzzle, expanded authority, enhance powers or increase penalties. Keeping up to

date with new legislative developments is extremely important. The Housing Alliance is working hard to ensure that you will have a new set of tools to use against abandonment in 2005. Review the legislation listed below, but also go online to [www.housingalliancepa.org](http://www.housingalliancepa.org) for regular updates on pending legislation and new laws.

## Foreclosure Law Amendments

**Third Class City Code Amendment re: Foreclosure:** There is no redemption period for an owner after a judicial sale where taxes are delinquent 30 days after the final deadline for payment of such taxes for the current tax year. (Act 48 of 1998; Act 47 of 1998 Amending Third Class City Code)

### Real Estate Tax Sale Law Amendments:

- A landlord whose apartment license has been revoked pursuant to a municipal ordinance is prohibited from purchasing property at a real estate tax sale. (Act 82 of 2000)
- Tax Claim Bureau may give the redevelopment authority, municipality in which the property is located, or designated agent for the same, the right of first refusal in approving the discharge of any tax claims for property they are interested in obtaining. (Act 82 of 2000)
- Third parties are allowed to satisfy tax claims held by a municipality against tax-delinquent real property. (Act 5 of 1998)
- Municipality may petition the court of common pleas to prohibit the transfer of property sold at a judicial sale to any purchaser who has failed to comply with the local housing code. (Act 5 of 1998)
- Prohibits the completion of a sale to persons with delinquent real estate taxes or outstanding municipal utility bills and further provides for the discharge of claims by a third party. (Act 133 of 1998)

## Be Certain You Are Taking Advantage of New or Expanded Tools the State Legislature Has Adopted in the Past Five Years

### Land Sold by Government

**City-owned land can be sold to a non-profit community development corporation involved in affordable housing and commercial and industrial redevelopment without requiring advertising or bidding.**

(Act 64 of 1997: First Class Township Code; Act 12 of 2002: Second Class Township Code; Act 44 of 1998: Third Class City Code; Act 54 of 1998: Borough Code)

- In addition, in Third - Eighth Class Counties, fair market requirements are waived when selling county-owned property to non-profit organizations engaged in the construction of affordable housing or for community, industrial or commercial development. (Act 73 of 2000: Third Through Eighth Class County Code)

### Municipal Code and Ordinance Compliance Act:

Purchasers of a building known to have one or more substantial code violations must bring the structure into code compliance. The purchaser of land must make reasonable attempt to abate nuisance within one year of the date of purchase. Failure to comply results in the purchaser being personally liable for the cost of maintenance, repair or demolition and a fine of between \$1,000 and \$10,000. Fines are remitted to the municipality in which the building or lot is located. However, where low-income housing, one-third of a fine must be used for low-income housing. (Act 99 of 2000: Municipal Code and Ordinance Compliance Act)

### Urban Redevelopment Law Amendments

The criteria for determining blight under the Urban Redevelopment Law was amended to include abandoned properties. (Act 113 of 2002)

Bond requirements for contractors increased from \$500 to \$10,000. (Act 113 of 2002)

Defines vacant property and changes the "Vacant Property Review Committee" to the "Blighted Property Review Committee." (Act 113 of 2002)

## Neighborhood Improvement Tools

### **Improvement of Deteriorating Real Property or Areas Tax Exemption Act:**

Under this Act, a local taxing authority may by ordinance or resolution exempt from real property taxes the assessed valuation of improvements to deteriorated properties in a designated "deteriorated neighborhood." The act was amended to permit a taxing body to devise its own schedule for granting the exemptions authorized under the Act, provided that such schedule does not exceed the maximum ten-year period stipulated under the existing statute. (Act 235 of 2002)

**Neighborhood Improvement Districts (NIDs) may be established by local municipalities, residents or municipal businesses** to enable property owners in neighborhoods to provide services to their neighborhoods that supplement municipal services otherwise provided. The legislation provides for the assessment of property owners within the NID to pay for those additional services. Once an NID is established, the municipality should designate a neighborhood improvement district management association to administer programs, improvements and services. (Act 130 of 2000)

**Housing Authorities may not enter into a contract with a landlord until a tax certification notice has been presented annually that indicates payment of all municipal, county and school district taxes.** (Act 134 of 1998)

**Downtown Location Law** requires the Department of General Services to establish guidelines to encourage state agencies to consider locating or rehabilitating facilities in downtown areas whenever agencies consider building or leasing new office space. (Act 32 of 2000)

### **The Municipal Housing Code Avoidance Amendment to Title 18 of the Crime Code, Act 70 of 1998, imposes increased fines and criminal penalties for repeat offenders in all municipalities.**

A person commits a misdemeanor of the second degree where they are convicted for a fourth or subsequent violation of the same subsection of a municipal housing code (building, housing or property maintenance code), the violation has been continual and uncorrected, there has been no reasonable attempt to correct the violation and the violation poses a threat to the public's health, safety or property. Penalty: Fine of up to \$5,000; Imprisonment up to two years.

A person commits a misdemeanor of the first degree when the offense is based on five or more convictions and all conditions above apply. Penalty: Fine of up to \$5,000; Imprisonment up to five years.<sup>40</sup>

### **The Municipal Housing Code Avoidance Act (Act 135 of 1998) imposes increased fines and criminal penalties for Housing Code Avoidance in Third Class Cities.**

If an owner has been issued a fourth or subsequent violation for a continued and uncorrected violation of the same section of the ordinance on the same property, the violation poses a threat to public's health, safety or property and no reasonable attempt was made to correct the violation, the penalties are as follows:

First and Second Code Avoidance Violations: Fine up to \$1,000 per month.

Third Code Avoidance Violation: Fine up to \$5,000 per month.

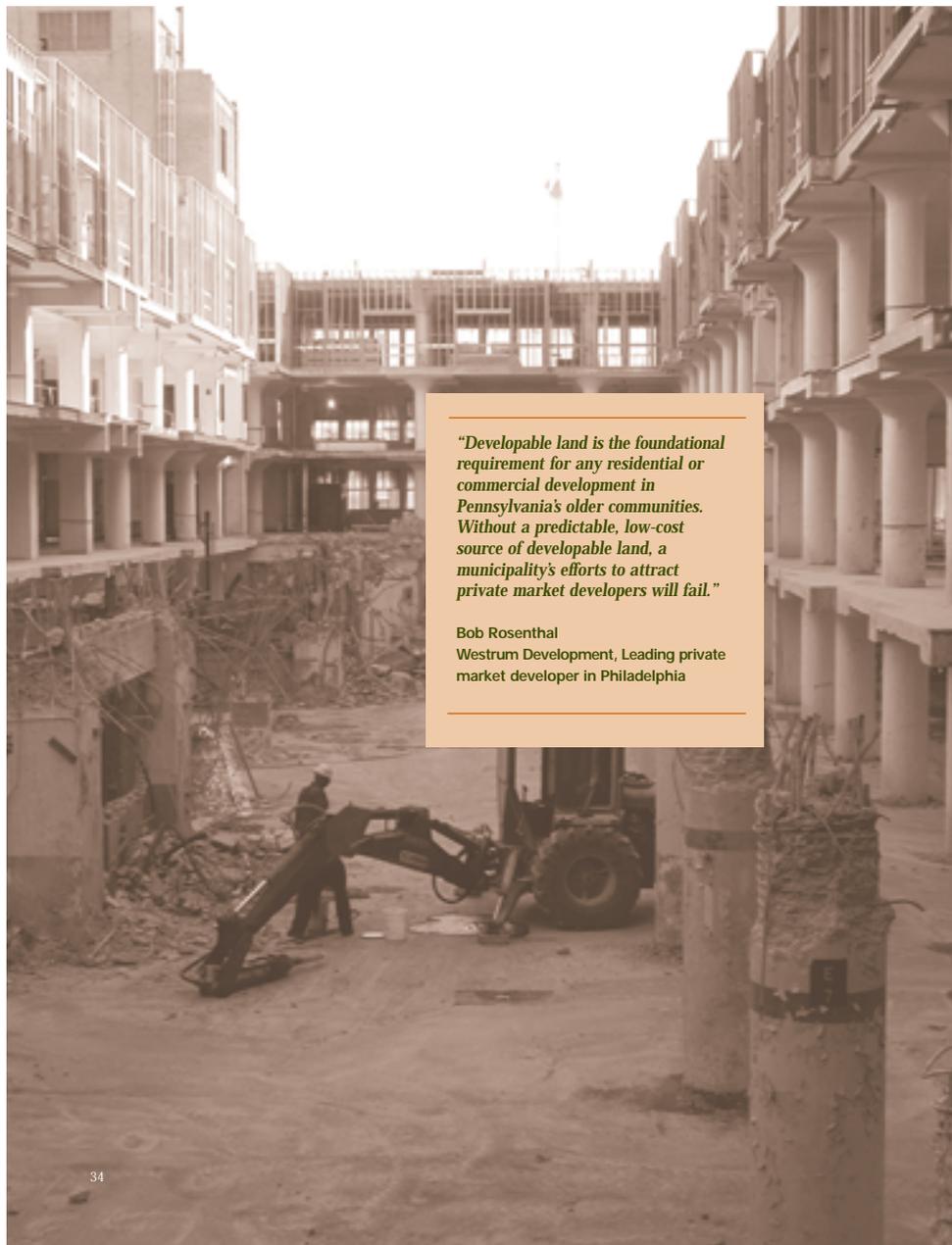
First and Second Code Avoidance Violations that Pose Threat to Public Health and Safety: Fine between \$500-\$1,000 — can cite every five days.

Third Code Avoidance Violations that Pose Threat to Public Health and Safety: Fine between \$1,000-\$10,000; Imprisonment up to 90 days.

### **Rehabilitation Smart Code as Part of Uniform Construction Code:**

A new rehabilitation code, modeled on the New Jersey statute, is part of Pennsylvania's new Uniform Building Code. The code brings down the cost of rehabilitation substantially by requiring developers to remodel a safe older building rather than requiring the developer to bring an old building up to new construction standards. New Jersey was the first state to adopt this more flexible code focused specifically on rehabilitating older properties. Since its adoption, rehabilitations statewide have increased by 40%, while money spent on rehabilitations in New Jersey's five largest cities jumped 90% from 1997-1999.<sup>41</sup>

This more flexible code makes bringing older abandoned properties up to code requirements more financially feasible.



**“Developable land is the foundational requirement for any residential or commercial development in Pennsylvania’s older communities. Without a predictable, low-cost source of developable land, a municipality’s efforts to attract private market developers will fail.”**

**Bob Rosenthal**  
Westrum Development, Leading private market developer in Philadelphia

# Returning abandoned properties to market

Acquiring **marketable title**

**A** basic tenet of the Reclaimed Land Asset Model is that to attract private investment for redeveloping a block or a neighborhood, government must acquire land from private owners, clear title and assemble it into a shovel-ready site.

Under the old way of thinking, communities tried for decades to revitalize neighborhoods without becoming landowners. Unfortunately, it hasn't worked. Without a proven demand for middle-class or higher-end housing, private market developers have demonstrated that they will not make the investment to purchase and assemble multiple lots to create a developable site, prepare the site through clean-up and demolition and then work to obtain all necessary permits and zoning designations in order to build. It is simply too risky, and so for 30 years they have invested in suburban greenfields instead. As early as 1945, the state recognized the need for government to assemble land in order to package it to attract private market developers — this was explicitly cited in the Urban Redevelopment Law of that year yet few governments had the capacity or the willingness to acquire abandoned land.

## Ideas in action

**New Jersey’s Approach — Fix it or Lose it**  
Gaining control of properties quickly once they become abandoned can save entire blocks. New Jersey recently passed a **fast track acquisition statute permitting cities to take possession of any property that has not been legally occupied within the past six months and needs rehabilitation that has not been provided during this time period. The court gives owners the option to rehabilitate but they must agree to a timeline and prove they have the capacity to make the changes. If the owner cannot be found or refuses, the city can turn the property over to a non-profit to rehabilitate it in accordance with a rehabilitation plan. For the owner to recover the property, he or she must comply with all conditions of grants or loans obtained for the property, or repay the funders in full. If the owner does not seek recovery of the property in a timely fashion, the court can authorize the purchase of the property by the rehabilitating organization or the sale of the property to a third party. Further, this law gives municipalities recourse against other assets of the owners of abandoned properties to recover funds spent for repairs, boarding or demolition of the property.**<sup>43</sup>

*Pennsylvania’s local governments would benefit from having similar tools that include the ability to take control of an abandoned property quickly, recapture the amount expended to rehabilitate it and swiftly return it to market.*

In 2003, as part of the research for *Back to Prosperity: A Competitive Agenda for Renewing Pennsylvania*, The Brookings Institution found “Regulatory and financial barriers that prevent the redevelopment of vacant, contaminated or dilapidated land and structures and inhibit the revitalization of [the area’s] older communities. This makes it hard to leverage [the city’s] vacant land and historic assets and it can drive residential and commercial development into outer suburban areas, perpetuating the current cycle of disinvestment and sprawl.”

Brookings recommended that the state provide technical assistance and financial resources to help localities with “acquisition, demolition, remediation, site assembly, infrastructure improvements and other activities to make sites marketable for development.”<sup>42</sup>

## DEFINE YOUR GOALS

Define your goals for reclaiming abandoned properties:

What is your primary goal?

- Restore livability for current residents
- Attract new residents (middle class, empty nesters, students, families?)
- Increase neighborhood stability
- Improve the environment for private investment
- Shed a stodgy image
- Attract employers and jobs
- Grow tax revenues
- Enhance curb appeal
- Maintain affordable housing stock
- Preserve historic structures

## There are Five Primary Avenues to Gain Control of Property in Order to Reintroduce it to Market — Negotiated Purchase, Foreclosure, Donation, Eminent Domain and Spot Condemnation

Each of these primary methods of acquisition is permissible under law. Cumbersome, old laws that govern these methods, however, were written in a different era and, for the most part, fail to provide clarity, efficiency or flexibility. We have made an effort to describe the legal process required under each of these acquisition methods and an assessment of their strengths and weaknesses.

### 1. Negotiated Purchase Where the Owner Can Be Located and Is Willing to Sell the Property

Negotiated purchase is one of the fastest methods to obtain title to a site. The prerequisites for negotiated purchase are that the abandoned house has value beyond that of outstanding liens and that an owner is willing to sell the property. The negotiations will involve whether the price for the property should be market value, a discount price or a nominal fee. This option is preferred when private investors have shown interest in a larger site that includes the property or where the property is marketable on its own.

### 2. Foreclosure Where Taxes Are Delinquent

On its face, the tax sale foreclosure process seems simple enough. An owner who has failed to pay property taxes and/or water and sewer bills is notified by mail and publication that the property will be sold at a public tax sale. If the owner fails to pay all of the taxes plus interest and certain expenses, the property goes up for auction. At auction, the highest bidder is provided title to the property. The owner then may have a short period of time to redeem the property by paying all outstanding debt where the property is occupied or the specific foreclosure law mandates a redemption period. Unfortunately, in Pennsylvania, there are three different foreclosure laws and each is complex, lengthy and difficult for even experts to understand. Wading through the morass of legal language and differing procedures is not easy but we have done it for you in the chart on page 38 that compares our three foreclosure laws.

#### The pros and cons of tax foreclosure:

The benefit of foreclosure as a land acquisition method is its lack of controversy — owners fail to pay the taxes owed on their homes or to maintain their homes and thus they lose their homes. Additionally, foreclosure is far less expensive than eminent domain proceedings. Foreclosure's downside is that it offers little certainty that the property will be maintained in the future or be redeveloped by its new owner.

**Pennsylvania's two primary foreclosure laws, the Municipal Claims and Tax Liens Act of 1923** (applying to Philadelphia, Scranton and Allegheny County and other jurisdictions that have

chosen to apply this law) and the **Real Estate Tax Sale Law** (applying to the rest of Pennsylvania with exception of Pittsburgh), require property to be sold to an eligible high bidder without imposing any requirement upon the new owner to maintain or redevelop the property. Only the **Second Class City Treasurer's Sale and Collection Act** allows the city to transfer property to someone other than the highest bidder. Pennsylvania courts have held that the Treasurer's Sale Law gives the city discretion to select the buyer who will redevelop the land in the best interest of the taxing authorities. The specific court case involved the tax sale of a property to the Urban Redevelopment Authority for \$1, when a private developer bid \$53,000. The court held that the law did not intend the court to consider only immediate financial gain to the taxing authorities, namely, price.

A recently adopted law, the Municipal Code and Ordinance Compliance Act, however, offers a municipality the ability to require the high bidder to fix up his or her property. The Municipal Code and Ordinance Compliance Act requires tax sale purchasers to reasonably attempt to abate substantial code violations within one year or be personally liable for the cost of maintenance, repair or demolition and a fine of between \$1,000 and \$10,000. (Act 99 of 2000: Municipal Code and Ordinance Compliance Act). To enforce this protection, the municipality must routinely follow up one year after the sale to ensure the property owner has adequately improved the property purchased.

the owner, publication in a newspaper of general circulation and a legal periodical. Notice of the date of the sheriff's sale must also be advertised in a newspaper of general circulation and a legal periodical.<sup>44</sup>

The Real Estate Tax Sales Law requires government agencies responsible for foreclosure to notify the owner on a series of occasions within very rigid timeframes. The owner must receive: (1) notice of delinquent taxes by registered or certified mail, (2) notice of tax sale by return receipt along with a second notice if receipt is not returned, (3) property must be posted for sale and (4) a delivery by the sheriff of personal notice to the owner-occupant. Notice of court confirmation of the sale and right to challenge is also required.

#### Notice Requirements Under Foreclosure and Condemnation — What Do You Need to Do to Satisfy Constitutionally Mandated Notice Requirements to Property Owners and Interested Parties?

The Urban Redevelopment Law allows local governments to define what steps they must take to provide adequate notice. The local government's discretion, however, is limited by the holdings of the U.S. Supreme Court, which requires attempts to find the owner and directly notify them by mail whenever possible.

The Municipal Claims and Tax Liens Act provides for: (1) posting a notice on the property, (2) a search of all official records and a title search to determine owners, (3) service of the notice by the sheriff and by certified or first-class mail and (4) where unable to identify

### The importance of ensuring the new owner has the incentive and capacity to rehabilitate the property;

Studies have documented the fate of decades worth of properties sold through tax sales. The researchers found that years after tax sale, the properties remained largely abandoned, code deficient and/or tax delinquent. The most recent study looks at 1,350 vacant lots sold at tax sales from 1996-2003 in New York City — 66% of the properties are still abandoned, 45% are in seriously blighted condition and 25% are in moderately blighted condition. In addition, 5% are in substantial tax arrears (i.e., more than 18 months) for a total exceeding \$900,000. Consider performing a similar study in your community to learn what has happened to the properties you have sold through tax sales.

### 3. Donation: How to Encourage and When to Accept

Donation of properties is one of the primary acquisition methods used by Atlanta, a city proactively acquiring large tracts of land for redevelopment that it manages through a land bank. Owners who have no use for their properties or seek to have liens removed from their properties, donate the properties to a municipality, land bank or Community Development Corporation (CDC). Title is successfully transferred at little cost relative to eminent domain or foreclosure because there are no public notice requirements and administrative expenses are minimal.

#### To encourage donation, municipalities should:

- use every means within their power to increase owner accountability for the debt on the property in order to provide incentive for owners to come forward and maintain their properties or donate them,
- publicize the municipality's willingness to excuse debt where the properties are donated and
- make the process of property transfer and settlement easy on the owners.

#### But do you really want title to every property offered? A municipality must have a strategic plan that defines when accepting donation of a property is appropriate.

The first question is: can the owner provide a property with clean and clear title? Second, is the property located in a neighborhood where the market would support sale of the unit? Is the area attractive for new development if enough lots can be assembled? To encourage donations as a low-cost method of obtaining land in certain areas, publicize your willingness to accept donations in specified neighborhoods and in return waive all claims for past debt or at the very least stop more debt from accumulating on a discretionary basis.

#### Other potential considerations for strategic donation:

- Interest of a developer in the area
- Neighborhood is particularly vulnerable to the negative effects of an abandoned property
- Willingness of a CDC or non-profit to rehabilitate homes where clear title provided
- Community organization has requested space for a playground or community garden they will maintain
- The home is a public nuisance and/or an appropriate subject for demolition (i.e., imminently dangerous) and this is the least expensive way to obtain title in order to demolish

Owners should be asked to submit a short donation application form that the city can accept or reject.

## REFORM NEEDED

**Pennsylvania should amend its foreclosure laws that were created in the first half of the 20th Century to provide community revitalization tools rather than just tax collection tools.**

*States and municipalities across the country have amended their foreclosure laws to allow them to sell or transfer the property directly to a third party with proven ability and resources to maintain or redevelop the property.*

**In 1997, New York amended its foreclosure law to permit the transfer of vacant properties directly to for-profit or non-profit developers.**

Under Local Law 37, the Commissioner of Housing Preservation and Development pulls all distressed properties from the tax sale at least ten days prior to sale and instead places them on a list with the Supreme Court to begin in rem foreclosure proceedings that do not include an auction. If no interested parties come forward, judgment on the foreclosure is taken by default and the court transfers the deed to the city after a four-month redemption period to convey to a third party.<sup>45</sup>

**In 2004, New Jersey passed the New Jersey Abandoned Properties Rehabilitation Act giving municipalities the authority to sell properties through special tax sales.**

The municipality may set qualifications for bidders, may limit bidding to entities that commit to rehabilitate or reuse the properties, may reduce the minimum bid below the amount of taxes due, and may bundle properties into packages for qualified bidders. If the new owner fails to rehabilitate the property or fails to carry out any other condition of sale, title reverts to the municipality.<sup>43</sup>

**Detroit-Wayne County permits transfers without a tax sale to a qualified non-profit CDC.**

Once notice is complete and a two-year period has passed, the city can convey the property to a precertified CDC that agrees to rehabilitate the houses and sell or rent them to low- or moderate-income families. Detroit also requires all successful bidders to rehabilitate the structure (in accordance with the City of Detroit Building Code) within 180 days from receipt of the deed.<sup>46</sup>

**Providence, RI, allows properties to be removed from tax sale if there is a substantial risk that speculators will bid on the property.**

The 1997 Tax Sale Realty Law allows municipalities to transfer the properties to Redevelopment Authorities (RDAs) for redevelopment purposes. The RDA can then get the property directly into the hands of developers without holding a tax sale.<sup>47</sup>

## Pennsylvania's Three Foreclosure Laws Compared

	Real Estate Tax Sale Law (County Tax Claim Bureau) Act 542 of 1947
What Municipalities Does The Law Apply To?	All jurisdictions except the City of Philadelphia, Allegheny County and its local taxing jurisdictions and the City of Scranton and Scranton School District. Creates a tax claim bureau in 86 counties.
What Debt Does The Law Apply To?	Delinquent real property taxes owed to municipalities, school districts and counties.
Original Purpose of Act Still Valid	Acts were created based on a revenue maximizing model — the primary goal was to obtain taxes owed. While this model may still be effective in an economically vital community, in economically distressed areas, the relatively low prices make it difficult for individuals to buy properties and wait for improvements in the local economy. This type of speculation undermines a comprehensive redevelopment strategy.
Mandatory Foreclosure on Delinquent Properties?	Yes, by April 30, all tax delinquencies must be turned over to the Tax Claim Bureau. Notice to the owner is provided by July 31 and the owner has until December 31 to contest validity of the claim. In September of the following year, an upset sale is held.
Most Foreclosed Properties Be Sold at Tax Sale to Highest Bidder?	At the upset sale, the property is sold for not less than the total of all outstanding tax and municipal claims to the highest bidder. Do not have to sell to highest bidder if code violations. Cannot sell to high bidder if delinquent in taxes or utility payments.
Earliest Possible Upset Sale	21 months, with no redemption period.
Tax Delinquent	December 31 of year taxes are due.
Process	<ul style="list-style-type: none"> <li>April 30 – Last date by which delinquencies are turned over to the Tax Claim Bureau.</li> <li>July 31 – Notice to owner that claim has been filed. Owner has until December 31 to contest validity of claim, after which it becomes absolute.</li> <li>September of the following year, upset sale is held.</li> <li>If not sold, petition court to order judicial sale free and clear of liens.</li> <li>If not sold at judicial sale, placed in repository where bid must be approved by all taxing districts.</li> </ul>
Notice Requirements	<p>July 31, year 1 – Notice of delinquent taxes (registered or certified mail).</p> <p>30 days before sale – Notice of tax sale to owner (return receipt), 10 days before sale:</p> <ul style="list-style-type: none"> <li>Property posted for sale;</li> <li>Second notice sent to owner if return receipt from earlier notice not received; and</li> <li>Sheriff must deliver personal notice to owner-occupant.</li> </ul> <p>Within 30 days after sale – notice property has been sold and owner can challenge.</p> <p>Within 10 days after court confirmation – advertisement of the judicial confirmation of sale – right to challenge within 30 days.</p>
Costs Imposed	<ul style="list-style-type: none"> <li>Outstanding taxes and interest.</li> <li>Record costs.</li> </ul>
Owner Redemption Period	3 months for all properties.
Clear Title	
Hardship Program	Optional extension of discharge prior to sale for hardship, illness, unemployment and special provisions of the elderly.
Obligation of New Owner to Eliminate Code Violations	None
Advantages	<ul style="list-style-type: none"> <li>Economics of scale – county, municipal and school taxes collected together.</li> <li>Uniform statewide procedure.</li> <li>More procedural protections for homeowner.</li> <li>5% commission allows system to fund itself.</li> </ul>

	Municipal Claim and Tax Lien Law Act 153 of 1923	Second Class City Treasurer's Sale and Collection Act December 1, 1904, No. 171 (P.S. 27101)
	The City of Philadelphia, Allegheny County, and its local taxing jurisdictions and the City of Scranton and Scranton School District. Please note however that Section 38.5 of the Act states that: "The tax claim bureaus of the several counties may adopt and use the procedures set forth in this act in addition to the procedures set forth in the act of July 7, 1947 (P.L. 3368, No. 542), known as the "Real Estate Tax Sale Law." (Section 38.5 added Aug. 14, 2003, PL83, No.299).	The City of Pittsburgh
	Unpaid taxes and bills owed to counties, municipalities, school districts and municipal authorities for utilities, municipal services and improvements (such as removing public nuisances).	A charge against real property, lined or unlined, based on delinquent real estate taxes, water rates, sewage charges, municipal assessments, municipal judgments, demolition liens or other amounts due to a taxing body.
	Acts were created based on a revenue maximizing model — the primary goal was to obtain taxes owed. While this model may still be effective in an economically vital community, in economically distressed areas, the relatively low prices make it difficult for individuals to buy properties and wait for improvements in the local economy. This type of speculation undermines a comprehensive redevelopment strategy.	
	Does not require jurisdiction to act upon delinquency.	Does not require jurisdiction to set upon delinquency. Treasurer can schedule tax sales at his or her discretion.
	Yes, city must file a petition with the court showing tax delinquency and appropriate notice to the owner. The court orders that the property be sold at a "sheriff's sale" to the highest bidder. The city can bid for a property at sheriff's sale but can not bid an amount greater than the sum of all outstanding municipal claims and costs. Do not have to sell to highest bidder if past code violations.	Treasurer is authorized to sell property at public sale and submit the purchase for court approval. The city does not have to sell to the highest bidder. In a tax sale where Pittsburgh sold the property to the Urban Redevelopment Authority for \$1, rather than to a private developer for \$50,000, the courts found such a sale was proper because the law gave discretion to the trial court to approve a sale that appeared to be in the interest of all taxing authorities having claims against the land and to consider factors other than price.
	Approximately 8-9 months, with 3-month redemption period. (No redemption period if vacant.) Note that can petition court to move right to judicial sale to sell free of all debt and fees.	No specific time period stated.
	December 31 of year taxes are due.	No specific time period stated.
	<ul style="list-style-type: none"> <li>30 days notice required of intent to impose attorney's fees in connection with the collection of the delinquent claim.</li> <li>Written – served by Sheriff within 3 months.</li> <li>With served – owner has 15 days to pay taxes or file defense.</li> <li>Judgment obtained.</li> </ul>	<ul style="list-style-type: none"> <li>Treasurer must provide notice according to system created.</li> <li>Treasurer schedules sale.</li> <li>Upset sale minimum price is total of all liens.</li> <li>90 days or more after sale submits report of sales to court.</li> <li>Properties not sold are subject of petition to court to clear title.</li> <li>Properties are then sold after redemption period at private sale free of all liens.</li> </ul>
		<ul style="list-style-type: none"> <li>Notice served by certified mail.</li> <li>Advertisement weekly for two weeks in general circulation and legal newspapers.</li> <li>Posting at least 10 days prior to sale on property and at Treasurer's office.</li> <li>Costs of advertising and notice shall be taxed as part of costs of sale and passed on to purchaser or owner.</li> </ul>
	<ul style="list-style-type: none"> <li>Outstanding taxes and interest.</li> <li>Attorney fees if proper notice is provided.</li> </ul>	<ul style="list-style-type: none"> <li>Outstanding delinquent taxes, lined and unlined; water rents; sewage service charges and other municipal claims.</li> <li>Additional amounts due for penalties, interest, lien costs and costs of sale will be transmitted to the purchaser for payment within 30 days from the date of the Treasurer's bill.</li> </ul>
	3 months if owner occupied; none if vacant.	3 months for all properties.
	Upon delivery by the sheriff of a deed for any property sold under this section, the judgment is final.	90 days or more after sale, Treasurer files petition with court to clear title. After court confirms sale, title is clear.
		No provision.
		None
	<ul style="list-style-type: none"> <li>Property back into market more quickly.</li> <li>Local taxing jurisdictions get money more quickly.</li> <li>No 5% commission.</li> <li>More flexibility.</li> </ul>	<ul style="list-style-type: none"> <li>Tremendous flexibility in when tax sales occur.</li> <li>No need to sell to high bidder – can sell to whoever best meets the public good.</li> </ul>

**4: Eminent Domain — Understanding the Pros and Cons of this Approach**

The Fifth Amendment to the U.S. Constitution gives government the authority to seize private property for “public use” if it pays the owner “just compensation” for the property. Through the first half of the 1950s, eminent domain was used to take land for a clear public use — such as building a school, road or prison. A 1954 U.S. Supreme Court decision broadened the government’s authority to include taking the property from one private owner and giving it to another private owner where it would serve the public interest. This increase in power was controversial at the time of the decision but became even more so when “urban renewal” or “slum clearance” projects ended up destroying entire neighborhoods.

Nevertheless, eminent domain remains a primary tool in Pennsylvania because it allows for assembly of abandoned properties to create new development opportunities. The Pennsylvania Urban Redevelopment Law<sup>48</sup> permits the taking of property located within a Redevelopment Area. The Redevelopment Authority must follow a legal process to identify properties as blighted, provide notice to all interested parties and ensure property owners and tenants receive a fair price.

Philadelphia alone plans to condemn 5,500 properties, 249 of which are occupied, as part of its Neighborhood Transformation Initiative. And according to a recent study of newspaper articles by an anti-eminent domain libertarian group, Pennsylvania governments have condemned 2,517 properties between January 1998 and December 2002 for which they will pay the owners fair market value if the owners can be found. Only 167 of these property owners appealed the condemnation to the Commonwealth Court. The statute of limitations for a proceeding to appeal the just compensation amount is one year.<sup>49</sup>

**Appraising fair market value of abandoned property:**

In Pennsylvania, it is up to the individual appraiser to evaluate the worth of an abandoned property. Fair market value is the price the property would sell for between a willing buyer and seller. Because appraisals traditionally rely on comparable sales in the neighborhood, it is often more difficult to determine market value in neighborhoods where no properties have been exposed to the market for years. As a result, a shell can be appraised at anywhere from \$0 to \$15,000 in Pennsylvania towns and cities. This wide variation makes the entire process more expensive and makes it difficult for municipalities to budget for the amount needed to pay owners just compensation.

**REFORM NEEDED**

In *Reclaiming Abandoned Pennsylvania*, the Housing Alliance recommended legislation requiring owners to report their full names and primary addresses to a municipality whenever they purchase a property. This basic information, which is not currently required, will enable credit reporting bureaus to report tax liens on consumer credit reports. If a tax lien will impact an abandoned property owner’s credit, this will likely encourage the owner to sell or donate rundown properties. At the time of this publication, this proposed legislation has passed the Pennsylvania House and is pending in the Senate. Status updates are available at [www.housingalliancepa.org](http://www.housingalliancepa.org).

**Pending U.S. Supreme Court Case Could Reduce Power to Use Eminent Domain.**

On September 28, 2004, the U.S. Supreme Court agreed to hear *Kelo, Susette, et al. v. New London, CT, et al.* This Connecticut case presents the following question to the court: What protection does the Fifth Amendment’s public use requirement provide for individuals whose property is being condemned, not to eliminate slums or blight, but for the purpose of “economic development” that will perhaps increase tax revenues and improve the local economy? The decision may limit government’s right to transfer land from one private owner to another using eminent domain.



**5. Use Spot Condemnation to Acquire Scattered Sites**

Act 94 Spot Condemnation allows a municipality to condemn a single vacant, blighted property outside of a Redevelopment Area in return for fair market value. Unlike eminent domain, which has been used in the past to acquire and tear down whole neighborhoods in the name of urban renewal, this tool allows a municipality to acquire one blighted property in order to demolish or restore it. Spot condemnation is often used in situations where an isolated building is blighted and impacting the neighborhood’s viability. To use spot condemnation, there must be a determination of blight from a municipality’s Planning Commission or similar body and then a certification of blight from the Blighted Property Review Committee. Owners are then given notice of the taking, given a period to appeal and, if there is no objection from the owner, a declaration of taking is issued and the Redevelopment Authority may take title to the property. Unlike eminent domain, the Mayor and City Council do not have to sign or formally vote on the taking.

**Establish a Land Bank to Store and Assemble Land**

**Under current Pennsylvania law, land banks are legal. A municipality may establish a land bank without the necessity of separate enabling legislation.**

In most Pennsylvania cities, residential parcels are small. Neighboring homes often share common walls and those built before the common use of the automobile do not have garages or driveways. To create a site sizable enough to permit large-scale development or even a modern-sized home with off-street parking and other basic amenities, multiple parcels must be assembled. Site acquisition is one of the most complex and costly parts of creating a market for urban development.

The goal of a land bank is to provide a repository for buildable land for which the city has gained title in order to prepare the land for productive reuse. A land bank is a powerful tool where available land exceeds market demand.

The land bank is essentially a virtual entity — since you can’t shelve land like you can dollar bills — but it acquires the land, clears title to the land, holds onto the land while marketing the land and then provides individual properties or shovel-ready tracts of land to responsible new owners. The simple premise of a land bank is that if you acquire, clear and prepare land, developers will risk building in an uncertain market. Once one developer finds success, the investment will leverage additional investments until the housing market is rebuilt.

A land bank is a governmental or non-profit entity created to acquire abandoned property through donation, foreclosure and eminent domain, to hold the property and when possible assemble it into a larger site and then market it to individuals and entities who will redevelop the land in accordance with neighborhood plans.

**REFORM NEEDED**

A standardized formula for calculating market value for abandoned properties is needed to create predictability for municipalities and to ensure that owners will not be unjustly rewarded. New Jersey law states that if the market value of the property after rehabilitation, or after demolition and construction of a new unit on the site, is less than the cost of rehabilitation or demolition and construction, there is a rebuttable presumption that the value of the abandoned property is zero.<sup>43</sup> If Pennsylvania appraisers adopted a similar methodology, the majority of abandoned properties would have a value of zero.

**REFORM NEEDED**

**Introduce Hardship Waiver for Low-Value Homes to Medicaid Estate Recovery Program**

Pennsylvania’s Medicaid Estate Recovery Program causes a lien to be placed on the home of the Medicaid patient to repay Medicaid costs. These liens often exceed the value of the property and encourage abandonment by preventing the heir from taking over and maintaining the property or selling it until the lien is paid. Pennsylvania should introduce a hardship waiver like 16 other states across the nation to exclude low-value homes from Medicaid cost recovery efforts.

*“Even in the best case, the land bank will have to hold some of its properties for some period, be it weeks, months or occasionally years. While the holy grail of property acquisition — the simultaneous closing in which one takes title to a property and simultaneously reconveys it to another party — is always a possibility, it does not happen often.”*

Allan Mallach, National Housing Institute

**REFORM NEEDED**

Pennsylvania should increase the capacity of local governments to address abandonment by providing technical assistance on comprehensive approaches to abandonment, such as the creation of a land bank. Local officials must be provided with the technical expertise they need to address abandonment.

**To Demolish or Not To Demolish? — a Good Question**

Preserve the unique character of your community. Preservation offers many advantages over demolition. Rehabilitating existing properties, rather than demolishing them, often contributes more to the health of a neighborhood. A recent study found that surrounding property values would fall by \$1,300 as a result of the demolition of a vacant property while rehabilitation of vacant housing stabilizes nearby property values.<sup>51</sup> Local governments should have a specific policy in place for when demolition is appropriate.

**When should an abandoned property be demolished?** It makes sense to demolish a building that is:

- (1) imminently dangerous, (2) isolated, free standing and there is little demand for the type of house and (3) needed to assemble a developable site.<sup>52</sup> Other factors to consider in determining whether demolition is appropriate are location, historical significance and cost of rehabilitating the structure in relation to market value of the property.

**Demolition costs vary considerably among cities.** In Beaver County, a demolition can be performed for \$6,500 while the same demolition costs \$10,000 in Wilkes-Barre, \$22,000 in Philadelphia and up to \$30,000 in York. Costs increase markedly where homes are attached, particularly in York's case where many rowhouses are not only attached but also share roof beams.<sup>53</sup>

**Prioritize demolitions for contractors.** Pennsylvania cities and towns rely mainly on contractors to perform demolitions. Local governments should provide the chosen contractor with a prioritized list of the properties for demolition with those properties that are imminently dangerous or a public nuisance at the top of the list. Why? One Pennsylvania municipality recently gave a contractor a list of properties without any indication of which should be leveled first. The contractor chose to demolish the homes in the best condition with the nicest features because they could recover the most through salvage for their marble, mahogany and stone. The funding ran out before the homes that were public nuisances could be demolished.

**Limiting Liability for Tort or Environmental Injury on Government-Owned Land**

State tort law and federal environmental law offer immunities to governments that control property as part of their normal government functions.

The risk of a court finding a government that has temporary control of an abandoned property in order to prepare it for reintroduction into the housing market liable for a tort claim or for environmental damage is small. This is good news for the many Pennsylvania communities who are reluctant to take title to vacant

**When establishing a land bank, key decisions must be made up front:**

1. Will the land bank be a separate non-profit entity or a part of municipal government?
2. What are the primary tools the land bank will use to acquire properties?
3. How will the land bank be financed?
4. What is the land bank's mandate with regard to holding onto properties long term for assembly or selling individually where possible?
5. Who needs to approve clear, written policies and procedures for the land bank?
6. Who needs to approve an individual acquisition or an individual transfer?
7. How can you streamline processes so that you can deliver needed land to developers on a fast, predictable basis?
8. Who are appropriate purchasers for land-banked properties?
9. What clear guidelines can be established so all property development proposals are treated consistently?

**Ideas in action**

*Cleveland was the first city in the country to create a land bank. The impetus for its creation was \$100 million dollars in past due property taxes. Cleveland decided the only way they could rebuild their tax base was to reuse abandoned land. They set up a land bank to serve as the central manager of vacant property with power to waive delinquent taxes and a mandate to clear title and transfer the property as soon as possible.<sup>54</sup>*

or abandoned property because they feel government may gain a significant liability risk.

**Tort Liability: A government may be liable for injuries to individuals who are legally and rightfully on the premises and for children injured by an attractive nuisance.**

If an adult walks onto a government-owned property without permission and trips and falls, an inspector is cut by a pipe lying on the ground or a child ends up trapped in a discarded refrigerator, is the municipality liable? Negligence claims against a local government are governed by the Tort Claims Act [42 Pa.C.S.A. Section 8542(b)(3)], which provides full immunity to governments for

negligent actions that lead to injury or property damage on real estate by trespassers.<sup>54</sup>

In the example the municipality does not owe a duty to a trespasser but may be liable for injury to the city inspector or the child.

**What can be done to avoid Tort Liability?**

Local agencies that obtain control or possession of property by donation, foreclosure or eminent domain, should inspect the property to ensure there are no attractive nuisances (dangerous conditions that would attract children or defects in the physical condition of the land, such as big unfilled holes and, if they exist, correct them. We further recommend that local agencies post "No Trespassing" signs to make clear that the public is not invited to enter the property.

**Environmental Liability: The municipality is protected from liability if it involuntarily acquired the property through foreclosure or eminent domain and meets certain conditions.**

Residential parcels may contain environmental hazards even if they were never used for industrial purposes; for example, they may have a buried oil tank or asbestos in the basement.

In January 2002, President George W. Bush signed The Small Business Liability Relief and Brownfield Revitalization Act. One of the explicit goals of this amendment to The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as the Superfund Act, was to permit a state or local government to take control of abandoned properties through foreclosure and eminent domain and make them available for redevelopment.

The expanded and clarified "innocent landowner defense" protects municipalities from liability for clean-up of properties involuntarily acquired due to abandonment, tax delinquency, foreclosure or through seizure of a forfeiture authority. If these conditions are satisfied, then the law states that not only is the government entity immune from liability, but the subsequent purchaser who buys the property from the government, also qualifies as an innocent purchaser. Unfortunately, this provision is so new that it has not yet been tested in the courts, so a risk of liability still remains. As a result, the Commonwealth, associations that represent municipalities or the municipalities themselves should consider whether a shared environmental liability insurance policy makes sense.

**What can be done to avoid Environmental Liability?**

In addition to a title search, the government should perform an exterior inspection to look for any existing or potential environmental hazards. We recommend that the prior owner be asked during the foreclosure, eminent domain or donation process whether there are any known environmentally hazardous conditions on the property. If the title search or the inspection reveals the release of a hazardous substance, the Environmental Protection Agency (EPA) or the Department of Environmental Protections (DEP) should be informed immediately.

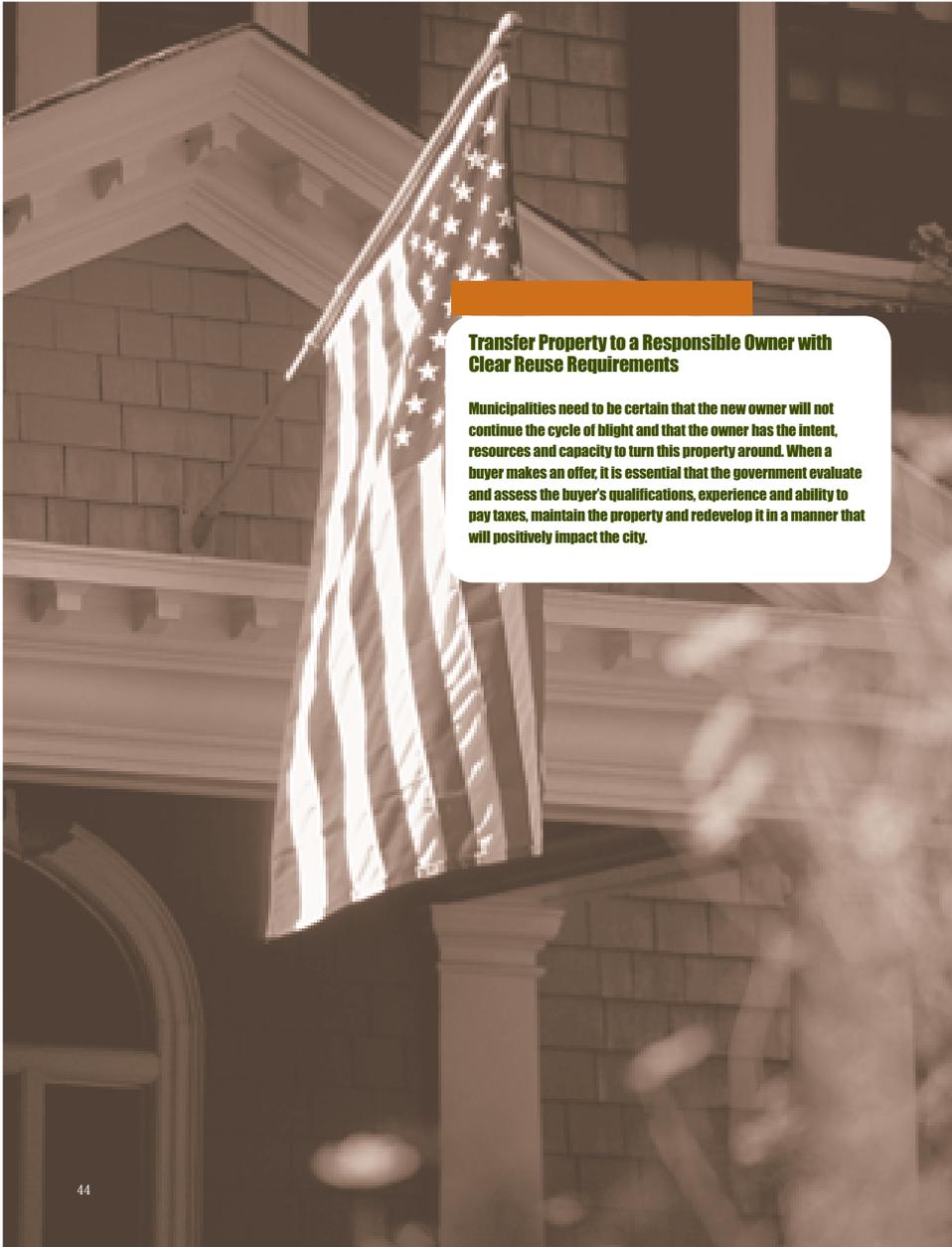
**Environmental Liability — Innocent Landowner**

- To ensure that a municipality or land bank entity qualifies as an innocent landowner and is not liable for environmental hazards on a property, these conditions must be met:
1. The release or threat of a release of a hazardous substance was caused solely by a third party who is not an employee or agent of the municipality.
  2. The government entity acquired the property after the placement of the hazardous substance and exercised due care and took precautions against foreseeable acts or omissions that might cause the release of hazardous substances. For purchasers of residential property, CERCLA section 101(35)(B) provides that a facility inspection and title search will be sufficient level of inquiry to determine whether hazards exist. If a hazard is discovered, then appropriate steps must be taken to stop the release (i.e., calling in the state Department of Environmental Protections (DEP) or federal Environmental Protection Agency (EPA); and
  3. There is no direct or indirect contractual relationship (deed, formal property transfer) with the former owner or if there is, one or more of the following must be true:
    - a. either the current owner did not know or had no reason to know of the hazardous substance at the time of acquisition or
    - b. the current owner is a government entity which acquired the facility by escheat, or through any other involuntary transfer or acquisition, or through the exercise of eminent domain authority, or
    - c. the current owner acquired the facility by inheritance or bequest.<sup>56</sup>

**Tort Liability — Conditions for Government Liability**

A government may be liable for injury on government-owned land only where the individual was legally and rightfully on the premises under certain conditions.

1. The local agency must have possession of the real estate in question — it must be within a government's care, custody or control. To satisfy this requirement a government must exercise a level of control that is greater than merely having regulatory enforcement power over a property — being able to place liens or citations on the property is not enough. Obtaining the property via foreclosure, donation or eminent domain satisfies the possession requirement under the statute. Tax Claim Bureaus obtain legal title to a foreclosed property only after an upstale if the property fails to sell.<sup>55</sup>
2. There must be a defect in the physical condition of the real estate (not personal property) directly causing the injury.
3. The only exception to this immunity are injuries caused to children by an attractive nuisance — an inherently hazardous object or condition of property that can be expected to attract children to investigate or play (for example, a pool, heavy machinery or tools or discarded large appliances). The attractive nuisance doctrine imposes upon the property owner the duty to take precautions that are reasonable in light of the normal behavior of young children.



### Transfer Property to a Responsible Owner with Clear Reuse Requirements

**Municipalities need to be certain that the new owner will not continue the cycle of blight and that the owner has the intent, resources and capacity to turn this property around. When a buyer makes an offer, it is essential that the government evaluate and assess the buyer's qualifications, experience and ability to pay taxes, maintain the property and redevelop it in a manner that will positively impact the city.**



# New responsible owner

Transferring title to a developer or responsible long-term owner for **productive reuse**

**W**e have devoted the first part of this guide to diagnosing Pennsylvania's abandonment problems, discussing approaches to prevent abandonment, and creating marketable title through government intervention. This section discusses how to effectively and rapidly transfer publicly held land back into private hands. In selecting a new owner (where the law permits discretion), the municipality seeks a good neighbor with the capacity and desire to redevelop the property. The goal is to permanently take this property off the abandonment track and place it on a road to security and stability for decades into the future.

### Transfer Property to a Responsible Owner with Clear Reuse Requirements

Municipalities need to be certain that the new owner will not continue the cycle of blight and that the owner has the intent, resources and capacity to turn this property around. When a buyer makes an offer, it is essential that the government evaluate and assess the buyer's qualifications, experience and ability to pay taxes, maintain the property and redevelop it in a manner that will positively impact the city.

Why? Because when a municipality transfers a deteriorated property without requiring the new owner to put it into productive reuse within a certain timeframe, the majority of those properties will continue to harm the community.

#### Screening for a Responsible Developer: Questions to ask when a development proposal is submitted

Is the redevelopment proposal consistent with ordinances and policies, such as the Zoning Code and Comprehensive Plan?

What is the purchaser's identity, qualifications, experience and financial capacity to undertake the redevelopment proposal?

What is the purchaser's history with loan defaults, mortgage foreclosures, bankruptcies, litigation, code violations, tax delinquencies and criminal behavior?

What is the development cost and financing plan for the redevelopment proposal?

What is the level of private financing committed to the redevelopment proposal, including equity and lending sources?

What is the level of public subsidy or other public assistance being requested to support the redevelopment proposal, including amounts and sources?

When will construction or rehabilitation of the redevelopment begin and be completed?

Will the redevelopment proposal have a positive impact on the city and neighborhood?



### Key Features of a Redevelopment Contract

When a satisfactory buyer is found, a contract should be signed by both parties. The purpose for the contract is: (1) to formalize the agreement to sell between the two parties; (2) to ensure that all state, federal and local laws will be met; (3) to limit the municipality's liability for any unknown conditions on the land and limit the purchaser's liability to the former owner for any failure of due process and (4) to agree to the specific reuse of the property and a timeframe for it to be redeveloped. In 2002, HB 1952, passed into law as Act 113, established a set of criteria that must be included in any redevelopment contract.

Act 113 requires that a redevelopment contract include:

- Identities of seller and purchaser
- Address and legal description of the property and assertion that no one will be denied use of property based on race or national origin
- Purchase price
- Deposit paid
- Closing date, location and conditions precedent to closing
- Closing costs and fees, and prorations for taxes, special assessments and utilities
- Terms and plans regarding construction or rehabilitation of proposed improvements

- Starting and completion dates for redevelopment (i.e., redevelopment, construction or rehabilitation must commence within three months of the signed agreement)
- Adequate safeguards for proper maintenance of all parts of the project
- Commitment by purchaser to pay taxes on time and to maintain properties up to code
- Provision obligating contractor to prompt payment of all material furnished, labor supplied or performed, and rental for equipment employed where the estimated cost shall exceed \$10,000.
- Prohibition against discrimination in the use, sale or lease of any part of the project against any person because of race, color, religion or national origin
- Provision that the redeveloper shall be without power to sell, lease or otherwise transfer the redevelopment area or project, or any part thereof, without the prior written consent of the authority until the authority shall have certified in writing that the redevelopment project has been completed

In addition to the legally required provisions of Act 113, it may be useful to add the following provisions:

- Statement of clear title as well as all other representations and warranties
- Any affirmative action or prevailing wage requirements
- Project financing and encumbrance of property
- Limitation on transfer of property and reversionary rights to city or land bank where there is a violation of the contract

### Provide Clear Title to the Property to Attract a New Owner

To municipalities or developers seeking to acquire properties, it sometimes seems as if each abandoned property comes with its own idiosyncratic set of title clouds. To be sure, more abandoned properties have tangled title problems than the general housing stock and this may have contributed to their current state. **Tangled title is a situation where a person has a right to title but his name is not on the deed, someone's name is on the deed in addition to his name, or there is some other cloud or problem with title.** This happens, for instance, when a grandmother leaves a property to her granddaughter when she dies but the property's deed is not changed or a spouse dies but the name of both husband and wife remain on the deed.

When title is cloudy, it dramatically inhibits an owner's ability to care for or transfer the property because the owner cannot:

- Apply for a grant or loan to repair the house;
- Apply for utility discounts or real estate tax abatements;
- Enter into payment plans for real estate taxes and/or water and sewer charges;
- Sell the house or transfer title to his or her children or others; or
- Obtain homeowners' insurance.

#### Untangling Title

How do you untangle title? You can cleanse title by taking the property through foreclosure or eminent domain, filing a quiet title action with the courts or enlisting the help of title insurance companies to help resolve common title problems. In most cities, title insurers have been hesitant to play an active role in clearing title. Although buyers of property pay them to take the risk that there is a defect in title, title insurers are very risk averse.

Rezone land to reflect market: When properties are assembled, it may be necessary for City Council to rezone the area. The property will be much more attractive for a developer if it is already zoned for the type of development it seeks based upon its market analysis. It is important that the city rezone prior to marketing the prop-

erty because: (1) it makes clear what development is preferred and (2) it saves the developer from the uncertainty of having to seek a variance or rezoning, which will add cost and delay to the project and may pose a large barrier to the developer taking on the project.

### Ideas in action

Baltimore is establishing strong relationships with title insurers to enlist their help in not just identifying title problems but in resolving them. Philadelphia has taken a different approach for "The Tangled Title Fund," a grant program to clear title to occupied homes for eligible low-income persons in Philadelphia. To qualify, the applicant's household income cannot exceed 187.5% of poverty level. The maximum grant is \$2,500. The applicant must live in the property and not own any other real estate OR must be seeking to resolve title to a vacant home in order to occupy the home as his/her primary residence. Free lawyers are provided by legal services programs and volunteer attorneys to staff this initiative to quiet title through court action.

### REFORM NEEDED

A bill amending adverse possession law has passed the Pennsylvania House and is proceeding to the Senate as of the time of this publication. The legislation, recommended in *Reclaiming Abandoned Pennsylvania*, seeks to amend the legal process that permits a person with a long-established claim to a property to gain title based upon sheer possession. More specifically, the law will reduce the time one has to live in "notorious and hostile" possession of a house to take legal ownership from 21 years to 10 years. This will help those with tangled title gain ownership of their homes after a decade of investment in their houses and in their communities.



### Volunteer Opportunity

The most common cause of a tangled title is a former owner who died without a will. This can be avoided. Local bar associations may be willing to offer free or low-cost wills to elderly individuals entering nursing homes or participating in a government program. Counsel can advise owners over age 65 to ask their heirs if they want the house, and if they do not, to donate the land to a friend who will maintain it, the city or a local non-profit that is willing to rehabilitate and market it.





## Ideas in action

The City of Baltimore in partnership with Greater Baltimore Realtors launched SCOPE (Selling City Owned Properties Efficiently), a program in which realtors apply to be listing agents for abandoned properties. In the first round, 100 realtors applied and 10 were selected to put 62 properties on the market — most of them gutted shells. In order to allow these agents to show the properties, boarded-up doors were replaced with doors keyed for the agents. Under SCOPE, purchasers are required to agree to rehabilitate the property within 18 months and, depending on the neighborhood, either live in it themselves or promise to rent it out within the same time period. To encourage brokers'

efforts, the city agreed to pay a sales commission of a minimum of \$2,500 or 8% for each property at the time of settlement. Although the program just began, 89% of the original 62 properties have contracts pending with an average purchase price of \$10,000. As a result of this program, the city expects to see an estimated \$6 million in home construction from these properties.<sup>57</sup>

## Develop a Marketing Strategy to Attract Private Market Investment

There is no standard formula for how to market land in older communities for redevelopment. Some cities have conducted extensive market analyses as a critical first step in determining what type, size and scale of development would be appropriate for each neighborhood. The market studies tend to utilize existing neighborhood or city planning documents, demographic data and information regarding core assets including parks, schools, job centers, public transit and retail. The end result is identification of the type or types of uses that will be sustainable in that area. What is a sustainable reuse of the property? A new use will preserve and enhance the neighborhood for the next generation who will inherit it. To their detriment, cities have learned that revitalization does not mean accepting any development as long as it is tax ratable. A gas station may not help revitalize the neighborhood as effectively as a pocket park.

We have listed a series of marketing approaches. Some of these methods allow the private market to propose a use for the property then the municipality either approves or rejects the proposed use while others market the property for a specific purpose.

### List Available Properties on the Internet:

Whether you have defined a specific market group or are just fishing for interest, a listing of available properties on the Internet can be an effective marketing tool. As with all marketing efforts, the goal is to maximize the number of potential customers who know about your product and to give them sufficient information to stimulate their

interest. When advertising a group of properties or an individual parcel, include not only the basics such as dimensions and zoning but also include details about surrounding assets and any past or future investments that may enhance the property's potential value.

### List with Real Estate Agents:

The primary job of real estate agents is to market properties. Yet this group of professionals has not traditionally sold publicly held land. Municipalities are beginning to experiment with listing abandoned properties in databases real estate agents and brokers use to identify available properties and providing incentives like minimum commissions to focus this effective, professional workforce on selling abandoned properties.

### Requests for Proposals (RFPs):

In the past two years, RFPs by cities inviting developers to submit proposals for the purchase and redevelopment of property have become a common marketing strategy. Most RFPs indicate the desired reuse for the property and require developers to show they have the resources and capacity to redevelop the property within a specific timeframe.

### Sideyard Programs for Non-buildable Scattered Sites:

Many communities market non-buildable lots separately from developable lots as sideyards for adjacent owners. Non-buildable properties offered as sideyards are typically too small or too oddly shaped to accommodate the construction of a new home under existing zoning. Such lots are a frequent occurrence given that zoning codes in the 1960s routinely increased minimum lot and structure size for single-family homes.

Transforming non-buildable land into sideyards gives existing residents the opportunity to increase their yard sizes, expand their

homes, or add driveways or other modern amenities that will improve their quality of life and increase the marketability of the properties in the future. Most cities notify adjacent property owners of the availability of the property as soon as the city gains title. To be eligible to purchase the sideyard for a nominal fee, adjacent owners must have no code violations or delinquent taxes. In return the sideyard purchaser agrees to merge it with his or her own property, creating a single parcel under one deed, maintain it up to code and pay all taxes in a timely fashion or the property reverts back to the city. Owners may initially show limited interest due to concern about taking on a higher level of responsibility and tax burden. Once they see their neighbors gaining a beautiful garden or driveway however, many communities have found that they must split one available sideyard in half because both neighbors seek to buy the property.

### Community Gardens:

Community gardens provide another positive use for residential land with no existing market demand. Community gardens: (1) convert vacant lots into a community asset; (2) create new relationships among community members; (3) provide important recreational and educational opportunities and (4) provide space for growing healthy, low-cost food. Non-buildable parcels can be sold or leased for a nominal fee to non-profit corporations or neighborhood groups who have the experience and resources to operate and maintain a community garden and who have a program and policies in place to ensure that the community garden will be open and available to all. The majority of community garden lots are sold in as-is condition with no representations of soil condition or quality. These lots can be transferred in a variety of ways including on a temporary basis as a community garden (although

this may limit investment in the land) or sold with a conservation easement that preserves the property in perpetuity as a community garden.

### Public Parks:

Most neighborhoods would benefit from more open recreational space — such as parks or playgrounds. A viable park can anchor a neighborhood and increase its attractiveness for development. Even relatively small areas can be wonderful places to sit on a bench and relax. The difficulty of forming a sustainable park, of course, is ongoing maintenance — parks have to be mowed, litter must be picked up and lighting must be kept up to ensure a safe, pleasant environment. So where has conversion of abandoned land to a community park been most successful?

- Where there is little recreational open space available in a neighborhood
- Where there is neighborhood organizational capacity to maintain the park
- Where the land is visible to the street and where residents can keep the park under informal observation to avoid crime
- Where the park is next to a school

### \$1 New Home Ownership Programs:

For the last few decades, cities, the U.S. Department of Housing and Urban Development (HUD) and others with low-value properties on their hands have offered to sell properties for \$1 to low-income home buyers who will take ownership. Unfortunately, while dollar-home programs resulted in new home ownership opportunities, in

many cases home ownership proved to be temporary. Income-eligible homeowners often have little money available to fix up the property, maintain it or pay property taxes. With some financial assistance, however, this could prove to be a viable option.





*"The state is shifting its focus to funding 'Impact Projects,' that is, investing economic, community and housing development resources in projects that will have the greatest impact on local communities and improve the lives of the people who live there. To do this, we have adopted a new staffing system using Community Action Teams to look holistically at what communities can do to have the greatest impact."*

Larry Segal, Executive Director, Governor's Office of Housing and Community Revitalization

# Dollars: Financing your abandonment strategy

**Creative use** of a range of financing strategies

One of the most difficult steps in this process is raising sufficient dollars to implement a comprehensive strategy. A range of financing options must be used to underwrite the cost because, regrettably, no funding programs at the state or federal level tackle abandonment head on. Instead local government is left to piece together several different funding sources with a variety of eligible uses and timeframes in order to pay for acquisition, demolition or rehabilitation, code enforcement and site assembly needed to bring abandoned properties back online. Below we highlight 20 state and federal sources of funding that may be used to finance one or more of the key elements of abandoned land prevention and management. This list is by no means exhaustive but we hope it is helpful.

**Community Development Block Grant (CDBG):**

CDBG dollars can and should be used for housing repair, rehabilitation and land bank operating expenses.

CDBG-eligible activities include:

- acquisition of real property that is blighted or deteriorating;
- demolition of residential structures;
- rehabilitation of residential structures;
- code enforcement in deteriorating areas; and
- repairs to maintain habitability of housing units acquired through foreclosure<sup>58</sup>

For questions about CDBG funding, (if DCED-administered CDBG Funding) contact the Office of Community Development Building at 717-787-5327 or e-mail [sdunwoody@state.pa.us](mailto:sdunwoody@state.pa.us).

If you are a federal entitlement community, contact the Department of Housing and Urban Development.

Many Pennsylvania counties and cities use a very small percentage of their CDBG grant on housing. In 2002, Reading did not spend any of its CDBG grant on housing expenditures while Allentown and Harrisburg each devoted less than a quarter (24%) and Lancaster allocated 30%.<sup>59</sup>

See box on page 52 for a breakdown of CDBG spending by county



**HOME Dollars Can Be Used to Repair and Rehabilitate Properties:**

HOME can be used to repair owner-occupied homes, to rehabilitate abandoned properties and to convert old industrial sites into residential housing. HOME dollars can be used for demolition only where construction will begin on a HOME project within 12 months. HOME can not be used to support land banking. <http://www.hud.gov/offices/cpd/affordable-housing/training/abc/provisions/eligiblecosts.cfm>

**HUD's 203K Rehab Program Provides One Mortgage Loan to Finance Both the Acquisition and the Rehabilitation of Property:**

The mortgage amount is based on the projected value of the property when completed, taking into account the cost of work. To be eligible, the property must be a one-to-four-family dwelling that has been completed for at least one year. Homes that have been demolished, or will be razed as part of the rehabilitation work, are eligible provided some of the existing foundation system remains in place. A minimum of \$5,000 must be used for the eligible improvements, which can include a garage addition. <http://www.hud.gov/offices/hsg/sfh/203k/203kabou.cfm>

**Tax Increment Financing (TIF) and the Pennsylvania TIF Guarantee:**

Tax increment financing uses the increased property taxes that a new real estate development generates to finance costs of the development. The goal of a TIF is to convince a developer to build an office building, retail, or housing development that otherwise would not be constructed. To do so, the increased property taxes are used to pay for costs (e.g., land acquisition or site preparation) that the developer would normally pay. Base property taxes from the development go to the local taxing jurisdictions, but the taxes derived from the future increases in assessed values can be placed in a separate fund or used to retire bonds. The state has established a \$100 million TIF Guarantee Program that will take much of the risk out of the process for smaller municipalities. This program will guarantee all or part of a TIF bond issue, up to a maximum amount of \$5 million per project. If there is a call on the guarantee, the primary collateral for the TIF bonds will be assigned to the Commonwealth Financing Authority which will move into the place of the bondholders. To qualify, each local government that levies a

Pennsylvania's Department of Community and Economic Development's (DCED) CDBG program provides grants to local governments who are not designated by HUD as urban counties or entitlement municipalities. Of these communities who chose to spend CDBG funding on housing, many used these funds for rehabilitation or demolition while a few used CDBG funds for code enforcement.

County	Rehabilitation	Code Enforcement	Clearance	Total
Bedford	\$46,100	\$0	\$0	\$46,100
Blair	\$384,615	\$0	\$14,000	\$398,615
Bradford	\$102,000	\$0	\$0	\$102,000
Butler	\$281,685	\$15,500	\$40,436	\$337,621
Cambria	\$0	\$0	\$20,000	\$20,000
Carbon	\$0	\$0	\$21,389	\$21,389
Clarion	\$177,500	\$0	\$0	\$177,500
Clearfield	\$40,000	\$0	\$0	\$40,000
Columbia	\$0	\$8,000	\$0	\$8,000
Crawford	\$214,057	\$0	\$54,106	\$268,163
Cumberland	\$125,191	\$16,418	\$0	\$141,609
Erie	\$287,649	\$0	\$0	\$287,649
Fayette	\$266,340	\$11,000	\$86,500	\$363,840
Forest	\$229,600	\$0	\$0	\$229,600
Franklin	\$85,000	\$0	\$0	\$85,000
Greene	\$131,352	\$0	\$0	\$131,352
Huntingdon	\$165,553	\$0	\$0	\$165,553
Lackawanna	\$301,309	\$5,000	\$75,000	\$381,309
Lawrence	\$432,883	\$140,000	\$20,000	\$592,883
Lebanon	\$4,400	\$0	\$0	\$4,400
Lehigh	\$50,000	\$0	\$0	\$50,000
Luzerne	\$22,885	\$0	\$45,000	\$67,885
Lycoming	\$100,000	\$0	\$0	\$100,000
McKean	\$85,000	\$84,000	\$35,000	\$204,000
Mercer	\$414,792	\$126,482	\$15,000	\$556,274
Mifflin	\$97,000	\$0	\$0	\$97,000
Monroe	\$306,100	\$0	\$20,000	\$326,100
Montgomery	\$290,000	\$0	\$0	\$290,000
Montour	\$100,000	\$0	\$24,600	\$124,600
Northampton	\$253,050	\$0	\$0	\$253,050
Northumberland	\$282,860	\$0	\$96,000	\$378,860
Pike	\$258,500	\$0	\$0	\$258,500
Potter	\$55,512	\$0	\$0	\$55,512
Schuylkill	\$357,096	\$51,000	\$170,000	\$578,096
Snyder	\$157,500	\$0	\$0	\$157,500
Somerset	\$294,544	\$0	\$60,000	\$354,544
Sullivan	\$70,000	\$0	\$0	\$70,000
Susquehanna	\$157,950	\$0	\$78,000	\$235,950
Tioga	\$48,000	\$0	\$0	\$48,000
Union	\$40,000	\$0	\$0	\$40,000
Venango	\$81,238	\$0	\$30,000	\$111,238
Warren	\$386,000	\$0	\$0	\$386,000
Westmoreland	\$197,798	\$5,000	\$112,717	\$315,515
Wyoming	\$62,212	\$0	\$0	\$62,212
<b>Total</b>	<b>\$7,443,280</b>	<b>\$462,400</b>	<b>\$1,017,748</b>	<b>\$8,923,428</b>

Source: Commonwealth and Local Government Efforts to Ameliorate Blight, Legislative Budget and Finance Committee, A Joint Committee of the Pennsylvania General Assembly (March 2004).

property tax (city/municipal, county and school district) must agree to apply a portion of future tax dollars to repay the TIF bond. In addition, businesses or private developers must agree to create a certain number of permanent full-time jobs within the TIF district. For more information about the Pennsylvania TIF Guarantee program, call 1-866-466-3972.

**Tax Abatements:**

The State's Local Economic Revitalization Tax Assistance Act (LERTA) <sup>60</sup> gives municipalities the power to offer tax abatements on improvements to property for up to ten years. The basic premise underlying this type of tax incentive is that the abated taxes, rather than being collected by the local government, will be expended directly on private development and used to finance public improvements. The State of Pennsylvania has also offered a tax abatement of up to 30 months to a developer during the period of construction of new residential properties in order to reduce construction costs and attract investment. <sup>61</sup> Philadelphia has offered a ten-year abatement to the owners of newly constructed residential units that has been credited with jumpstarting the city's housing market. <sup>62</sup>

**Keystone Opportunity Zones (KOZ), Empowerment Zones:**

Federal and state governments provide funding and incentives for redevelopment of distressed areas that may prove helpful. Keystone Opportunity Zones and Keystone Opportunity Empowerment Zones (KOEZ) are geographic areas designated by local communities and approved by the state as virtually tax-free zones. This means that property owners may be entitled to real estate tax abatement for the duration of the designation. Furthermore, property owners in a KOZ/KOEZ will be given priority consideration for various community-building assistance programs. Note, however, that it becomes impossible to use TIFs in a KOZ because the new owner is being excused from paying taxes. To apply for a KOZ or KOEZ, contact one of 12 designated KOZ coordinators.

**Pennsylvania Neighborhood Assistance Program (NAP) — Comprehensive Service Program:**

The Comprehensive Service Program provides a tax credit (from corporate tax liability) for businesses sponsoring a neighborhood organization in the development and implementation of a neighborhood revitalization plan by contributing a substantial amount of cash per year over an extended period of time. The organization must serve clients who are low income and residents of economically distressed neighborhoods. The business may take up to 70% of a contribution of up to \$350,000 as a tax credit. For further information, contact the Office of Community Services at 717-787-1984 or e-mail [ehoch@state.pa.us](mailto:ehoch@state.pa.us).

**Pennsylvania Neighborhood Assistance Program — Community Investment:**

This state program similarly provides tax credits for businesses but here the business sponsors its own projects or contributes, either in cash or in-kind, to a non-profit community organization for an approved program. The program must serve clients who are either low income or residents of economically stressed neighborhoods by providing assistance in the areas of community services, education, job training, crime prevention or neighborhood assistance. The business may use up to 50% of its contribution annually as a tax credit.

Contributions annually may not exceed \$250,000. Apply with the Office of Community Services at 717-787-1984 or e-mail [ehoch@state.pa.us](mailto:ehoch@state.pa.us) for application.

**Brownfields for Housing:**

Provides annual allocations determined by formula to every county that administers an Act 137 Housing Trust Fund. Allocations provide matching funds for affordable housing activities in core communities on previously developed sites. Those sites may include property that was previously developed for residential, commercial or industrial use. The recipient county must identify matching funds of at least \$1 for each \$4 of state Brownfields for Housing funds. Demolition of structures may only be funded if there is an immediate housing reuse for the site. Apply to Brenda Bubb at 717-720-7468 or [bbubb@state.pa.us](mailto:bbubb@state.pa.us).

**Community Revitalization Program:**

Provides grants to support local initiatives that promote the stability of communities. Local governments, municipal and redevelopment authorities and agencies, industrial development agencies and non-profit corporations are eligible to apply. Grants vary from \$5,000-\$25,000. Grants can be used for building rehabilitation, acquisition and demolition of structures or acquisition of land, buildings and rights-of-way. To apply, call the Customer Service Center at 1-800-379-7448 or e-mail [radeceds@state.pa.us](mailto:radeceds@state.pa.us).

**Federal Historic Preservation Tax Credits:**

The Federal Historic Preservation Tax Credit Program provides federal income-tax incentives for the rehabilitation of historic income-producing properties. Under the provisions of the Tax Reform Act of 1986, a 20% tax credit is available for the substantial rehabilitation of commercial, agricultural, industrial or rental residential buildings that are certified as historic. The credit may be subtracted directly from federal income taxes owed by the owner. To qualify for the tax credit, a property owner must: (1) have a certified historic structure; (2) use the building for an income-producing purpose; (3) rehabilitate the building in accordance with the Secretary of the Interior's "Standards for Rehabilitation" and "Guidelines for Rehabilitating Historic Buildings"; (4) spend an amount greater than the building's adjusted basis (roughly the current depreciated value of the building not including land value) on the approved rehabilitation project and (5) complete the work in a timely manner. To apply or obtain more information, write: Federal Historic Preservation Tax Incentives, Heritage Preservation Services (2255), National Park Service, 1201 Eye St. NW, Washington, DC 20005. Phone: Michael Auer at 202-354-2031 or e-mail: [nps\\_hps-info@nps.gov](mailto:nps_hps-info@nps.gov).



**REFORM NEEDED**

According to a 2001 study by the National Trust for Historic Preservation, 18 states have state income tax credits for rehabilitation of historic properties. Unlike the Federal Preservation Tax Credit, most state credits apply to both commercial and residential rehabilitations. Pennsylvania, as one of the oldest states in the nation, needs a state historic tax credit.

**Main Street Program:**

A 5-year, \$5 million program designed to revitalize downtowns, the Main Street program's funding includes a salary for a full-time professional downtown coordinator. The program encourages a four-point approach: (1) Design — rehabilitating historic buildings and promoting supportive new construction; (2) Organization — building consensus among the participating groups; (3) Promotion — marketing the district's assets to customers and (4) Economic Restructuring — strengthening the existing district economy and building the capacity to embrace new opportunities. Grants totaling \$115,000 over a five-year period are available to fund the Main Street Manager. For Downtown Reinvestment and Anchor Building components, municipalities and redevelopment authorities may receive up to \$250,000 or one-third of the total development cost. Generally, a municipality is the applicant for the Main Street Manager component. Apply to Diana Kerr at 717-720-7411 or [dikerr@state.pa.us](mailto:dikerr@state.pa.us).

**Elm Street Program:**

Grants of up to \$250,000 are available for planning, technical assistance and physical improvements to residential and mixed-use areas in proximity to central business districts. Municipalities, redevelopment authorities, non-profit Main Street organizations, economic development organizations, neighborhood improvement districts and business improvement districts are eligible to apply. The grant will cover costs associated with hiring a full-time manager and related office expenses to clean up streetscapes, restore building facades and build a mutually reinforcing connection between the

downtown business district and the surrounding neighborhoods. Priority activities include, but are not limited to, the following: public infrastructure; structural improvements of buildings for mixed-use; acquisition of properties that could have historical significance in conjunction with local financial institutions to encourage increased home ownership and/or centralized management of rental units in the project area; façade improvements grants; design assistance and historically accurate improvements. There is a minimum 10% local match required. To apply, contact DCED Customer Service Center at 1-800-379-7448.

**Housing Redevelopment Assistance (HRA):**

Long-standing program for housing assistance and community development, funded at \$30 million for FY 04-05, an increase of \$5 million over the previous year. Grants can be used to fund acquisition, rehabilitation or restoration of older or underutilized buildings for reuse, demolition of a blighted structure where a reuse plan has been adopted, and construction of new rental or home ownership. To apply contact Aldona Kartorie at 717-720-7409 or [akartorie@state.pa.us](mailto:akartorie@state.pa.us).

**Shared Municipal Services Program Code Enforcement Initiative Grants:**

Provides grants to fund costs of establishing a multi-municipal code enforcement program. Eligible costs include inspection personnel, administrative support, training and equipment directly related to code enforcement services. The grant funds up to 50% of total project costs. Local share may be cash or in-kind except personnel costs where match must be in cash. HUD federal entitlement and Commonwealth Act 179 municipalities are not eligible. Apply to Governor's Center for Local Government Services at 1-888-223-6837 or Center for Community Building for CDBG Program Requirements at 717-720-7401.

**Transitional Assistance for Needy Families (TANF) Housing Rehabilitation Program:**

Federal dollars to support moving families from welfare to work are used to fund a family-focused housing rehabilitation initiative. Local governments and redevelopment authorities are eligible to apply. The funding

can be used for any home repairs necessary to allow children to remain in their own homes or the homes of relatives. The repairs may include: roofing, electrical, plumbing, heating/cooling improvements, window and door replacement, lead-based paint abatement activities and emergency repairs. This includes both owner and rental (less than five units) properties, however, repairs to rental properties may be more restrictive. At least one person in the household assisted must be a dependent child below the age of 18. Funding minimum is \$150,000 and maximum of \$500,000. Applicants must demonstrate matching funding of \$3 for every dollar received in TANF funds. Apply to Tom Brennan at 717-720-7403 or [tbrennan@state.pa.us](mailto:tbrennan@state.pa.us).

**Act 47 — Municipalities Financial Recovery Act:**

This state program provides loans, grants and technical assistance to develop a comprehensive recovery strategy for fiscally distressed municipalities. The program addresses community, economic development and housing strategies to retain and attract residents and businesses and rebuild the tax base. Must be fiscally distressed to qualify. Apply to Fred Reddig at 1-888-223-6837 or [freddig@state.pa.us](mailto:freddig@state.pa.us).

**New Markets Tax Credits:**

The New Markets Tax Credit program, passed by Congress in December 2000, is designed to stimulate investments in commercial real estate and business ventures located in low-income urban and rural areas. Over a seven-year period (2001-2007), \$15 billion of investment capital will be eligible for federal income tax credits that total 39% of investment, distributed over a seven-year period. The Program's primary goal is to provide gap financing that can make a deal happen. While city governments can apply themselves, one report recommends that municipalities work through existing community development organizations that understand the application process.<sup>65</sup> To find Community Development Financial Institutions (CDFI) in your area, go to [www.cdfifund.gov](http://www.cdfifund.gov), call 202-622-6355 or e-mail [cdifhelp@cdfi.treas.gov](mailto:cdifhelp@cdfi.treas.gov)

**Employer-Assisted Housing:**

Many of Pennsylvania towns and cities were designed with employers, particularly factories, colleges and hospitals, located within residential areas. A declining area surrounding the employer can harm quality of life for its employees and customers, making it more difficult to recruit and retain employees, students and patients. A partnership with an employer to create incentives for employees to buy and fix up housing in the surrounding area can be a win/win.

**Municipal Bonds:**

Philadelphia is funding part of its \$1.6 billion Neighborhood Transformation Initiative, a comprehensive approach to bringing abandoned properties back into productive reuse, through a \$250 million bond issue to be paid back incrementally from the city's annual operating budget.

 **Do Not Sell Tax Liens to Third Party for Quick Profit. This Approach Caused Negative Results for Philadelphia and Pittsburgh.**

In the 1990s, Philadelphia, Pittsburgh and Allegheny County all sold tax liens to for-profit companies in order to obtain a quick, large infusion of cash. The goal was to sell their tax liens on delinquent properties to private investors, allowing the cities to quickly recover a portion of back taxes while insulating them from the costs and liabilities associated with long-term management of delinquent buildings. This decision has created many unforeseen complications and has substantially reduced the flexibility of city and county government to transfer abandoned lots to new owners for redevelopment. For example, if Philadelphia seeks to assemble a number of properties into a developable site and provide the land for minimal cost to the new owner, it cannot do so without paying off all outstanding liens to the corporate lien holder. Where these liens exceed market value, the cost of the liens is often enough to kill a deal.

Pittsburgh sold its tax liens along with water and sewer liens to Capital Asset Research Corp. Allegheny County sold its liens to GLS Capital Services Inc. Not only did this reduce flexibility in addressing abandoned properties but, in the case of Capital, it actually increased the number of vacancies. Capital charged 18% annual interest on its lien debt to homeowners. The addition of 18% more debt onto existing liens in many cases transformed manageable debt into unmanageable debt and caused the owners to abandon their properties. A recent lawsuit protesting the interest fees was successful and the court held 10% as the maximum interest rate allowable. In addition, the court limited the amount low-income homeowners could be charged each month to \$25 if they were already paying more than 35% of their gross income on housing. Without a court mandate, Capital agreed to a maximum monthly payment of \$50 for low-income households who pay 40% or more of their gross income on housing costs each month.

1. The information used in this section's charts is derived from U.S. Census data and Comprehensive Housing Affordability Strategy (CHAS) 2000 Census Special Tabulation Data from the U.S. Department of Housing and Urban Development. Cities discussed in this section are representative of how dominant demographic and economic trends have impacted Pennsylvania's municipalities, but just about any city or borough in the state could be an equally effective example of the trends discussed.
2. Median Family Income from 1999,1989,1979 and 1969. Household owner's value calculations exclude housing units on ten acres or more of land, housing units with a business or medical office on premises, housing units in multifamily buildings (i.e., condos) and mobile homes. Single-family condo houses, however, are included only for 1990.
3. James R. Cohen, *Abandoned Housing: Exploring Lessons from Baltimore*, Housing Policy Debate, Vol 2, Issue 3, Fannie Mae Foundation (2001).
4. Household owner's value calculations exclude housing units on ten acres or more of land, housing units with a business or medical office on premises, housing units in multifamily buildings (i.e., condos) and mobile homes. Single-family condo houses, however, are included only for 1990. Household gross rent calculations exclude single-family rental units on ten acres or more of land.
5. Robert Fishman, *Scholarly Article: The American Metropolis at Century's End: Past and Future Influences*, Fannie Mae Foundation Housing Policy Debate, Volume 11, Issue 1 (2000).
6. *Commonwealth and Local Government Efforts to Ameliorate Blight*, Legislative Budget and Finance Committee, A Joint Committee of the Pennsylvania General Assembly (March 2004).
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48. P.L. 991, May 24, 1945, as amended, Act 1978 - 94 of the Pennsylvania General Assembly.

49. Until 2002, the owner had five years to appeal just compensation; Act No. 113 of 2002; The Internet Party. Discussion of Eminent Domain [www.theinternetparty.org](http://www.theinternetparty.org).

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[http://www.ndol.org/ndol\\_ci.cfm?kaid=114&subid=236&contentid=2831](http://www.ndol.org/ndol_ci.cfm?kaid=114&subid=236&contentid=2831).

51. Pay Now or Pay More Later: St. Paul's Experience in Rehabilitating Vacant Housing, p13-14.

52. John Kromer, Presentation to Vacant Properties Campaign Conference, Washington, D.C., July 29, 2004.

53. "Blight Plight," *Beaver County Times* Editorial (August 2004); July 22, 2004 Wilkes-Barre Leadership Roundtable Discussion; Earni Young, "Demolition Costs Force City to Alter Anti-blight Plans," *Philadelphia Daily News* (March 23, 2004); August 6, 2004 York Leadership Roundtable Discussion.

54. "A trespasser is one who enters the land of another without any right to do so or who goes beyond the rights and privileges which he or she has been granted by license or invitation." Oswald v. Hausman, 378 Pa.Super. 245, 253, 548 A.2d 594, 598 (1988); Mitchell v. City of Philadelphia, 596 A.2d 1205 (1991) no liability when a person drowned in a public swimming facility that was being used after hours by trespassers even where police knew of use and did not stop; Frank v. Southeastern Pa. Trans. Auth., 506 A.2d 1015 (1986) where minor climbed on top of train station roof at night and jumped onto a train, plaintiff's claim was barred because he was "unequivocally trespassing by climbing to the roof and train top, areas to which the public was not invited."; Longbottom v. Sim-Kar Lighting Fixture Co., 651 A.2d 621 (1994) where 18 year old was electrocuted when he came into contact with a defective light fixture on his school's roof while attempting to retrieve balls, school districts efforts to prevent students from going on roof show student was a trespasser.

55. *Commonwealth of PA v. Sprock*, 795 A.2d 1100 (2002).

56. 42 U.S.C. §§ 9607(b), 9601(35)(A).

57. *Selling City Owned Properties Efficiently (SCOPE) in Baltimore: Joint Project Unleashes Market Forces on Tough Problem*, National Association of Realtors (2004).

58. <http://www.hud.gov/offices/cpd/communitydevelopment/programs/entitlement/index.cfm>.

59. John Kromer, *Vacancy Inventory and Reinvestment Strategies for Reading, PA* (July 2004).

60. 72 P.S. §4722 *et seq.*

61. State Act 175 of 1984, as amended 72 P.S. § 5020-205 Purpose: To Offer An Abatement From Real Estate Taxes On Improvements Made By Developers To Residential Properties.

62. City Councilmanic Ordinance 1456-A, as amended 3 Section 19-1303 (4) of the Philadelphia Code.

63. [http://www.ceosforcities.org/research/2004/The\\_New\\_Markets\\_Tax\\_Credit\\_Program.pdf](http://www.ceosforcities.org/research/2004/The_New_Markets_Tax_Credit_Program.pdf).

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### **The Housing Alliance of Pennsylvania**

The Housing Alliance of Pennsylvania was founded in 1985 as the Pennsylvania Low Income Housing Coalition to address the growing shortage of safe, decent, affordable housing for all Pennsylvanians, especially those with low incomes. We are a membership organization with 450 organizational and individual members throughout the state responding to the housing needs and interests of rural, urban and suburban communities. We identify and promote practical solutions to the affordable housing crisis through research, education and outreach.