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VACANCY AND ABANDONMENT IN THE CITY OF INDIANAPOLIS, INDIANA

Available Tools to Combat Vacancy and Abandonment

Center for Community Progress Report to Renew Indianapolis on behalf of the City of Indianapolis and LISC Indianapolis



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ABOUT CENTER FOR COMMUNITY PROGRESS

Founded in 2010, the Center for Community Progress is the only national 501(c)(3) nonprofit organization solely dedicated to building a future in which entrenched, systemic blight no longer exists in American communities. The mission of Community Progress is to ensure that communities have the vision, knowledge, and systems to transform blighted, vacant, and other problem properties into assets supporting neighborhood vitality. As a national leader on solutions for blight and vacancy, Community Progress serves as the leading resource for local, state, and federal policies and best practices that address the full cycle of property revitalization. Major support for Community Progress is generously provided by the Charles Stewart Mott Foundation and the Ford Foundation.

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INTRODUCTION & OVERVIEW

The Center for Community Progress (Community Progress) was retained by Renew Indianapolis (Renew) with the support of the City of Indianapolis (City) and LISC Indianapolis to provide observations on the existing municipal systems and tools to address vacant and abandoned properties in Indianapolis.¹

Vacant and abandoned properties are those properties that are not simply unoccupied and maintained but also contain indicators of abandonment, such as substandard property conditions or multiple unpaid public and private liens that lead to neighborhood destabilization. These properties undermine the economic, social, and environmental health of the City and its neighborhoods. They present some of the most pressing challenges to the City's ability to protect the health and safety of its citizens and to attract private investment. Though substandard *occupied* structures can present similar and no less critical harm to occupants and communities, they require a different set of public strategies and tools and are not the focus of this report.

This report is intended to provide local policy makers and community stakeholders with the foundation necessary to (1) understand the current set of legal systems and policy tools (toolbox) available to address vacant and abandoned properties, and (2) to develop a framework for how to best deploy those tools in a coordinated and effective manner. The observations and recommendations contained in this report are informed by:

1. A preliminary review of relevant state and local codes as well as research of organizational structures, local initiatives, and other various documents and reports that provided relevant local context and historical perspective.
2. A two-day site visit, in which Community Progress met with an extensive set of stakeholders, a complete list of which is attached in *Appendix A*.
3. Post-site visit research, as well as phone interviews and email exchanges with various local leaders and stakeholders in the public and private sectors.

There are two overarching observations driving many of the recommendations below. First, the City has a wide array of legal and policy tools in its existing toolbox that may be used to address vacant and abandoned properties. Second, the strong leadership, hope and expertise of local

¹ The Agreement for Community Progress' services was entered into after a joint request from Renew Indianapolis and the City of Indianapolis given each entity's role in addressing vacant and abandoned properties. The Agreement is between Renew Indianapolis and Community Progress and the City's backing is evidenced by a letter of support from the Mayor's Office.

leaders reveals a level of sophistication which can support the City in deploying these tools in an effective, efficient, and equitable manner.²

BRIEF HISTORY

This assessment is not the first step the City has taken to combat vacant and abandoned properties over the years. In 2006, for example, the City collaborated with the former Abandoned Housing Work Group, the National Vacant Properties Campaign,³ and various other stakeholders to produce a manual intended to help statewide policy makers and practitioners understand and implement a series of new state law reforms.

The 2006 state law changes amended the existing Unsafe Building Law (UBL), property tax collection and enforcement provisions, and redevelopment law in Indiana. The changes were the result of years of research and work by local leaders and national partners and showed a prodigious understanding of the connection between housing and building code enforcement, delinquent property tax enforcement, and redevelopment law, specifically to combat problems that arise from vacant and abandoned property.

Since 2006, local leaders have continued to work with the Indiana legislature to secure a number of new tools in state law which communities across Indiana can employ to address vacant and abandoned property. These changes include, for example, new receivership tools and procedures intended to expedite the transfer of vacant and abandoned or other substandard properties through delinquent property tax enforcement. Despite the best of intentions, the number of changes and lack of coordinated implementation of these additional tools have led to some confusion as to what is now in the toolbox, and how the new tools can be deployed in a manner that takes full advantage of these changes.

KEY INSIGHTS

With this last decade of robust but complicated Indiana legislative history in mind, Community Progress is pleased to present Renew with the following observations and recommendations. This report focuses on the necessity of the following four systems operating together as part of a coordinated and strategic approach to address Indianapolis' vacant and abandoned properties: data collection, code enforcement, delinquent property tax enforcement, and land banking. **Robust data collection** is critical to ensuring a clear definition of the problem and for tracking the effectiveness of the implementation of code enforcement, property tax enforcement, and land banking strategies. **Housing and building code enforcement, delinquent property tax enforcement, and land banking programs** working in concert with one another can be utilized

² Despite the fact that Indianapolis and Marion County are a consolidated City-County and have the same geographic boundaries, this report will use the term "City" to refer only to the City of Indianapolis and its agencies, and the term "County" to refer only to Marion County and its agencies. When referring to the consolidated government, this report will use the term "City-County."

³ In 2009, the National Vacant Properties Campaign merged with the Genesee Institute to form Community Progress.

to acquire, maintain and transfer vacant and abandoned properties to responsible owners, and to prevent vacancy and abandonment over the long term.

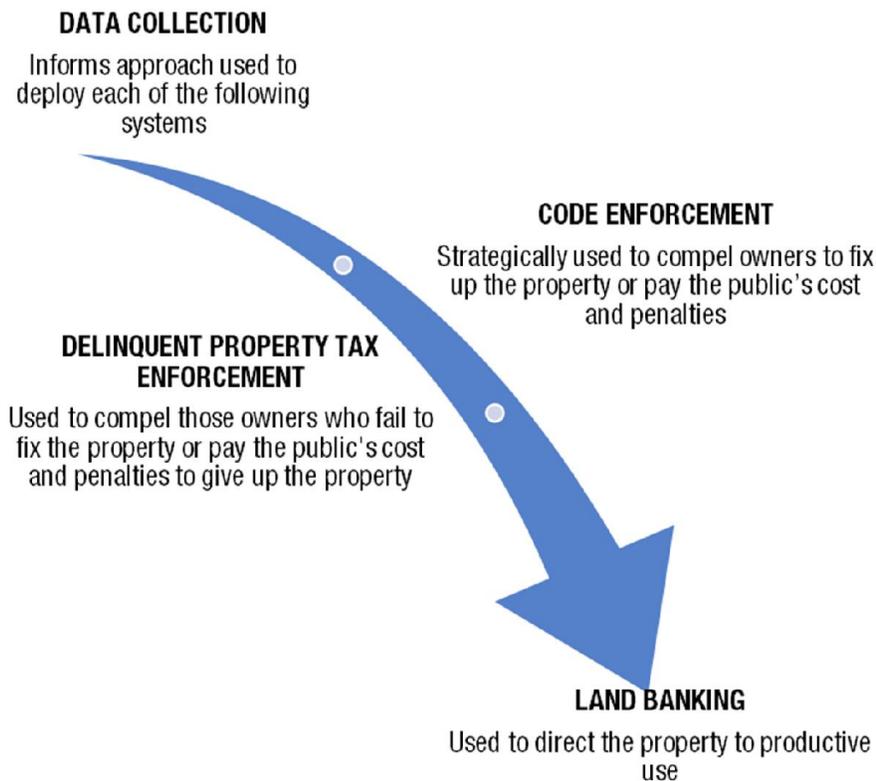


Figure 1 - Key Systems in Indianapolis

Our research, interviews and site visit revealed the following key insights:

Know Your Problem

Our visit exposed an underlying sense of frustration with the inability to routinely access the data necessary to help define the problem. One of the first points made in almost all of our interviews was that it was difficult not only to know where vacant and abandoned properties are located, but how to define properties that are the problem. A logical solution, which current local leaders recognize and are taking steps to implement, is to create a centralized, robust data platform which different departments, government agencies and community stakeholders can access.

Strong Toolbox

State and local law authorize a diverse set of tools that can be deployed to ensure properties are put on a path to productive use. The authority to deploy these tools is spread across various City and County agencies, including the City's Department of Code Enforcement, the Health and Hospital Corporation of Marion County, the City's Department of Metropolitan Development, the Marion County Treasurer, Renew and various community stakeholders. These tools work best as part of a coordinated, strategic approach with active participation from each municipal and community partner which could be coordinated through a cross-departmental Working Group.

Leverage the Tax Sale

Changes to state law have given the City and County several leverage points within the tax sale process at which local government may intervene to direct vacant and abandoned property onto a productive path to reuse. The need for the City and the County to develop a shared vision that prioritizes neighborhood stabilization and revitalization is imperative in determining where and how those leverage points may be best utilized. Such a vision must balance the long-term, productive use of property to ensure sustained presence on the tax rolls with the necessity of providing immediate revenue for local government operating in a structural deficit.

Build Consensus

Although there is hope and optimism, there is still a great need to address the fractured dynamics of the City and County and use expertise outside of the City-County leadership to align and develop a comprehensive strategy for how properties can be identified, addressed, and put on a path to productive use. The establishment of a Working Group to routinely get stakeholders face to face is critical to help define a common understanding of the problem, prioritize and align each department's leadership and skills, and utilize existing tools to combat vacancy and abandonment.

The Time is Now

With strong leadership and enthusiasm, the opportunity for local leaders to find and implement solutions to the problems caused by vacancy and abandonment is at its peak. The time is now for the City, Marion County, and community stakeholders,

including, for example, community development corporations, neighborhood associations, and other partners to come together and craft a shared vision.

This report will first help to define the problem of vacancy and abandonment in Indianapolis, and then make recommendations for the development of a Working Group and a robust data set and tracking process, which are critical for the strategic deployment of tools moving forward. Next, this report provides an inventory of some of the available tools contained in housing and building code enforcement systems and the delinquent property tax enforcement system that can be used to address vacancy and abandonment, and includes recommendations for improvements to each tool and the manner in which the tools are utilized together. Finally, this report offers observations and recommendations on possibilities for land banking and redevelopment.

The recommendations offered in this report are presented as a menu of options for the City, County, Renew, and other community stakeholders to contemplate to reverse the negative impact vacant and abandoned properties have on Indianapolis residents. For ease of reference and to provide a framework for stakeholders to consider next steps, recommendations are organized into short term and long term goals, which are labeled clearly and correspond to the rough timeframes indicated below.

Short Term Recommendations = Achievable Within 12 Months

Long Term Recommendations = Achievable in More Than 12 Months

A summary of these recommendations is provided at the end of this report in *Appendix B*. However, decisions as to which, if any, recommendations to implement and the timing for implementation are left entirely to City leaders and stakeholders.

SECTION 1: DEFINE THE PROBLEM: DATA & INFORMATION SYSTEMS

What are the number and locations of vacant and abandoned properties in Indianapolis? The mere fact of vacancy does not necessarily mean a property is also harmful to the surrounding community—rather vacancy coupled with abandonment leads to neighborhood destabilization. Nearly all parties interviewed by Community Progress articulated a difference between vacant and *maintained* properties that have largely neutral effects on their surrounding community, and vacant and *abandoned* or *unmaintained* properties that cause community harm and neighborhood destabilization. Nearly all parties used a combination of anecdotal experience and varying sets of incomplete data to describe the location and scope of vacant and abandoned properties throughout the City. The lack of a cohesive data set reflecting consistent criteria to determine vacancy and abandonment, and the location and scale of such properties, limits the ability of the City, County, and community stakeholders to fully comprehend the scope and impact of vacancy and abandonment in Indianapolis.

Crafting a shared definition of what qualifies property as vacant and abandoned using established, clear benchmarks, and then determining the location and scope of all such properties throughout Indianapolis are critical first steps towards creating a strategic path to address vacancy and abandonment.

A. INCOMPLETE, INCONSISTENT, & DIFFUSE DATA SETS

There does not appear to be a comprehensive and consistent data set identifying properties in the City that are not only vacant but also abandoned. There is an urgent need to increase the focus on ongoing collection, storing, and sharing of relevant and searchable data across City agencies, the County, and community stakeholders. Estimates of the number of properties that could be considered abandoned vary from agency to agency, in large part because there is a lack of consensus around which data sets best define these terms.

The most recent estimate from the City's Department of Metropolitan Development (DMD), based on an overlay of United States Postal Service (USPS) vacancy data and rough data from the Indianapolis Police Department (IMPD), is that there are between 10,000 and 12,000 vacant and abandoned parcels of real estate in the City. The breakdown of vacant lots versus

vacant structures among this 10-12,000 is unclear.⁴ The Indianapolis Star newspaper obtained data from the City’s Department of Code Enforcement (DCE) in July 2015 that revealed just over 6,800 homes were vacant and without utilities for more than a year.⁵ Renew has compiled data showing that there are currently more than 18,000 parcels in Indianapolis where utilities have been shut off for more than a year or that are identified as vacant by the USPS. Yet only 3,200 of this list of 18,000 are also property tax delinquent, suggesting that approximately 80% of the properties with utility cut-offs and noted as vacant by USPS are current on property tax payments.

None of the data sets obtained by Community Progress clearly differentiated between vacant lots and vacant structures, nor identified vacant publicly owned property that might be tax current (or tax exempt) but effectively abandoned.

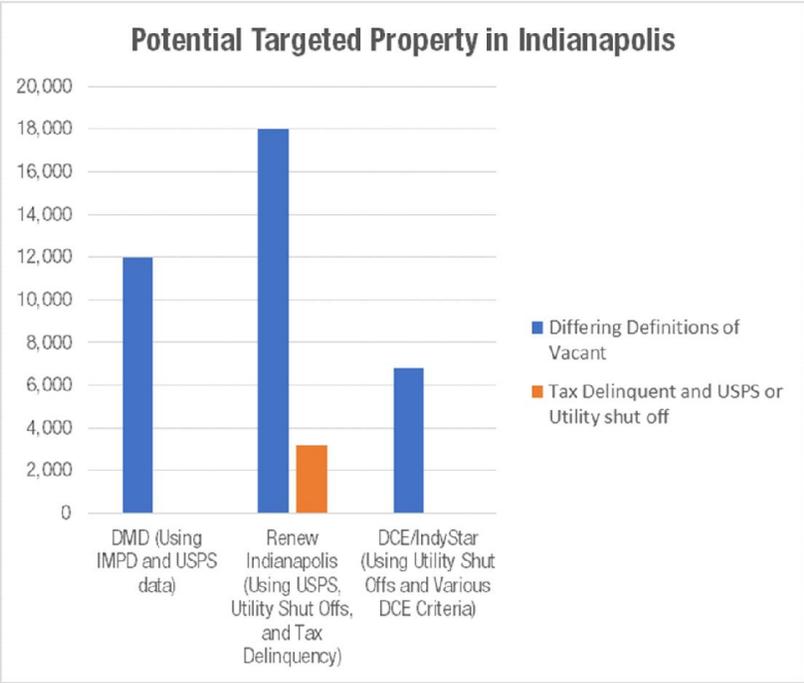


Figure 2 - Differing Definitions of Vacancy and Abandonment in Indianapolis

⁴ However, the City’s land banking program, which is housed in DMD and holds roughly 700 vacant parcels, estimates that 70% of its inventory is vacant lots.

⁵ See <http://interactives.indystar.com/news/2015/blight/blightmap.html>.

Because there is no comprehensive data set of vacant and abandoned properties, all attempts to map such property or locate the areas most affected by vacancy and abandonment and most primed for larger scale strategic intervention are limited. Based on data obtained from DMD and Renew, which itself is largely based on USPS vacancy data, neighborhoods with a higher concentration of vacant properties appear to be located near the downtown area, with two of the higher vacancy rates (a ratio of vacant buildings to total buildings in a defined area) in the near northwest (31%) and near east sides (23%). In addition, the City's former Department of Public Safety compiled criminal, fire, and other key property and community statistics from January 2013 to August 2014 to create a Focus Areas Initiative.⁶ The Focus Areas Initiative identified six focus areas, covering a combined total of 8 square miles of the City's 400 total square miles, that accounted for a starkly disproportionate amount of criminal activity and poverty. Not surprisingly, the Focus Areas Initiative also showed that vacancy rates in each of these zones ranged from 20 to 35 percent,⁷ and three of the six focus areas are in the near northwest or near east sides of the City. USPS vacancy data and the six focus areas can be mapped to illustrate the location of vacant property in the City, as seen in Figure 3 on the next page, but whether and how the location of vacant property alone corresponds to the location of vacant *and* abandoned properties remains unclear.

⁶ <http://www.indy.gov/eGov/City/DPS/Pages/Focus-Areas-Initiative.aspx>.

⁷ It is unclear whether these vacancy rates refer to vacant structures or vacant lots.

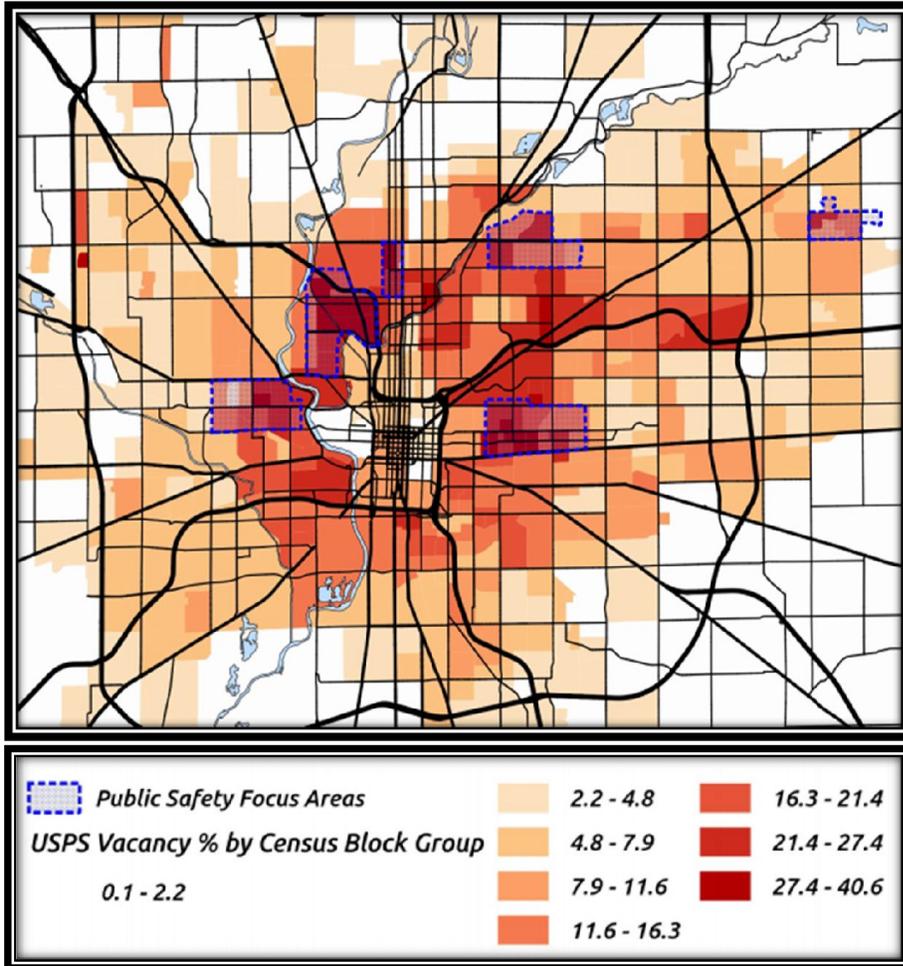


Figure 3 - Map of Public Safety Focus Areas and Vacancy in Indianapolis

Credit: Renew Indianapolis

Current definitions of the terms “abandoned” or “unsafe” under the law do not provide a mechanism for local officials to easily quantify the number or location of vacant and abandoned properties. Qualifying a property as either “abandoned” or “unsafe” under the law allows local government to take advantage of leverage points in which it may intervene to prevent the further deterioration of the property and direct its potential future use. But these broad definitions require case by case (or parcel by parcel) analysis of the criteria based on the legal action sought by local government. On their own, they do little to provide the community with easily quantifiable data sets to target enforcement or redevelopment efforts. Moreover, legally “unsafe” or “abandoned” property is not necessarily vacant property. As seen in Figure 4 on the next page, an owner-occupant might easily live in a structure with broken window panes, trash in the yard, or other signs of deterioration.

Figure 4 – Broad Legal Definitions of the terms “Unsafe” and “Abandoned”

| UNSAFE⁸ property is: (at least one of the following) | ABANDONED⁹ property contains: (at least one of the following) |
|--|--|
| In an impaired structural condition that makes it unsafe to a person or property | An order to repair, board-up, demolish, or otherwise by the City |
| A fire hazard | Windows or entrances to the property are boarded up or closed off |
| A hazard to the public health | Multiple window panes on the property are broken and unrepaired |
| A public nuisance | One or more doors to the property are smashed through, broken off, unhinged, or continuously unlocked |
| Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance | Terminated utility service |
| Vacant or blighted and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance | Accumulation of trash or debris |
| | A structure that is deteriorating and does not meet minimum local property standards |
| | Locks changed by the creditor and the owner has not requested entrance to the property within 15 days of the change |
| | One or more written statements by the debtor or the debtor's representative that indicate a clear intent to abandon the property |
| | Other evidence indicating a clear intent to abandon the property |
| LEGAL DECLARATION OF PROPERTY AS UNSAFE OR ABANDONED CAN BE USED TO: | |
| Compel repair, securing, or demolition of vacant and abandoned property | Expedite tax sale process |
| Assess penalties as special assessments to tax bill | Appoint a receiver to repair or transfer the property |
| Appoint a receiver to repair or transfer the property | |

⁸ Indiana Code (“IC”) §§ 36-7-9-1 *et seq.*

⁹ IC §§ 36-7-37-1 *et seq.*; and IC § 32-30-10.6-5.

B. EXISTING ASSETS TO DEVELOP DATA

Despite the present lack of a complete data set of vacant and abandoned property, the following existing data sets are available to most agencies and each one may reveal a varying degree of either vacancy, abandonment, or both:

- USPS has identified the property as “vacant”
- Electric utilities have been shut off
- Open code enforcement orders
- Multiple police and/or fire calls
- A mortgage foreclosure has been filed
- Property tax delinquency

In addition, there are a number of existing data initiatives in Indianapolis on which the City can build to not only better define vacant and abandoned properties, but to also help formulate a centralized, data-driven, and strategic approach for how and where to best utilize tools available for optimal neighborhood stabilization. At the forefront of these initiatives is IMPD’s new Real Time Data Center, which is primarily intended to create a hub to help fight crime but has the potential to be a platform used to centralize a number of data initiatives related to vacant and abandoned properties.¹⁰ In addition, DMD’s Plan 2020, an attempt to consolidate 135 scattered neighborhood plans into twelve (12) manageable and achievable strategic plans, is underway. The resultant neighborhood plans and the data utilized to develop the plans could be critical to formulating a centralized, strategic approach to address vacant and abandoned properties. The City’s DCE also maintains a database of various property-related data sets including vacancy and open enforcement orders and it recently commissioned a market typology to gauge neighborhood health.

C. RECOMMENDATIONS FOR IMPROVED DATA COLLECTION & ANALYSIS

Short Term Recommendations = Achievable Within 12 Months

- 1.1. **Create a Vacant and Abandoned Properties Working Group (Working Group).** This Working Group should meet on at least a bi-weekly basis and be chaired by a high-level municipal executive with authority to obtain data points, set goals, track action items and maintain accountability from all municipal departments. Members of this

¹⁰ <http://www.wthr.com/story/31004019/mayor-hogsett-announces-real-time-data-center-to-assist-citys-crime-fighting-efforts>

Working Group should include, at a minimum, a representative from each of the following stakeholders:

- Mayor's Office
- DMD
- DCE
- County Treasurer's Office
- County Auditor's Office
- IMPD
- Office of the Corporation Counsel
- Indianapolis Fire Department
- Renew
- Private partners/investors
- Various community stakeholders, including neighborhood associations and local Community Development Corporations, for example

Despite recognizing the profound importance of attention to substandard occupied property and acknowledging that many vacant properties are not also abandoned, the focus of this Working Group should nevertheless be limited to properties that are vacant and abandoned because the processes for dealing with abandoned properties are in many cases distinctive. No matter the name used for this group, emphasize at all stages the focus on vacancy AND abandonment, as opposed to simply vacancy, or simply signs of abandonment. Coordinate the appointment of the high-level municipal executive with a public announcement of the Working Group to lay the foundation for community buy-in and participation.

- 1.2. **Charge Working Group with crafting a shared vision statement, strategies and tactics agreed upon by group members.** Formulate short-term and long-term goals for the Working Group. Early actions might be to share and map relevant GIS maps and data sets regarding vacant and abandoned properties and to designate a point person to track new and pending state law changes that impact vacant and abandoned properties. The Working Group should also be charged with monitoring performance of any new initiatives and policies that are implemented as part of the comprehensive and coordinated approach to vacant and abandoned properties.
- 1.3. **Task the Working Group with collating, mapping, and regularly updating a complete data set for all vacant and abandoned properties.** If resources are available, consider obtaining a windshield survey of all properties in Indianapolis to obtain a baseline of vacancy and abandonment and grading of property conditions that is far more accurate and up-to-date than current USPS baseline data. Further consider engaging local residents or volunteers from various neighborhood organizations or block groups to assist in such a survey. A City of Atlanta windshield survey provides a good example of

this type of data gathering project, and the maps and strategic investment ideas generated by this level of data.¹¹

- 1.4. **Overlay vacancy data with other existing data sets.** Gather USPS vacancy data (or results of windshield survey), and overlay that data with utility shut-off data, open housing/building code order data, and property tax delinquency data. Aim to develop comprehensive data sets over time that can be manipulated to generate various reports and maps that include the following input, for example:
 - 1.4.1. Total number vacant properties
 - 1.4.2. Total number vacant properties with structures vs. total number vacant lots
 - 1.4.3. Total number vacant properties that are also without utilities, and subject to open housing/building code cases, and reflect signs of abandonment or distress based on windshield survey grading
 - 1.4.4. Total number of vacant properties that are also property tax delinquent
 - 1.4.5. Neighborhoods down to block level that reflect highest concentration of vacant and abandoned and tax delinquent property, or those properties with code violations, substandard conditions or some combination thereof
- 1.5. **Coordinate the use of property identification numbers City and County wide.** Use the initial data gathering process itself to begin ensuring that various city and county agencies and partners track parcels by the same identification number or numbers to allow for ease of mapping and tracking overtime. The most comprehensive tracking method would be for all agencies, including police, fire, and those City or County agencies that track or register mortgage foreclosure filings, to track parcel tax ID number and address or latitude and longitude. Address and latitude and longitude information allow for easy mapping and overlay with existing city plans and other redevelopment and investment plans.
- 1.6. **Track vacancy on standard form reports.** Use data gathering process to ensure that various city and county agencies track vacancy itself in all standard form reports. For example, ensure there is a box to check “vacant” or “unoccupied” on standard fire and police reports, and on all code inspection reports. Consider whether such reporting might be possible in any and all property tax assessment reports. Further use data gathering process to begin ensuring that various city agencies track whether a parcel contains a vacant structure or is a vacant lot. Consider ensuring there is a box to check “vacant lot” or a blank space to note “number, if any, of structures present” on all standard public reports.

¹¹ <http://www.atlantaga.gov/index.aspx?page=908>.

- 1.7. **Identify a small number (50) of “pilot” properties.** Choose highly visible problem properties that reflect multiple indicators of vacancy and abandonment in key neighborhoods and commit publicly to moving these top 50 into productive status within one year. Track progress and success on these top 50.
- 1.8. **Publicly display progress and data.** Consider displaying progress and all data sets tracked by Working Group on dedicated City website, available to members of the public.

Long Term Recommendations = Achievable in More Than 12 Months

- 1.9. **Centralize data management.** House all such collated and updated data within one department/one database such as the Real Time Data Center, managed by an individual or team with expertise in data mapping and management with direct authority from Mayor/Deputy Mayor/County Commissioners to coordinate this effort. Database should be capable of significant manipulation to track qualities of a given parcel with respect to vacancy, abandonment, presence of code violations, policy and fire activity, and property tax delinquency. The Toledo, Ohio survey mapping tool provides an example of this type of data platform.¹²
- 1.10. **Sort vacant and abandoned property into outcome-driven categories.** Utilize data to triage remaining vacant and abandoned parcels into categories that might include: (a) a universe of vacant and abandoned properties that may be addressed with fix it up code enforcement strategies,¹³ (b) universe of pay it up¹⁴ vacant and abandoned properties (those properties in stronger market neighborhoods that might generate recoupment of public funds expended through a public sale), (c) properties that are candidates for long term land banking upon demolition to address public safety hazards, (d) publicly-owned properties for which there are near-term productive uses, and (e) publicly and privately-owned properties for which there is no near-term solution or adequate resources to address in the next year.
- 1.11. **Track success and consistently evaluate progress of vacant and abandoned properties.** As tools are deployed for each universe of properties identified above, track success and progress over time in centralized database, and regularly re-evaluate both the universe of vacant and abandoned properties and movement of parcels from one category into

¹² See <http://co.lucas.oh.us/index.aspx?NID=2783>.

¹³ See discussion in Section 2.

¹⁴ See discussion in Section 3.

another. Generally allow updated and comprehensive data set to guide redevelopment and other public investment decisions regarding vacant and abandoned properties.

- 1.12. **Consider recommending a Chief Information Officer for the City-County.** Consider tasking the Working Group to propose that the Information Technology Board appoint a Chief Data Scientist or Chief Information Officer to coordinate and ensure the success of these and other City or County efforts to centralize and share data.
- 1.13. **Consider obtaining a Cost of Blight Study.** After one full year of comprehensive data gathering, collating and updating, consider obtaining a Cost of Blight Study to measure the direct costs and indirect costs of vacant and abandoned properties to taxpayers. Direct costs generally include police and fire expenditures associated with vacant and abandoned properties, housing and building code expenditures, and other public expenditures for nuisance abatement and delinquent property tax enforcement. Indirect costs generally include lost property tax revenues associated with vacant and abandoned properties, and loss in values of adjacent properties (and corresponding lost property tax revenues). Utilize results of Cost of Blight Study to make the case for additional or re-allocated resources to address vacant and abandoned properties moving forward. In partnership with Dr. Dan Immergluck, Community Progress has produced a similar Cost of Blight Study in Atlanta, Georgia, with another study soon to be released for Toledo, Ohio.¹⁵

¹⁵ http://www.communityprogress.net/filebin/Cost_of_Vacant_and_Blighted_Immergluck_FINAL_02.17.16.pdf

SECTION 2: FIX IT UP: HOUSING & BUILDING CODE ENFORCEMENT SYSTEM

There are a number of useful enforcement and redevelopment tools available in Indianapolis for vacant and abandoned properties. The toolbox is most effective when it is deployed to combat vacant and abandoned property as part of a shared community vision that maps out an efficient, effective and equitable path to productive use. To achieve such a result, the deployment of each set of tools must be tailored to anticipate the involvement of a number of different public and private actors and the preferred end-use strategies agreed upon by local leaders.

Ultimately, the deployment of these tools should reflect a simple philosophy: a responsible property owner should be prepared to **fix problems with the property**. If the owner fails to fix those problems, then he or she must **pay a penalty and the costs incurred by the taxpayers in rectifying the problem**. If the owner fails to fix it up, and fails to pay it up, then the **property should be transferred to a responsible owner**.

Fix it up. Pay it up. Or give it up.

This section is the first of three Sections detailing the tools currently available in Indianapolis based on this fix it up, pay it up, or give it up approach. At the end of each Section are a number of recommendations specific to each topic. To help illustrate whether or not a tool may be available for specific property types or conditions in Indianapolis, please refer to *Appendix C*.

A. THE UNSAFE BUILDING LAW

Indiana's Unsafe Building Law (UBL) provides a wide range of available options by which local government can intervene in a vacant and abandoned property.¹⁶ These primarily allow local government to:

- Issue orders requiring property to be repaired or boarded up
- Issue demolition orders

¹⁶ The UBL can be found at IC §§ 36-7-9-1, *et seq.*

- Issue orders to vacate an unsafe building
- Issue orders to remove trash, debris or other hazardous material
- Assess civil penalties for non-compliance through an administrative process
- File a court action to assess civil penalties
- File a court action to compel the owner to comply with an order of the enforcement agency
- Ask a court to appoint a receiver to either rehabilitate the property or to repair and then transfer the property to a responsible new owner
- File an expedited emergency court action for properties that present an immediate danger to the health and safety of the surrounding community
- Recover both civil penalties and costs expended by local government to abate violations in a number of different ways, including by certification of the unpaid penalties and/or costs to the County to be collected as special assessments as part of the property tax bill
- Establish an unsafe building fund where fines and penalties from UBL enforcement are deposited and kept separate from the general fund

Each tool listed above can be employed in Indianapolis as part of the fix it up, pay it up, or give it up strategy. For example, compliance with an order to repair within sixty (60) days results in the closure of the order and no assessed penalty, incentivizing property owners to **fix it up**. A failure to comply leads to an assessment of penalties and costs which can be billed and added to the property tax bill as a special assessment, incentivizing owners to **pay it up**. Failure to pay means the property may be transferred to a more responsible owner through the tax sale or through receivership; in other words, forcing the owner to **give it up**. Strategic and focused deployment of these UBL tools is critical to ensure that the strong penalties and fines prescribed in the law do not have the unintended consequence of incentivizing further vacancy and abandonment.

ENFORCEMENT ORDERS

Since 2014, DCE has been charged with enforcing the UBL against vacant property. Before 2014, the UBL was enforced by the Housing and Neighborhood Health division of the Marion County Public Health Department (MCPHD), a part of the Health and Hospital Corporation of Marion County. MCPHD still enforces housing and building code standards for *occupied*

residential and commercial property. Because this report focuses primarily on vacant and abandoned property, the emphasis here is primarily on DCE's role in enforcing the UBL.

The DCE process, though seen by most parties interviewed as efficient, is described as a largely complaint-driven system. Citizens are able to report UBL violations through various channels, but primarily do so through the Mayor's Action Center (MAC). Some residents continue to report vacant property violations to MCPHD because they are unaware UBL enforcement was transferred to DCE in 2014. Callers (or MCPHD website visitors) are reportedly instructed to contact DCE to report such violations. Neither the MCPHD nor the MAC web-interfaces inform visitors of the existence of the other reporting mechanism and it appears that both encourage the reporting of problems with vacant or abandoned structures. In addition to MAC complaints, potentially unsafe properties are reported to DCE through various neighborhood sweeps, collaboration with IMPD and the Fire Department, and phone referrals. DCE investigated more than 4,500 vacant property complaints in 2015.

Upon inspection, which occurs within five days of receiving a complaint, DCE inspectors first check to ensure the property is actually vacant. If it is not vacant, the complaint is closed out and forwarded manually or over email to MCPHD. If the property is vacant and a violation exists, DCE issues one of three types of orders: (1) an order to repair the property, (2) an order to secure and board-up the property, or (3) an order to demolish the property. Orders to repair or board-up account for the bulk of DCE issued orders. A review of data provided by DCE revealed that property owners comply with orders to repair or board-up, or "fix it up," roughly 27% of the time.¹⁷

Repair Orders

When a repair order is issued, DCE identifies the property owner through County records and issues a notice of the violation. Though owners can request a hearing before an administrative hearing officer to contest the order within ten (10) days of receiving the notice, it appears that this rarely occurs more than twice in a given month.¹⁸ Sixty (60) days after sending the notice, DCE re-inspects the property for compliance. If the owner has complied, the order is closed out and no penalties are assessed. If the violation still exists, then a penalty is assessed and an invoice is issued to the owner and any additional parties with an interest in the property. The penalty becomes a lien on the property if it is unpaid sixty (60) days after the invoice is issued. The amount is then certified to the County Treasurer to be added to the next property tax bill. DCE inspects the property again ninety (90) days after the invoice is issued and the cycle repeats itself until the property is either in compliance or the penalties reach a total of \$5,500. A continued failure to comply could result in the process taking, at a minimum, 330 days. Orders

¹⁷ Percentage calculated by comparing DCE data of total number of repair and board orders to the total number of those orders where the property owner complied.

¹⁸ Hearings may also take place if an owner requests the removal of previously assessed civil penalties after remediating the violation.

are closed out after two (2) years regardless of compliance and a new order can be issued if the violations have not been corrected. An example of this process can be seen in Figure 5, below.

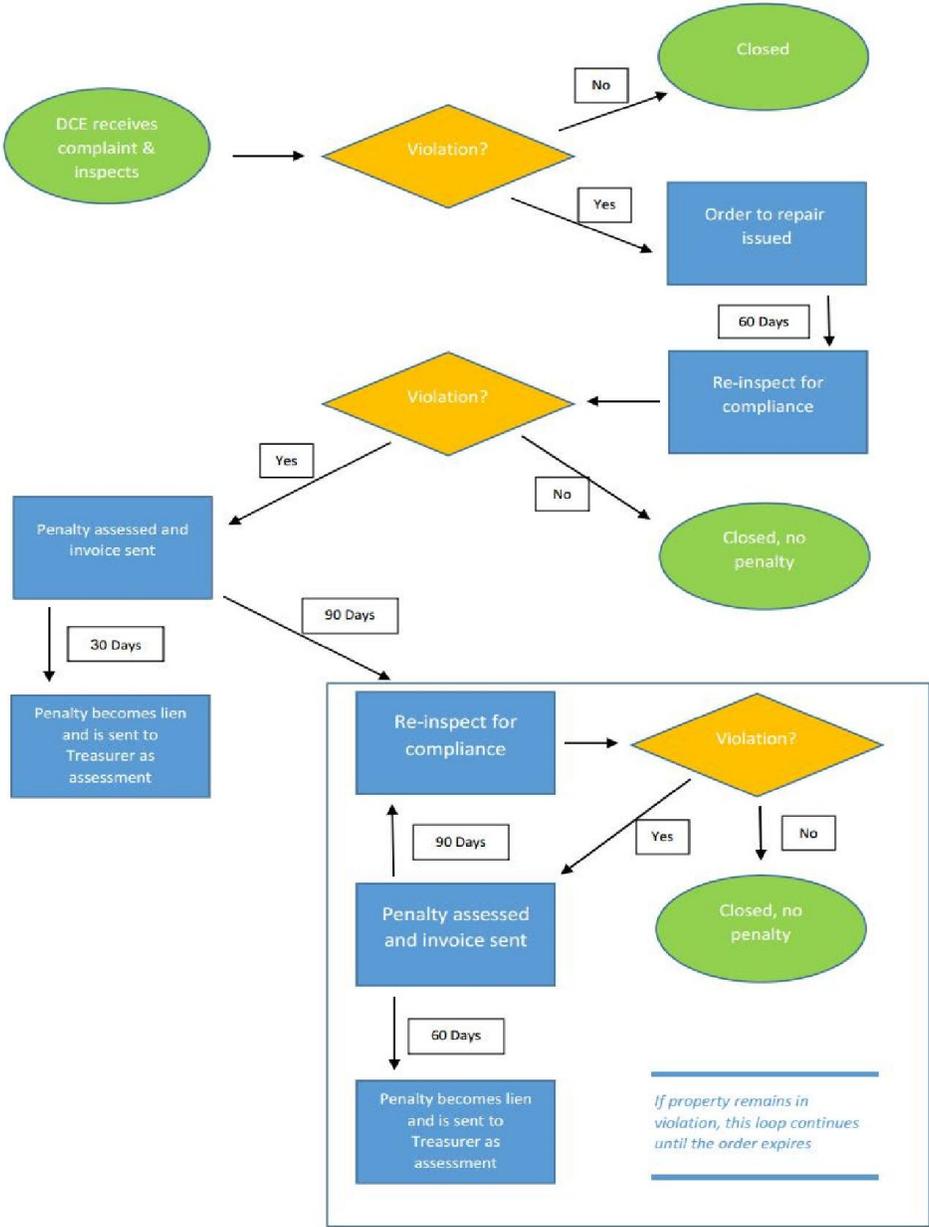


Figure 5 – Simple DCE Repair Order Process

Board-up Orders

If a board-up order is issued, the process begins in much the same way as a repair order. A title search is completed and notice of the order is sent to the owner, who can request an administrative hearing within ten (10) days. The re-inspection for compliance with a board-up order, however, occurs fourteen (14) days after the notice is sent. If the property is not properly secured, the City contracts with a vendor to board-up the property. DCE reports that most properties are boarded-up within about twenty-one (21) days of notice being sent. After the work is done, an invoice is sent to the property owner. If the invoice remains unpaid after thirty (30) days, it is sent to the County Treasurer to be added to the next property tax bill. The property is inspected sixty (60) days after the invoice is sent; if the property needs to be boarded-up again then a new order is issued and the process repeats itself.

DEMOLITION ORDERS

When carried out properly, demolition leads to the removal of a building in a way that protects the health of neighbors and workers, that provides for proper disposition of the waste materials from the building, and that leaves the property ready for the most appropriate future reuse. The UBL authorizes DCE to issue demolition orders for “unsafe” buildings,¹⁹ and provides a fairly efficient process by which demolition orders may be carried out. However, the high costs often make it difficult for DCE to complete many demolitions. The public costs of demolitions are certified to the County Treasurer for inclusion on the property tax bill.

Despite the availability of demolition funds through the Indiana Housing and Community Development Authority (by way of the U.S. Department of Treasury’s Hardest Hit Fund), Indianapolis has struggled to comply with difficult program administration requirements that are not at issue when demolition is sought solely under the UBL. The Hardest Hit program requires that before property can be demolished, it must first be acquired by a qualified non-profit that must front the costs of property acquisition and demolition until it is reimbursed. Renew currently functions as the qualified non-profit for this demolition process and is working with the City to develop a more streamlined approach to take advantage of the demolition funds before they expire. Some states have utilized Hardest Hit funds for greening and other blight elimination programs,²⁰ and there may be opportunities in the next round of funding to make the case for use of Hardest Hit funds to rehabilitate rather than demolish vacant and abandoned properties where appropriate in the context of efforts to stabilize communities.

¹⁹ As discussed in Section 1, Figure 4, a building is considered “unsafe” if it is “(1) in an impaired structural condition that makes it unsafe to a person or property; (2) a fire hazard; (3) a hazard to the public health; (4) a public nuisance; (5) dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or (6) vacant or blighted and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance.” IC § 36-7-9-4.

²⁰ See, for example, <https://www.illinoisshardesthit.org/>.

B. ADDITIONAL HOUSING & BUILDING CODE ENFORCEMENT TOOLS

WEED AND TRASH ABATEMENT

State law authorizes municipal abatement action for local ordinance violations, including the removal of weeds, trash, or debris.²¹ The law also provides that liens resulting from such abatement action are inferior only to tax liens.²² The costs incurred by the local government in abating such violations can be certified and added to the special assessments due in the property tax bill.²³ Both DCE and MCPHD are authorized to and currently perform these abatement actions, many of which are likely to be significant on vacant and abandoned properties.

A NOTE ON RENTAL REGISTRATION

A number of our interviewees expressed concern with substandard rental housing throughout Indianapolis. While rental housing involves occupied buildings and is not the focus of this report, rental registration programs generally make it easier for local governments to find and contact property owners in the case of emergencies or code violations and to communicate to the owner his or her obligations as a landlord. It is useful to list as a tool here because it could provide the City with an extra point of contact in case property becomes vacant or there is an emergency.

Indianapolis's landlord registration ordinance was enacted in 2014.²⁴ The registry, which is maintained by DCE, requires landlords to register rental property with the City, identify themselves or a property manager, and to file annual registrations. Failure to comply with the various annual registration requirements can result in fines ranging from \$100 to \$500. Despite the fact that MCPHD is tasked with inspecting occupied rental property, it is not currently tasked with enforcing the failure of landlords to register, though MCPHD is able to access owner information from the registry if needed.

MCPHD ENFORCEMENT

MCPHD's Housing and Neighborhood Health program primarily enforces minimum building standards on occupied residential and commercial buildings within Indianapolis. Most complaints are reported through a MCPHD phone number, though a reporting portal is available on the MCPHD website. Depending on the severity of the violation observed, owners are given either twenty-four (24) hours (for emergencies like lack of heat or backed-up raw

²¹ IC § 36-7-10.1-3.

²² IC § 36-7-10.1-4.

²³ Indianapolis Marion County Code of Ordinances § 391-206.

²⁴ Indianapolis-Marion County Code of Ordinances §§ 851-101, *et seq.*

sewage in the property) or thirty (30) days (for issues like broken windows, peeling paint) to correct the violations. If the violation is not corrected, the inspector may elect to forward the notice of violation to the legal team for potential prosecution. If legal decides to proceed with a civil court case, notice is provided and a hearing is held. If a penalty is assessed, a judgment is placed as a lien against the property. These judgments, however, are not added as special assessments to the property tax bill.

C. RECEIVERSHIP & THE UNSAFE BUILDING LAW

Another UBL tool that can be utilized by DCE is receivership.²⁵ Receivership is a powerful mechanism which allows a local government or qualified non-profit to seek court intervention in an effort to stabilize or transfer the property. Specifically, a local government can petition the circuit court to grant a receiver physical control of the vacant and abandoned property, or group of properties, and the power to restore, rehabilitate or transfer the property. The receiver's involvement grants it a lien on the property which the owner of the property has the option to satisfy, or the court can dispose of the property by allowing the receiver to foreclose on its lien. The UBL permits two types of receivership, although both involve the appointment of a receiver that takes possession of the property and performs any of the work necessary to make or keep the property compliant with the UBL. The first type of receivership allows DCE to file a civil action alleging a UBL violation and request that the court grant a receiver to take possession and rehabilitate property. Once appointed, any costs expended by the receiver in the rehabilitation or improvement of the property become a lien on the property superior to all other liens except taxes. The statute then allows the receiver to foreclose on the property pursuant to the same notice and procedural requirements as an action to foreclose a mortgage.

The second type of receivership permitted under the UBL is a new tool as of 2015 and requires DCE to first file a separate legal proceeding to have a property declared "abandoned."²⁶ The abandonment proceeding is terminated, however, if the owner appears or notifies the City by mail, telephone, email, or in person that he or she is the owner of record. If the owner does not notify the City or appear and the property is declared abandoned, then DCE would file a second civil action seeking an appointment of a receiver. The receiver is still required to maintain or rehabilitate the property, but the designation of the property as "abandoned," in part, allows the receiver to conduct an immediate public auction instead of filing a separate foreclosure action on its lien; essentially offering an expedited sale. The new law also permits receivers to exercise broad powers over the sale process, including allowing the receiver to set its own minimum bid and pre-qualify bidders. The City has already conducted an initial pilot of this tool with four properties and has found that some of the statutory requirements, particularly the requirements that two separate legal actions must be filed and that the

²⁵ See IC § 36-7-9-20 and 36-7-9-20.5.

²⁶ See further discussion of the procedure to declare a property "abandoned" in Section 3, Subsection B.

abandonment proceeding could be terminated if the owner simply appeared at the proceeding, present obstacles that for now make use of this second receivership tool extremely cumbersome and not cost effective.²⁷

D. 123 INDY STREET & FIX IT UP STRATEGIES

Because the legal tools described in this report can be difficult to follow, consider the application of the tools through the hypothetical tale of 123 Indy Street, a completely fictional property. How might the existing legal tools described above be deployed to “fix” this property? Let’s assume that a concerned neighbor noticed that a couple of windows had been left open at 123 Indy Street during some cold weather, and was worried that Mrs. Hoosier, the former owner, had abandoned the property. The neighbor first reported the matter to MCPHD, but was redirected to report vacant property to MAC due to the 2014 change in enforcement jurisdiction. DCE sent out an inspector within five (5) days of receiving the complaint from MAC and, after knocking on the door and checking with neighbors, realized that no one was home, though the windows were open. Upon returning to the office the inspector verified that USPS had listed 123 Indy Street as vacant, but because she failed to observe any conditions that qualified the building as unsafe under the UBL she was unable to issue an order to repair or board-up and compel some kind of action.

DCE sent another inspector to 123 Indy Street in response to several complaints three months later. This time, the rear door was basically hanging on its hinges and wide-open, and a couple of the windows were broken leading the inspector to conclude that the building was a public nuisance and unfit for human habitation. He could also see through the open door possible evidence of criminal activity including drug paraphernalia. The inspector returned to the office, performed a title search and sent a notice of an order to board-up the doors and first floor windows to Mrs. Hoosier, the record owner of the property, at her last known address. Mrs. Hoosier failed to respond and fourteen (14) days later DCE found the property still open and unsecured and contracted with a vendor to board-up the doors and first floor windows. The property was boarded up twenty-one (21) days after the first inspection. An invoice for DCE’s fees was sent shortly after, and thirty (30) days after that the fees were certified to the County Treasurer to be added to the property tax bill.

A little more than sixty (60) days after the property was boarded, a re-inspection revealed the doors and windows on the first floor of 123 Indy Street were still secured, but now several other problems with the property were present. A gutter was hanging down, another window on the top floor was broken, and some graffiti was spray painted on the side of the house, among other violations. An order to repair was then issued. Again, Mrs. Hoosier failed to respond or correct the violations, and eventually a maximum civil penalty of \$2,500 was assessed and an invoice

²⁷ The law permits the City to seek a declaration of abandonment in an administrative action, but this option has yet to be attempted.

sent to the last known address of Mrs. Hoosier. Ninety (90) days later, the property failed another inspection and another \$1,000 penalty was assessed and notice was sent to Mrs. Hoosier. Another two inspections occurred and another two \$1,000 penalties were assessed over the next one-hundred and eighty (180) days. Each of the \$1,000 penalties were certified to the County Treasurer to be included in the tax bill sixty (60) days after each one was assessed. The whole process of the open repair order took nearly one year and a total of \$5,500 in penalties was added to the tax bill.

Because of the dangerous condition presented by 123 Indy Street, DCE also explored the option of pursuing a demolition order. That decision, however, was complicated by available funding and an option for how to quickly transfer the property to a qualified non-profit for demolition is currently in discussion.

DCE next explored the possibility of utilizing its new receivership tools authorized under state law to find a receiver to rehabilitate and then transfer 123 Indy Street to a responsible owner. It filed the first of the two required legal actions seeking to have the property declared abandoned right away. After providing notice to all parties with a recorded interest, a grandchild of Mrs. Hoosier was forwarded a copy of the notice and appeared at a hearing. The grandchild claimed that Mrs. Hoosier had passed away and that the grandchild was now a record owner of the property. Because of her claim, the court declined to find the property abandoned and, accordingly, the City was unable to file an action to appoint a receiver under the new receivership tool.

At this stage, almost a year after the initial complaint, 123 Indy Street has deteriorated from simply vacant, to plainly vacant and abandoned and unsafe. Significant public resources have been expended with no recoupment of those resources as yet, and additional resources will be needed to demolish. Because Renew does not own the property, Hardest Hit funds may not be used to demolish the property, so the City is now facing a decision about whether to demolish a dangerous property it does not own, the redevelopment of which it cannot currently control. Meanwhile, the City continues to pay increased police, fire and other service costs associated with 123 Indy Street.

E. RECOMMENDATIONS FOR IMPROVEMENT OF FIX IT UP TOOLS & STRATEGIES

Short Term Recommendations = Achievable Within 12 Months

- 2.1. **Consider establishing a single public reporting mechanism for problem properties with authority to direct complaints to the correct enforcing agency.** There are currently two departments receiving complaints for substandard properties. MCPHD responds to building standards complaints for occupied properties from reports through its phone number or website, while DCE inspects UBL complaints against vacant or abandoned properties received primarily from MAC. A unified reporting mechanism could be helpful to clarify reporting procedures to the community and encourage community engagement. Should this recommendation prove unattainable, at least consider the implementation of a mechanism by which DCE and MCPHD can automate and track the referral of properties that prove to be occupied from DCE to MCPHD and the referral of properties that prove to be vacant from MCPHD to DCE.
- 2.2. **Strategically focus and coordinate DCE and MCPHD enforcement.** Because DCE and MCPHD are tasked with similar missions to inspect and enforce code violations against property, ensure that both agencies are employing the tools available at their disposal as part of a coordinated “fix it up, pay it up, or give it up” strategy to eliminate duplication, confusion, and to take advantage of economies of scale and more easily track complaints and remediation in a uniform fashion. DCE and MCPHD enforcement tools should be strategically focused to avoid the unintended consequence of strong penalties and fines (particularly those authorized under the UBL) incentivizing further vacancy or abandonment. To achieve this, consider making both agencies part of the Working Group and ensure that enforcement strategies and targeted enforcement areas are informed by improved data collection and are consistent with the shared vision and priorities of the Working Group. Such participation can also help promote routine communication between the two agencies regarding properties or types of properties that either are or might become vacant and abandoned properties. One tactic that could be considered to pilot cooperation between DCE and MCPHD is to develop a coordinated approach to enforce the landlord registration ordinance. Because DCE does not inspect occupied buildings, MCPHD may be able to incorporate a registration verification as part its inspection process for rental properties with reported building standards violations. Such an approach could not only have an impact on compliance with landlord registration requirements, but also enable DCE and MCPHD to communicate about the condition of rental property and potentially identify properties that may become vacant and abandoned.

- 2.3. **Study property where the owner complies with the notice of violation.** Examine closely the data set of properties, estimated at 27%, where the owner complies and fixes up property in response to a single notice of an order to board-up or repair under the UBL. If that universe of properties shares certain characteristics, for example, if property is located in a neighborhood with a relatively strong market, consider focusing additional efforts on similar properties and tracking and publicizing success.
- 2.4. **Study property where the owner does not comply with the notice of violation.** Examine data set of properties with open and closed code cases where no compliance is achieved in response to a single notice of violation, and further divide properties into (a) those that are vacant and abandoned and property tax current, (b) those that are vacant and abandoned and property tax delinquent, and (c) those that appear to be owned by an individual or individuals with the intent to conduct necessary repairs but without the means to do so. Use these categorizations to inform whether further notice may compel compliance, or to bring such properties to the attention of the Working Group for direction on the most appropriate path for such property.
- 2.5. **Streamline demolition.** Demolition should take place in a strategic fashion and should be linked to specific stabilization, redevelopment and productive use goals that can be developed through the Working Group. Since Renew is currently serving as the non-profit Hardest Hit Fund demolition partner, consider City contract with Renew to also conduct all demolitions under UBL to take advantage of economies of scale, and to help Renew access capital needed to acquire properties ripe for Hardest Hit Funds demolition.
- 2.6. **Utilize the original receivership tool instead of the new version.** Considering the cost, time, and low likelihood of success, consider forgoing the new receivership tool requiring the declaration of property as abandoned until the process can be improved. Instead, utilize the original receivership tool in those limited circumstances where both the market and property condition generate the interest of a willing and responsible receiver that can maintain, repair, or transfer the property in a manner consistent with local priorities.
- 2.7. **Draw on the collective knowledge of the Working Group to establish a coordinated approach for better implementation of the new receivership tool.** Should the City and the County wish to further explore the new receivership tool, consider drawing on the collective knowledge of the Working Group to establish a coordinated approach for better implementation of such a tool. Also consider reaching out to the court in advance of any filings to ask for guidance or concerns with the approach and to

effectively communicate City-County end-goals and priorities for the use of such property.

- 2.8. **Expand the use of Hardest Hit Funds.** Consider working with the Indiana Housing and Community Development Authority to explore expanding the utilization of the newest round of Hardest Hit Funds from the U.S. Department of Treasury for greening of vacant lots, or possibly for rehabilitation of vacant and abandoned properties.

Long Term Recommendations = Achievable in More Than 12 Months

- 2.9. **Incentivize timely re-use or redevelopment of boarded-up property.** Consider amending state law to provide for an additional civil penalty that may be added as a special assessment to the tax bill for property that remains boarded for more than 6 months.
- 2.10. **Elevate the enforcement of unpaid code liens on occupied properties.** Consider amending state and local law to ensure that unpaid code liens or judgments on occupied properties, rental and otherwise, may be added to the tax bill and enjoy the same priority status as UBL liens on vacant and abandoned properties. Further consider whether state law amendments should allocate a portion of revenue generated from such liens to City or County efforts aimed at addressing vacant and abandoned properties, perhaps through the Unsafe Building Fund or another fund accessible to agencies engaged in efforts to address vacant and abandoned properties.
- 2.11. **Track compliance if unpaid code liens on occupied properties are added to the tax bill.** If state and local law are amended to allow the addition of code liens on occupied properties to the tax bill, track any resulting increases in compliance rates. Also utilize newly generated revenues from increased compliance or fine payment to support rehab programs for low-income owner-occupants without the means to fix up their properties.

SECTION 3: PAY IT UP OR GIVE IT UP: DELINQUENT PROPERTY TAX ENFORCEMENT SYSTEM

When the UBL and other enforcement tools fail to compel the owner of a problem property to fix it up, effective delinquent property tax enforcement is the primary tool available to incentivize property owners to pay up the public costs expended to remediate their property or compel them to give up the property to a responsible owner.

A. DELINQUENT PROPERTY TAX ENFORCEMENT TOOLS

Property tax delinquency is one of the most common and reliable predictors of vacant and abandoned property. Many tax enforcement systems are inefficient and do little to return tax-delinquent property to the tax rolls in the hands of a responsible owner. The length of the delinquent tax enforcement process and whether or not the process utilizes constitutional notice procedures resulting in a transfer of property with clear, marketable title, can greatly impact the ability of a municipality to direct the transfer of vacant and abandoned property into responsible hands. See Figure 6 on page 32 for some of the available tax enforcement processes in Indianapolis.

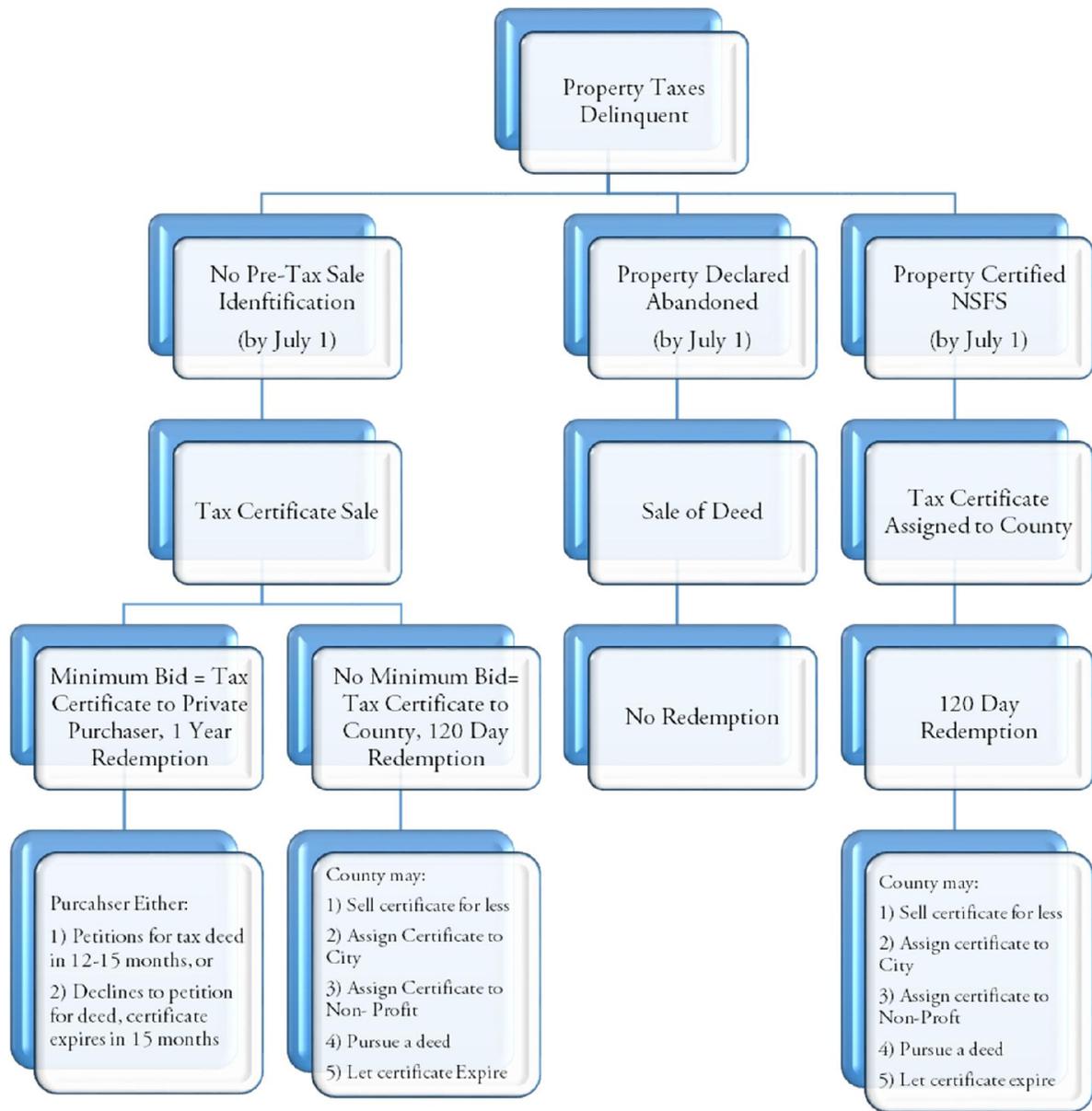


Figure 6 – Options to Transfer Tax Delinquent Property in Indiana

TAX CERTIFICATE SALE PROCEDURES

In Marion County, property taxes are due in two payments: a spring installment and a fall installment.²⁸ The Treasurer’s office conducts a tax sale to recover unpaid taxes once a year in October. The tax sale occurs roughly eighteen (18) months after the initial property tax installment was first delinquent. The tax sale is a public auction and the minimum bid on a property is the full amount of the unpaid taxes and special assessments, interest, penalties and associated costs. A purchaser at the tax sale (tax sale purchaser) acquires a lien (also called a “tax certificate”) on the property, not title, which grants the tax sale purchaser the power to collect the delinquent taxes and assessments, including additional interest and penalties. An owner can redeem the property within one year of the tax sale by offering full payment of all delinquent taxes plus assessments, penalties and interest. If the property is not redeemed, the tax sale purchaser can present a certificate to the Auditor, who will petition for a tax deed. Those individuals who own property containing either unpaid property taxes or unsafe building law violations are barred from participation in the tax sale. If an individual purchases a tax certificate on a vacant and abandoned property, the local government is no longer able to force a transfer of that property to responsible hands without paying the tax sale purchaser the value of the certificate and all interest and penalties.

Penalties are applied to delinquent taxes at a number of stages. For example, when property taxes are first delinquent, a penalty of 10% is assessed to the unpaid amount, unless the unpaid amount is paid within thirty days of the date of delinquency, in which case the penalty is 5%. Once the tax certificate is sold, the property can be redeemed for 110% of the value of the tax certificate if paid within six months of the tax certificate sale, or 115% of the value of the tax certificate if redeemed more than six months but less than one year after the sale. Any amount the tax certificate purchaser pays over the minimum bid accrues annual interest at 5%. In addition, any taxes or assessments assessed after the sale of the tax certificate and paid by the tax certificate purchaser must be paid back with 5% annual interest.²⁹

Within six (6) months of the date the tax certificate was sold, the County sends a notice to all parties with a substantial interest of record in the property (a) that a tax certificate was sold and (b) of the length of the one-year redemption period. Then, in Marion County at least, the County again sends notice and petitions the court for the deed to the property at the expiration

²⁸ Delinquent tax enforcement tools can be found in IC §§ 6-1.1-24-1 *et seq.* and IC §§ 6-1.1-25-1 *et seq.*

²⁹ So if the tax certificate, which includes delinquent penalties assessed before the sale, is sold for \$1,000 more than the minimum bid of \$4,000, redemption of the property one year from the date of the tax certificate sale would require the following: (a) a payment of the full certificate value of \$5,000, (b) plus \$750, which is 115% of the value of the certificate, (c) plus \$50 in annual interest for the amount paid over the minimum bid, (d) plus interest of \$25 on the \$1,000 in additional taxes or assessments paid six months after the certificate sale by the tax certificate purchaser. The total penalties and interest on the \$5,000 tax certificate if redeemed one year from the date the certificate was sold, excluding other costs and fees, could thus be \$825 (this does not include penalties already added to the \$5,000 tax certificate prior to the sale).

of the redemption period. Marion County officials report doing so in every case to facilitate the acquisition of the deed, though the law also allows the tax sale purchaser to file the same action.

Clear, marketable and insurable title at the end of the delinquent tax enforcement process is achievable when any party that holds a legally protected property interest is provided proper notice. The notice must be reasonably calculated to inform parties of the proceedings to compel the transfer of property and an opportunity to be heard. This requirement is sometimes referred to as “*Mennonite* quality notice” after a United States Supreme Court decision which outlined the applicable standard for local governments to provide minimum constitutional due process to property owners facing the transfer of property through the delinquent tax enforcement process.³⁰

State law does not appear to mandate *Mennonite* quality notice at any point in the tax sale process. The law requires that the County provide notice that the tax certificate has been sold and that a petition for deed has been filed to the property owner and any other party with a substantial interest of record in the property.³¹ *Mennonite* quality notice, however, requires notice to *any party with a legally protected property interest*, not just a *substantial interest of record* in the property.

In Marion County, a title search is conducted to ascertain the identity of the parties required to receive notice prior to mailing notice that the tax certificate was sold. Ensuring that this level of notice meets the constitutional standard and not just the standard required by state law is crucial to ensuring property that passes through the Marion County tax sale procedure emerges with clear or marketable title that a local title company will insure. Even though state law also states that if the all of the required procedures are met then the deed to a property purchased through the tax sale process is free and clear of past encumbrances,³² those interviewed reported that many purchasers must still pursue a separate quiet title action to extinguish all claims to the property in an effort to acquire clear, insurable title.

³⁰ See *Mennonite Board of Missions v. Adams*, 462 U.S. 791 (1983).

³¹ IC § 6-1.1-25-4.5.

³² IC § 6-1.1-25-4.6.

| | |
|----------------------------|--|
| May Year 1 | •Spring Y1 property tax installment delinquent |
| November Year 1 | •Fall Y1 property tax installment delinquent |
| May Year 2 | •Spring Y2 property tax installment due |
| July Year 2 | •Property certified for tax sale |
| October Year 2 | •Tax certificate sold to highest bidder |
| October Year 3 | •One-year redemption period expires |
| January Year 4 | •Deadline for certificate purchaser to petition for deed |
| TOTAL ENFORCEMENT TIMELINE | •Up to 33 months |

Figure 7 - Tax Sale Timeline in Indiana

ASSIGNMENT OF TAX CERTIFICATES TO COUNTY EXECUTIVE

For property that does not receive the minimum bid at the tax sale, the tax certificate is automatically assigned to the County Executive, who state law (at least for this provision of Indiana law) defines as the Mayor.³³ Tax certificates assigned to the County Executive are subject to a 120-day redemption period, as opposed to one-year for those certificates sold at the tax sale, and the County Executive has several options to dispose of the certificate. The County Executive is permitted to:

- Conduct a surplus sale, where it may offer the tax certificate at a lower minimum bid.
- Assign the tax certificate to a political subdivision.
- Assign the tax certificate to one or more non-profits after resolution, notice and a public hearing is conducted by the county board of commissioners.
- Pursue a deed to the property. Subsequent purchasers of the deed may still need to pursue a separate action to clear title.

³³ The term “County Executive” is somewhat inconsistent in Indiana law with respect to Indianapolis, the only consolidated city-county government in the state. In the statute referenced here, “County Executive” means the mayor of the consolidated city; but in others the term refers to the county board of commissioners. Some additional statutes fail to define the term at all. However, a 1995 Mayoral Executive Order still in effect today designates the task of disposing of surplus property acquired through the tax sale entirely to the Board of Marion County Commissioners.

- Do nothing and allow the property to go through the tax enforcement process again the next year.

The fact that tax certificates that do not receive the minimum bid at the tax sale are automatically assigned to the County Executive is a powerful tool, because it provides the County Executive the ability to influence the end-user of the property through an expedited process. Many vacant and abandoned properties, or problem properties that simply contain several indicators of future abandonment like open code violations, may be subject to this process because participants in the initial offering at the tax sale would reject investment in such property perceived as low value. A standing 1995 Mayoral Executive Order grants the Marion County Board of Commissioners the authority to act on behalf of the Mayor as the disposing agent for certificates or property acquired through this process. This poses a barrier to effective use of this leverage point when the City and the County fail to agree on the most productive method of disposal.

| | |
|----------------------------|--|
| May Year 1 | •Spring Y1 property tax installment delinquent |
| November Year 1 | •Fall Y1 property tax installment delinquent |
| May Year 2 | •Spring Y2 property tax installment due |
| July Year 2 | •Property certified for tax sale |
| October Year 2 | •Tax certificate assigned to County |
| January Year 3 | •120-day redemption period expires |
| April Year 3 | •Deadline for certificate purchaser to petition for deed |
| TOTAL ENFORCEMENT TIMELINE | •Up to 23 Months |

Figure 8 - Tax Sale Timeline in Indiana: No Minimum Bid

EXPEDITED AND AUGMENTED DELINQUENT PROPERTY TAX ENFORCEMENT ON VACANT AND ABANDONED PROPERTY

Indiana has also enacted a number of state law changes intended to give local governments the ability to identify potentially abandoned or unsafe properties in advance of the tax sale and thus move those properties more quickly through the tax enforcement process.³⁴ Those tools include:

³⁴ For delinquent tax enforcement tools, see IC §§ 6-1.1-24-1 et seq. and IC §§ 6-1.1-25-1 et seq. For the process to declare a property “abandoned” see IC §§ 36-7-37-1 et seq. For various other redevelopment tools, see § 36-7 generally.

- Civil penalties and abatement costs secured under the UBL can be certified to the County Treasurer and be included as a special assessment on the property tax bill (see discussion of UBL penalties, *supra*).
- The ability to conduct a separate public auction for the deed of those properties certified as “abandoned,”³⁵ for which there is no right of redemption. Unlike other tax sale procedures, property certified as “abandoned” under this section only needs to have been tax delinquent for the prior year’s fall installment, not the prior year’s spring installment as well.
- The ability to exclude a property from the tax sale that is Not Suitable for Sale (NSFS) and automatically assign the tax certificate to the County. Property is NSFS if the property contains an environmental hazard or unsafe building condition for which the cost of abatement will exceed the fair market value of the property. The assignment of the tax certificate to the County decreases the redemption period from one year to 120-days.
- The ability to exclude certain groups of properties from the tax sale and automatically assign the deeds to the County Executive for properties that are serially tax delinquent. Serially tax delinquency can be found where there are ten (10) or more properties on the list of property eligible for the tax sale and each property is owned by the same person or group of persons (including corporations and other entities) and was acquired by the owner in a previous tax sale.
- The ability of either the County or City to extinguish back taxes and provide clear, marketable title for those properties for which it acquires the deed through the surplus process.

These legal tools give the City-County, and by extension the tax-payers, the ability to direct the path of a vacant and abandoned property in a manner consistent with local priorities and appropriate future use. The ability to include public funds expended in enforcing the UBL by adding costs and penalties to the property tax bill is already in use and highlights an optimal point at which the code enforcement and delinquent tax enforcement systems are designed to interact with each other. For example, the addition of UBL penalties and costs to the property tax bill incentivizes owners to pay by ensuring that non-payment has the same consequences as non-payment of property taxes – a potential loss of the property. In addition, the inclusion of UBL penalties and costs can be done strategically in order to discourage private, speculative investment in certain property offered at the tax sale. Utilizing this kind of strategy highlights

³⁵ As discussed in Section 1, Figure 4, a property is considered “abandoned” if it meets at least one of ten criteria, including, for example, whether or not DCE has issued an order to board the property, multiple window panes are broken, utilities have been shut off, there is evidence that the owner intended to abandon the property, there are accumulations of debris or trash in the yard, or if the property is generally regarded as deteriorating. IC § 32-30-10.6-5.

the importance of having a shared City-County vision, one that contemplates not only the intended process but that has a clear, defined path to productive use for vacant and abandoned properties.

EXPEDITED SALE OF ABANDONED PROPERTY, NSFS PROPERTY, AND SERIAL TAX DELINQUENCIES

In addition to the tax sale and the surplus sale procedures, there three significant tools that can be used to expedite the transfer of tax-delinquent vacant and abandoned property. Each tool requires the City to identify properties as either “abandoned,” NSFS, or serially tax delinquent in advance of the tax sale.³⁶

Property Declared Abandoned

The sale of property declared “abandoned” is a new tool as of 2015 and is unique because while the property is still transferred for unpaid taxes, the transfer is effectuated through a separate sale where a fee simple interest is conveyed and a deed is issued to the property for which there is no right of redemption. Also unique is that properties declared “abandoned” need only have been delinquent for the fall tax installment, meaning that property may be transferred to a new owner in just under a year, as opposed to the properties offered at the tax sale which may not be transferred for more than three and one-half years from the date of initial delinquency.

The process of declaring a property “abandoned,” however, is not without procedural hurdles. The most prominent issue is that the declaration of a property as “abandoned” requires an entirely separate legal proceeding and determination in advance of the tax sale.³⁷ Other difficulties include:

- The proceeding must be completed within a six-month window; between January 1, when the delinquent property list from the fall installment is available, and July 1, when the certified list of abandoned properties must be delivered to the County.
- In addition to court and statutorily mandated notice requirements for the declaration of abandonment proceeding, the City must provide notice to the property owner and any party with a substantial interest of record at least 120-days in advance of either (1) its petition to the court to seek the declaration of the property as “abandoned,” or (2) of the City’s intent to certify the property as “abandoned” to the County by July 1.

³⁶ In order to ensure the use of the declaration of abandonment or NSFS expedited procedures, the City must provide a list of target properties by July 1 of the year in which the tax sale will be conducted. Properties sought to be identified as serially tax delinquent are identified after July 1 but before the tax sale.

³⁷ The same declaration of a property as “abandoned” may also be used to subject certain buildings under the UBL to receivership, as discussed in Section 3.

- If the owner appears or notifies the City that he or she is the owner of record, then the abandonment proceeding is terminated.
- Various other procedural hurdles that apply to court proceedings generally exist, including the inability to control the court’s calendar and availability, and the time required for the court to issue orders.

Fortunately, the law also allows the City to seek a declaration of abandonment through the DCE administrative hearing process. Though the City must still provide the 120-day notice of its intent to certify the property to the County as “abandoned,” the administrative process allows for a more streamlined approach that could potentially be accomplished in the six-month window. The administrative process has not been utilized at this point, and it is unclear as to how this might be implemented in the future.

| | |
|----------------------------|--|
| November Year 1 | • Fall Y1 property tax installment delinquent |
| May Year 2 | • Spring Y2 property tax installment due |
| January - June Year 2 | • Court process to declare property abandoned |
| July Year 2 | • Property certified to Treasurer as abandoned |
| September/October Year 2 | • Sale of deed to the property, no redemption |
| TOTAL ENFORCEMENT TIMELINE | • Up to 11 months |

Figure 9 - Tax Sale Timeline in Indiana: Property Declared Abandoned

Property Certified NSFS

Property can be excluded from the tax sale if the City seeks to certify it as NSFS. The designation of property deemed NSFS must also be made in the window of time between January 1 and July 1, but does not require a separate legal proceeding to make the determination. Instead, the Mayor or his designee needs to certify that the property contains environmental hazards, hazardous waste or unsafe building violations, where the cost of abating or remediating the violations would exceed the fair market value of the property. Notice of this certification needs to be sent to all owners and parties with a substantial interest of record in the property within 10 days of the Mayor’s determination. The opportunity for hearing is then conducted by the court directly prior to the tax sale. This tool is new as of 2015 and does not appear to have been attempted.

| | |
|----------------------------|--|
| May Year 1 | •Spring Y1 property tax installment delinquent |
| November Year 1 | •Fall Y1 property tax installment delinquent |
| May Year 2 | •Spring Y2 property tax installment due |
| January - June Year 2 | •Notice of intention to certify property as NSFS |
| July Year 2 | •Property certified NSFS |
| October Year 2 | •Tax certificate assigned to County |
| January Year 3 | •120-day redemption period expires |
| April Year 3 | •Deadline for certificate purchaser to petition for deed |
| TOTAL ENFORCEMENT TIMELINE | •Up to 23 Months |

Figure 10 - Tax Sale Timeline in Indiana: Property NSFS

Serially Tax Delinquent Property

The County Executive³⁸ is also permitted to review the list of properties eligible for the initial tax sale after July 1 to determine if any group of properties are serial tax delinquent. For property to qualify as serial tax delinquent, the County Executive must reasonably believe that ten (10) or more of the properties eligible for the tax sale are owned by the same person or group of persons (the term “person” includes corporations, limited liability companies or other legal entities) and that each of those properties was acquired by the owner in a previous tax sale. The County Executive is then entitled to file a petition with the court to find the properties serially delinquent. After receiving the petition, the court may issue an order to appear no earlier than thirty (30) days nor later than sixty (60) days to the owner, any party with a substantial interest of record in the property, and any other appropriate party to object to the issue of serial delinquency. Upon entry of an order approving a finding of serial tax delinquency, the County Executive is granted a lien against each property and may request that the County Auditor execute and deliver deeds to each property in favor of the County Executive. This request must be made within six (6) months of the entry of the order, and the County Auditor must issue the deeds within sixty (60) days of the request. Serial tax delinquency is another new tool added to state law in 2015 that also does not appear to have been used.

³⁸ The term County Executive is not defined in the serial tax delinquent provisions.



Figure 11 - Tax Sale Timeline: Serial Tax Delinquent

B. 123 INDY STREET AND EXAMPLE OF HOW DELINQUENT PROPERTY TAXES MIGHT BE ENFORCED

Whether and how delinquent property taxes are enforced at the fictional 123 Indy Street will have a significant impact on its potential future use. In light of DCE’s repeated inspections and the condition of the property, it was not a surprise to find that the property tax bill, which included nearly \$6,000 in special assessments from unpaid UBL penalties and fees (from the repair order, boarding the property, and mowing the yard), had not been paid for the last three installments. Luckily, DCE and Renew had identified 123 Indy Street as prime for redevelopment due to its location in a neighborhood market with potential to improve. After eliminating the possibility of having the property declared NSFS because the property would not cost more to abate the UBL conditions than its fair market value, DCE decided to attempt to have the property declared abandoned to force an expedited sale through the tax enforcement process. Even though the County Treasurer was able to provide this list as early as January 1, the lead times and notice provisions imposed by the court process meant that the City was unable to have the property declared abandoned by July 1. The County was therefore unable to include the property on a list of properties eligible for expedited sale.

Accordingly, 123 Indy Street was added to the list of all delinquent properties available at the October tax certificate sale. Perhaps because of the condition of the property or the added UBL penalties or both, no one offered the minimum bid at the sale and the tax certificate was automatically assigned to the County. The property did not receive any interest from a purchaser at the surplus sale of tax certificates because the required costs of either rehabilitation or demolition, and to file a quiet title action, were too high. Three months after the redemption period expired and no petition for a deed was pursued, Mrs. Hoosier remained on title to the property with little hope of a transfer to a responsible owner.

C. RECOMMENDATIONS FOR IMPROVEMENTS TO PAY IT UP, GIVE IT UP TOOLS & STRATEGIES

Short Term Recommendations = Achievable Within 12 Months

- 3.1. **Prioritize ensuring property has clear, marketable title.** Consider making a top priority of the Working Group an established process to support the County Treasurer in its efforts to provide *Mennonite* quality notice in all phases of the tax sale process. Continue to extinguish liens from past taxes and assessments to ensure property acquired by the County and transferred to DMD for purposes of the land banking program³⁹ can easily offer clear, marketable title to potential purchasers and developers, regardless of which tax enforcement sale or process was used to acquire the property.
- 3.2. **Task members of the Working Group to convene a meeting with local title insurers and tax sale purchasers.** Use the meeting to determine what, if any, processes or procedures could be adopted to ensure the title conveyed through the delinquent tax enforcement process is marketable and insurable, such that an additional quiet title action is unnecessary. Recognizing that the burden of providing notice throughout the delinquent property tax enforcement process falls to the County, also task the Working Group with determining whether and how it could help support the County implement improved processes or procedures, if any, that result from such a meeting.
- 3.3. **Continue to work with the County Treasurer's office to examine the list of properties that do not receive the minimum bid at the tax sale and are subject to the expedited redemption period.** Through the Working Group, strategically identify and work with

³⁹ See Section 4 for discussion of the City's land banking program.

the County to acquire property through the land banking program housed in DMD for redevelopment purposes and priorities identified by the Working Group.

- 3.4. **Task the Working Group to review the process by which a property must be declared abandoned to qualify the property for the expedited sale of the deed instead of the tax sale.** Ensure that the Working Group, with input from the County Treasurer, establishes a clear and coordinated purpose for when and how the City seeks to declare a property as abandoned. Once that message and purpose is clear and all parties are on the same page, consider meeting with the court to identify and address any concerns with utilizing the state law-authorized administrative process of declaring property vacant or abandoned, making the case that the 6-month window is not a sufficient time period in which to complete the court process of declaring property vacant or abandoned.
- 3.5. **Consider piloting the certification of property NSFS where the cost to abate violations under the UBL would exceed the fair market value of the property.** For properties with relatively low market value, it may be that the cost of repairs and the cost of removing weeds, trash and debris will exceed the fair market value.
- 3.6. **Consider piloting the certification of property NSFS for any and all properties subject to demolition orders, thereby expediting the acquisition of title.** Consider adoption of standing Council or Mayoral Executive Order for transfer of all such properties, once title is with the City, to Renew or subsequent Hardest Hit Fund non-profit partner in bulk transfers for Hardest Hit Fund demolition program. Any such Order should also contemplate a method to support post-transfer expenditures that are not covered under the current Hardest Hit Fund program and may be related to maintenance fees or property tax payments made by Renew or other Hardest Hit Fund non-profit partner.
- 3.7. **Consider piloting the identification of serially tax delinquent properties.** After July 1, the City should study the list of properties eligible for the tax sale and attempt to identify ten (10) or more properties owned by the same person or group of persons and whether those properties were acquired through a previous tax sale. Assess the feasibility of identifying serially tax delinquent property after July 1 but in advance of the tax sale given notice and other requirements. If such identification is feasible, consider notifying the court of the City's intent before filing a petition in order to address any concerns the court might have with the process or the law, generally. In addition, ensure Mennonite quality notice is provided. Because this process could result in the City receiving a deed to each property, only consider this option if the properties are ones that make sense to acquire based on priorities established by the Working Group and capacity to hold or dispose of the properties.

Long Term Recommendations = Achievable in More Than 12 Months

- 3.8. **Consider exploring the impact of the 1995 Mayoral Order.** To ensure the tax sale tools are being utilized in a manner consistent with the shared vision of the Working Group, consider either revising or re-interpreting the 1995 Mayoral Order granting the authority to dispose of property acquired through the surplus process of the tax sale to the Marion County Board of Commissioners. This transfer of the Mayor's statutory authority adds a layer of complexity and inefficiency to many of the redevelopment tools authorized for use by the MDC under state law.⁴⁰
- 3.9. **Pilot each available tool and conduct a comprehensive assessment.** Once each available tool has been thoroughly vetted and assessed, consider whether the current toolbox, especially with respect to expedited property tax enforcement, is sufficient to achieve the goals of the Working Group. Only if the available tools prove insufficient, consider recommending additional state law changes if appropriate, including whether or not past tools like the former expedited tax sale procedure (where property was subjected to the tax sale surplus procedure if it was delinquent for two consecutive tax installments and contained an open UBL violation) are viable options.
- 3.10. **Amend state law to ensure tax sale notice requirements mandate *Mennonite* quality notice.** One suggestion could be to amend the law to require *all* parties with a legally protected interest be notified once, such as when the County or certificate holder petition the court for a deed to the property.
- 3.11. **Consider amending state law to contemplate a single legal proceeding in which tax delinquent property is certified as abandoned and sold.** Consider that when property identified by the City in advance of the tax sale is declared abandoned that, after appropriate notice, the deed is immediately offered for sale in the same legal proceeding to qualified bidders, or to a land bank for a credit bid, which allows the land bank to bid the minimum amount for a property in exchange for assumption of the responsibility of the unpaid taxes.
- 3.12. **Consider amending state law to eliminate the sale of tax certificates and the post-sale redemption period.** Instead, consider offering a single sale of delinquent property, after appropriate constitutional notice, at which a fee simple interest is conveyed and a deed to the property is issued. The property should be offered for a minimum bid that

⁴⁰ See, for example, IC § 36-7-15.1-1 *et seq.*, authorizing, in part, the MDC's acquisition of certain properties for no cost and the extinguishment of past taxes and assessments.

includes all prior and current years' unpaid taxes, special assessments, UBL and other code enforcement penalties and abatement costs, fully loaded costs of the sale and noticing requirements, plus applicable interest and penalties. A key part of this recommendation is that any change must continue to afford property owners an opportunity to redeem by paying the total amount of unpaid taxes, assessments and other costs and penalties at any point prior to the sale of the property.

SECTION 4: LAND BANKING PROGRAM: ACQUIRING, MAINTAINING, & TRANSFERRING TO RESPONSIBLE OWNERSHIP

There is no single reason why vacant and abandoned properties in Indianapolis continue to persist, though there are a number of contributing factors that were made clear in our conversations and interviews. Some reasons may include, for example, the consolidated City-County is operating at a \$50 million structural deficit influenced in part by state tax caps, widespread and generous property tax exemptions, the loss of interest and penalties from the sale of tax certificates to private investors, and the loss of middle to high income residents to surrounding counties. The fragmented division of responsibilities across City-County agencies has led to silo-ed information and sometimes inefficient procedures.

However, even in the event every recommendation in this report is adopted and implemented, and even in the event that all housing and building code enforcement procedures, coupled with a streamlined and highly effective delinquent property tax enforcement system, were implemented perfectly, there will still be vacancy coupled with abandonment in Indianapolis. For at least the next several years, there will exist in Indianapolis a universe of vacant and abandoned properties which must be maintained and cared for to reduce harm to the public, but for which there is no immediate or even intermediate productive use. For this reason, a strategy to hold and maintain such properties must be in place to at least reduce the overall costs and burden such properties place on neighbors and neighborhoods, and to assemble and hold clear title to the land so that when productive uses or meaningful development opportunities arise, the land may be efficiently disposed of for such use. Land banks and land banking programs are utilized throughout the country for just this purpose.

A. LAND BANKING AND REUSE TOOLS

Indiana law provides a process by which the City can acquire property from the County for no payment if it is acquired for purposes of redevelopment through the land bank.⁴¹ The law also provides that taxes and assessments for property acquired by the City through the tax sale process may be extinguished. The ability of a land banking program to acquire clear, marketable

⁴¹ See, for example, IC § 6-1.1-25-9(e).

title is vital to ensuring a smooth transfer to a new, responsible owner. Land banks and land banking programs are critical tools for addressing those vacant and abandoned properties that have been rejected by the open market and are left as a liability to neighborhoods and communities. The role of a land banking program is to acquire such property, eliminate liabilities by clearing title, and then transfer property to a responsible new owner consistent with local needs and priorities. A successful program should be able to leverage private capital and individual interest in an accountable way, focused on the long-term productive use of the properties.⁴²

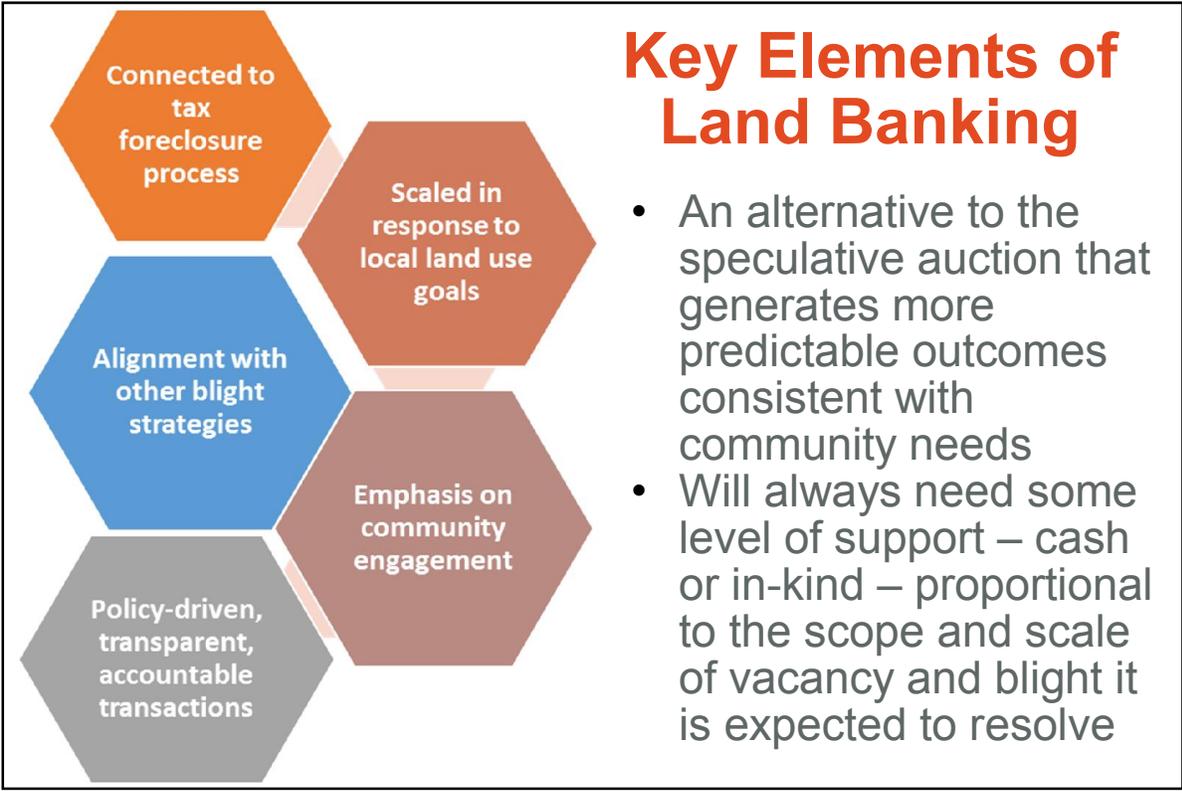


Figure 12 – Key Elements of Land Banking

⁴² For a complete discussion on land banks and land banking programs, including model land bank enabling legislation, see Frank Alexander's *Land Banks and Land Banking, 2nd Edition 2015*.

Indianapolis currently operates a land banking program authorized by state law out of the DMD in conjunction with Renew.⁴³ The program is overseen by the Metropolitan Development Commission (MDC) and allows the City to acquire property through various systems, including the tax enforcement process, for the express purpose of transferring that property for redevelopment to qualified organizations and individuals. Renew serves as the marketing and disposition arm of this program, helping to ensure that buyers meet the qualifications necessary to participate in the disposition process. For the last two years, the land banking program has not acquired any property and is currently working to dispose of the roughly 700 parcels in its current inventory.

Despite a lack of public confidence prompted by recent events, there are a number of aspects of the land banking program that are working well. For example, the transition to the use of Renew to serve as a reliable marketing and disposition arm for the City's inventory has helped to build trust in the program.

There are several key elements of an optimal land banking system, however, which are still lacking. Property acquisition is inadequate for several reasons. First, vacant and abandoned properties are not always accessible to the land banking program because those properties are often first offered to tax sale investors. In addition, the cost to acquire and then to market such properties is driven up by the failure to extinguish past liens upon acquisition. A clear set of acquisition policies and priorities could enable City-County leaders to utilize the land banking program as an alternative to the speculative auction and would generate more predictable outcomes consistent with community needs.

The lack of a dedicated funding stream leads to additional problems with maintenance of the land banking program's inventory. A state law provision does allow the City to recover property taxes for the first year in which a property sold through the land banking program is subject to taxation and apply the money to fund the program, but it does not appear as though this provision is in use.⁴⁴ Though still navigating the most effective way to ensure inventory is safely and responsibly maintained, the current method of employing a third party vendor can be costly and inefficient.

There are several community development corporations and various community groups that have some capacity to acquire properties that have been land banked and put those properties back to productive use. But state law imposes various legal constraints that limit disposition of the land banking program's inventory. For example, non-profits can only acquire property from the land banking program if the non-profit primarily either provides affordable housing to low-income residents or serves or benefits low to moderately-low income families and transferees

⁴³ The powers granted to the land banking program can be found throughout Article 36, Title 7 of the Indiana Code.

⁴⁴ See IC § 36-1-8-16.

and if the non-profit has been in business for at least one year.⁴⁵ Due to the low number of non-profits that meet these and other restrictions, local capacity to acquire vacant and abandoned properties is inadequate.

Some of the legal tools which state law authorizes the current land banking program to utilize include:

- The ability to acquire problematic or tax delinquent residential properties and convey them to not-for-profits (with certain statutory restrictions), abutting neighbors, individuals and other responsible developers.
- The ability to take steps towards clear, marketable title to a property by extinguishing back taxes and most liens through either the Marion County Board of Commissioners or the MDC.
- The ability to acquire property from the County for less than the minimum bid or for no cost if that property did not receive the minimum bid at the tax sale and goes into the surplus sale procedure.⁴⁶
- The ability to dispose of property in a public MDC hearing process.
- The ability to engage in bulk transfers of property in the land banking inventory where it “will best serve the interest of the community” or to “facilitate convenient disposition.”
- The ability of the County Executive that sells real property to recover all property taxes paid in the first year the property is subject to taxation after it is transferred by the County Executive.⁴⁷ Money recovered from this provision can be deposited in the unsafe building fund, the housing fund, the general fund, or the redevelopment fund.

New land bank enabling legislation was recently passed in Indiana and will be effective July 1, 2016.⁴⁸ A brief review revealed that the legislation authorizes certain municipalities, including Indianapolis, to create a land bank that may enter into contracts and acquire, lease, improve, repair, renovate, and dispose of property, among other powers. It allows the land bank to enter into agreements with other municipal organizations, like the City-County, to hold, manage or dispose of property. It also provides the power to dispose of property for a broad variety of

⁴⁵ IC § 36-7-15.1-15.1.

⁴⁶ See Section 3, Subsection A.

⁴⁷ IC § 36-1-8-16. The County Executive that sells the property must send a copy of the resolution disposing of the property to the County Auditor.

⁴⁸ Indiana General Assembly, Senate Enrolled Act 232 (2016); Public Law 216 (2016) at <https://iga.in.gov/legislative/2016/bills/senate/232#document-38f4e3f7>.

purposes including, for example, for development that will act as a catalyst for further redevelopment, to support a strategic plan for neighborhood stabilization, to reduce blight, to revitalize or stabilize neighborhoods, to return the property to productive, tax-paying status, to be used for the development of side-lots or green-spaces, and for affordable housing. In addition, qualified purchasers can be any party, as long as they do not have any debt related to unpaid taxes or tax sale costs and expenses, and corporations or entities formed outside of Indiana must apply for a certificate of authority from the Indiana Secretary of State to purchase land bank property.

Two important powers the legislation fails to grant to a new land bank formed under this law include the lack of sufficient dedicated funding for the land bank to operate, and the lack of routine, direct access to vacant and abandoned property through the tax sale process.⁴⁹ Local leaders and officials in charge of the land banking program already in place between DMD and Renew should discuss whether this new legislation provides a more appropriate tool to address vacant and abandoned properties in Indianapolis.

B. LAND BANKING OBSERVATIONS AND RECOMMENDATIONS

Short Term Recommendations = Achievable Within 12 Months

- 4.1. **As one of its first priorities, task the Working Group with exploring the current structure of the land bank program and its relationship with Renew.** Now is the time to re-consider whether the land bank program should be moved fully in-house once again and made a solely public governmental entity that partners with nonprofit and private partners on dispositions. The first step must be to ask the question, “what problem is the land bank trying to solve?” When that question is answered, consider whether the new land bank legislation offers more viable options to address the problem through the creation of a public land bank. Regardless of the ultimate decision, the working group must prioritize the disposition of the roughly 700 properties in the DMD inventory, and identify dedicated funding sources for current and future land bank activities.
- 4.2. **Task the Working Group to explore whether the recovery of the first year of property taxes of those properties sold through the Indy Land Bank and Renew is being deposited in the appropriate fund.** If not, further explore whether state law changes might be necessary to provide the land banking program a more appropriate dedicated

⁴⁹ The new legislation does offer a land bank the ability to acquire certain properties or tax certificates available through the surplus sale process for no cost within six months of the land bank’s formation, but that authority appears to be a one-time authorization.

revenue stream or if the new land bank enabling legislation might be expanded to incorporate a dedicated revenue stream. For an example of relevant recommended state law changes to consider, please see Frank Alexander's *Land Banks and Land Banking, 2nd Edition 2015*, Appendix D, Section 11, page 148.

- 4.3. **Ensure transparent redevelopment policies and procedures.** Transparency is critical – the Working Group must set clear policies and priorities based on the new shared vision and strategies to address Vacant and abandoned Property. Renew has done a commendable job of ensuring its processes and priorities are clearly indicated on its website; consider building on those documents.
- 4.4. **Each part of the land banking program must be adequately represented in the Working Group.** Participants should include the manager of the land banking program within DMD, a DMD representative who serves on the MDC, and a representative from Renew. Their inclusion is important to ensure coordination with the Working Group, particularly as it relates to strategic acquisition and achievable end-use of property.
- 4.5. **Improve maintenance of land banking program inventory through community involvement.** Task the Working Group to explore programs from around the country, and to take a closer look at programs currently underway in Indianapolis that employ residents, ex-offenders, or youth to help maintain the land banking program's inventory by performing basic maintenance or rehab work.

Long Term Recommendations = Achievable in More Than 12 Months

- 4.6. **Consider strengthening the ties of the land banking program to the tax sale process through either policy or state law changes.** The land banking program should be able to acquire properties not just through the surplus sale procedure⁵⁰ but from each stage of the tax sale process.
- 4.7. **Consider exploring state law changes that would broaden the land banking program's disposition powers.** Changes could include the purposes for which the property may be used and to whom it may be transferred. For example, a simple change would be to expand the types of non-profits that are currently qualified to purchase properties through the land banking program and to grant broad discretion to the land banking program to qualify such purchasers based on the purchaser's capacity to achieve a productive, stabilizing use of the property. The disposition authority in the new land

⁵⁰ See Section 3, Subsection A.

bank enabling legislation provides an example of improved disposition powers, but more research needs to be done to reveal whether the legislation's funding and acquisition limitations for now make it a less than ideal replacement for the current program. Consider also comparing the sample land bank enabling legislation in Frank Alexander's *Land Banks and Land Banking, 2nd Edition 2015*, Appendix D to the new Indiana legislation.

CONCLUSION

The foundation of any effort to improve the use of existing tools must begin with a strategic, transparent, and achievable plan for how each tool is used and in which scenario. The optimal framework for how each of the four systems on which this report focuses should interact with each other could result in the following high-level workflow:

Use improved, shared data system to vacant and abandoned enforcement activity based on property health, neighborhood priorities and market conditions.



Strategically deploy enforcement tools (e.g., UBL) based on fix it up, pay it up, give it up metrics. Continue to add penalties for failure to comply and costs expended to the property tax bill as leverage to compel either payment or a transfer of the problem property.



Take advantage of the tax sale's expedited redemption periods and alternate sale procedures for all vacant and abandoned properties.



Utilize land banking program in partnership with the County to take title to all vacant and abandoned property, working together to extinguish back taxes and past liens to ensure clear and marketable title on inventoried property.

The above represents a high-level framework that is achievable based on the current systems available in Indianapolis. But the lack of a shared vision among City-County agencies, various revenue constraints, and sometimes onerous legal procedures, in addition to limited public and private capacity to acquire vacant and abandoned properties all work to create barriers to effective coordination of these systems.

Despite the barriers that exist, it is abundantly clear that leadership in Indianapolis has the expertise and desire necessary to effectively, efficiently, and equitably deploy the tools at their disposal to combat vacancy and abandonment. The available tools in Indianapolis could be sufficient when deployed as part of a coordinated and strategic effort between the City, County and community stakeholders.

The successful integration of data collection, housing and building code enforcement, delinquent property tax enforcement and land banking has a much greater collective impact than any one system deployed on its own. This report has attempted to provide observations and recommendations to clarify the existing toolbox for local policy makers, to offer ideas on how to establish a framework to mobilize those tools in a coordinated and effective manner, and to offer recommendations on short, mid and long term strategies to improve the processes.

We hope that the observations and recommendations provided in this report provide a foundation for further discussions and analysis among City, County, and community leaders in Indianapolis. Any decisions regarding whether these recommendations should be pursued are left to Indianapolis City-County and community leaders.

APPENDIX A: INTERVIEW LIST

| NAME | TITLE | AGENCY |
|---|--|---|
| Jeff Miller | Councilor, District 19 | City-County Council of Marion County and Indianapolis |
| Courtney Bennett | Deputy Director | Department of Code Enforcement (City) |
| Ryan Click | Chief Program Engineer | Department of Code Enforcement (City) |
| Rose Delarme | Program Manager, Nuisance Abatement | Department of Code Enforcement (City) |
| Jacqie Heikes | Administrator-Property Safety & Maintenance Services | Department of Code Enforcement (City) |
| John Krause | Administrative Hearing Officer | Department of Code Enforcement (City) |
| Jason Larrison | Director | Department of Code Enforcement (City) |
| Daniel Smith | Inspector | Department of Code Enforcement (City) |
| Lydia Watson | Assistant Program Engineer | Department of Code Enforcement (City) |
| Thomas Weber | Supervising Inspector | Department of Code Enforcement (City) |
| Brad Beaubien | Administrator of Planning | Department of Metropolitan Development (City) |
| Mark Forcum *No longer with the City | Asset Manager | Department of Metropolitan Development (City) |
| Emily Mack | Director | Department of Metropolitan Development (City) |
| David Price | Housing Director | Englewood Community Development Corporation |
| Justin Moed | State Representative, District 97 | Indiana House of Representatives |
| Suzanne Stanis | Director of Education and Information | Indiana Landmarks |
| Chad Lethig | Indianapolis Preservation Coordinator | Indiana Landmarks |
| Troy Riggs | Chief | Indianapolis Metropolitan Police Department |
| Kevin Wethington | Lieutenant | Indianapolis Metropolitan Police Department |
| Rob Evans | Vice President | Indianapolis Neighborhood Housing Partnership |
| Emily Wood | Director of Greenspace | Keep Indianapolis Beautiful |
| Bill Taft | Director | LISC |
| Tedd Grain | Deputy Director | LISC |

| | | |
|-----------------|--------------------------------------|--|
| Lee Evans | Chief Executive Officer | Mapleton Fall Creek |
| Tim McMillan | Manager | Marion County Public Health Department |
| Amy Jones | Supervising Attorney | Marion County Public Health Department |
| Claudia Fuentes | Treasurer | Marion County Treasurer |
| Cindy Land | Administrative Deputy | Marion County Treasurer |
| Jeff Bennett | Deputy Mayor of Economic Development | Mayor's Office |
| Taylor Schaffer | Communications Director | Mayor's Office |
| Steve Sullivan | President | Metropolitan Board of REALTORS |
| Chris Pryor | Director of Government Affairs | Metropolitan Board of REALTORS |
| Sheila Kinney | Assistant Corporation Counsel | Office of the Corporation Counsel (City) |
| Deborah Law | City Prosecutor | Office of the Corporation Counsel (City) |
| Katy Brett | Executive Director | Renew Indianapolis |
| Chris Hartley | Data Manager | Renew Indianapolis |

APPENDIX B: SUMMARY OF RECOMMENDATIONS

The recommendations offered in this report are presented as a menu of options for the City, County, Renew, and other community stakeholders to contemplate to reverse the negative impact vacant and abandoned properties have on Indianapolis residents. For ease of reference and to provide a framework for stakeholders to consider next steps, recommendations are organized into short term and long term goals, which are labeled clearly and correspond to the rough timeframes indicated.

Decisions as to which, if any, recommendations to implement and the timing for implementation are left entirely to City leaders and stakeholders with guidance from local counsel.

RECOMMENDATIONS FOR IMPROVED DATA COLLECTION & ANALYSIS

Short Term Recommendations = Achievable Within 12 Months

1.1. **Create a Vacant and Abandoned Properties Working Group (Working Group).** This Working Group should meet on at least a bi-weekly basis and be chaired by a high-level municipal executive with authority to obtain data points, set goals, track action items and maintain accountability from all municipal departments. Members of this Working Group should include, at a minimum, a representative from each of the following stakeholders:

- Mayor's Office
- DMD
- DCE
- County Treasurer's Office
- County Auditor's Office
- IMPD
- Office of the Corporation Counsel
- Indianapolis Fire Department
- Renew
- Private partners/investors
- Various community stakeholders, including neighborhood associations and local Community Development Corporations, for example

Despite recognizing the profound importance of attention to substandard occupied property and acknowledging that many vacant properties are not also abandoned, the focus of this Working Group should nevertheless be limited to properties that are vacant and abandoned because the processes for dealing with abandoned properties are in many cases distinctive. No matter the name used for this group, emphasize at all stages the focus on vacancy AND abandonment, as opposed to simply vacancy, or simply signs of abandonment. Coordinate the appointment of the high-level municipal executive with a public announcement of the Working Group to lay the foundation for community buy-in and participation.

- 1.2. **Charge Working Group with crafting a shared vision statement, strategies and tactics agreed upon by group members.** Formulate short-term and long-term goals for the Working Group. Early actions might be to share and map relevant GIS maps and data sets regarding vacant and abandoned properties and to designate a point person to track new and pending state law changes that impact vacant and abandoned properties. The Working Group should also be charged with monitoring performance of any new initiatives and policies that are implemented as part of the comprehensive and coordinated approach to vacant and abandoned properties.
- 1.3. **Task the Working Group with collating, mapping, and regularly updating a complete data set for all vacant and abandoned properties.** If resources are available, consider obtaining a windshield survey of all properties in Indianapolis to obtain a baseline of vacancy and abandonment and grading of property conditions that is far more accurate and up-to-date than current USPS baseline data. Further consider engaging local residents or volunteers from various neighborhood organizations or block groups to assist in such a survey. A City of Atlanta windshield survey provides a good example of this type of data gathering project, and the maps and strategic investment ideas generated by this level of data.⁵¹
- 1.4. **Overlay vacancy data with other existing data sets.** Gather USPS vacancy data (or results of windshield survey), and overlay that data with utility shut-off data, open housing/building code order data, and property tax delinquency data. Aim to develop comprehensive data sets over time that can be manipulated to generate various reports and maps that include the following input, for example:
 - 1.4.1. Total number vacant properties
 - 1.4.2. Total number vacant properties with structures vs. total number vacant lots

⁵¹ <http://www.atlantaga.gov/index.aspx?page=908>.

- 1.4.3. Total number vacant properties that are also without utilities, and subject to open housing/building code cases, and reflect signs of abandonment or distress based on windshield survey grading
- 1.4.4. Total number of vacant properties that are also property tax delinquent
- 1.4.5. Neighborhoods down to block level that reflect highest concentration of vacant and abandoned and tax delinquent property, or those properties with code violations, substandard conditions or some combination thereof
- 1.5. **Coordinate the use of property identification numbers City and County wide.** Use the initial data gathering process itself to begin ensuring that various city and county agencies and partners track parcels by the same identification number or numbers to allow for ease of mapping and tracking overtime. The most comprehensive tracking method would be for all agencies, including police and fire, to track parcel tax ID number and address or latitude and longitude. Address and latitude and longitude information allow for easy mapping and overlay with existing city plans and other redevelopment and investment plans.
- 1.6. **Track vacancy on standard form reports.** Use data gathering process to ensure that various city and county agencies track vacancy itself in all standard form reports. For example, ensure there is a box to check “vacant” or “unoccupied” on standard fire and police reports, and on all code inspection reports. Consider whether such reporting might be possible in any and all property tax assessment reports. Further use data gathering process to begin ensuring that various city agencies track whether a parcel contains a vacant structure or is a vacant lot. Consider ensuring there is a box to check “vacant lot” or a blank space to note “number, if any, of structures present” on all standard public reports.
- 1.7. **Identify a small number (50) of “pilot” properties.** Choose highly visible problem properties that reflect multiple indicators of vacancy and abandonment in key neighborhoods and commit publicly to moving these top 50 into productive status within one year. Track progress and success on these top 50.
- 1.8. **Publicly display progress and data.** Consider displaying progress and all data sets tracked by Working Group on dedicated City website, available to members of the public.

Long Term Recommendations = Achievable in More Than 12 Months

- 1.9. **Centralize data management.** House all such collated and updated data within one department/one database such as the Real Time Data Center, managed by an

individual or team with expertise in data mapping and management with direct authority from Mayor/Deputy Mayor/County Commissioner to coordinate this effort. Database should be capable of significant manipulation to track qualities of a given parcel with respect to vacancy, abandonment, presence of code violations, policy and fire activity, and property tax delinquency. The Toledo, Ohio survey mapping tool provides an example of this type of data platform.⁵²

- 1.10. **Sort vacant and abandoned property into outcome-driven categories.** Utilize data to triage remaining vacant and abandoned parcels into categories that might include: (a) a universe of vacant and abandoned properties that may be addressed with fix it up code enforcement strategies⁵³, (b) universe of pay it up⁵⁴ vacant and abandoned properties (those properties in stronger market neighborhoods that might generate recoupment of public funds expended through a public sale), (c) properties that are candidates for long term land banking upon demolition to address public safety hazards, (d) publicly-owned properties for which there are near-term productive uses, and (e) publicly and privately-owned properties for which there is no near-term solution or adequate resources to address in the next year.
- 1.11. **Track success and consistently evaluate progress of vacant and abandoned properties.** As tools are deployed for each universe of properties identified above, track success and progress over time in centralized database, and regularly re-evaluate both the universe of vacant and abandoned properties and movement of parcels from one category into another. Generally allow updated and comprehensive data set to guide redevelopment and other public investment decisions regarding vacant and abandoned properties.
- 1.12. **Consider recommending a Chief Information Officer for the City-County.** Consider tasking the Working Group to propose that the Information Technology Board appoint a Chief Data Scientist or Chief Information Officer to coordinate and ensure the success of these and other City or County efforts to centralize and share data.
- 1.13. **Consider obtaining a Cost of Blight Study.** After one full year of comprehensive data gathering, collating and updating, consider obtaining a Cost of Blight Study to measure the direct costs and indirect costs of vacant and abandoned properties to taxpayers. Direct costs generally include police and fire expenditures associated with vacant and abandoned properties, housing and building code expenditures, and other public expenditures for nuisance abatement and delinquent property tax enforcement. Indirect costs generally include lost property tax revenues associated with vacant and abandoned properties, and loss in values of adjacent properties (and corresponding lost

⁵² See <http://co.lucas.oh.us/index.aspx?NID=2783>.

⁵³ See discussion in Section 2.

⁵⁴ See discussion in Section 3.

property tax revenues). Utilize results of Cost of Blight Study to make the case for additional or re-allocated resources to address vacant and abandoned properties moving forward. In partnership with Dr. Dan Immergluck, Community Progress has produced a similar Cost of Blight Study in Atlanta, Georgia, with another study soon to be released for Toledo, Ohio.⁵⁵

RECOMMENDATIONS FOR IMPROVEMENT OF FIX IT UP TOOLS & STRATEGIES

Short Term Recommendations = Achievable Within 12 Months

- 2.1. **Consider establishing a single public reporting mechanism for problem properties with authority to direct complaints to the correct enforcing agency.** There are currently two departments receiving complaints for substandard properties. MCPHD responds to building standards complaints for occupied properties from reports through its phone number or website, while DCE inspects UBL complaints against vacant or abandoned properties received primarily from MAC. A unified reporting mechanism could be helpful to clarify reporting procedures to the community and encouraging community engagement. Should this recommendation prove unattainable, at least consider the implementation of a mechanism by which DCE and MCPHD can automate and track the referral of properties that prove to be occupied from DCE to MCPHD and the referral of properties that prove to be vacant from MCPHD to DCE.
- 2.2. **Strategically focus and coordinate DCE and MCPHD enforcement.** Because DCE and MCPHD are tasked with similar missions to inspect and enforce code violations against property, ensure that both agencies are employing the tools available at their disposal as part of a coordinated “fix it up, pay it up, or give it up” strategy to eliminate duplication, confusion, and to take advantage of economies of scale and more easily track complaints and remediation in a uniform fashion. DCE and MCPHD enforcement tools should be strategically focused to avoid the unintended consequence of strong penalties and fines (particularly those authorized under the UBL) incentivizing further vacancy or abandonment. To achieve this, consider making both agencies part of the Working Group and ensure that enforcement strategies and targeted enforcement areas are informed by improved data collection and are consistent with the shared vision and priorities of the Working Group. Such participation can also help promote routine communication between the two agencies regarding properties or types of properties that either are or might become vacant and abandoned properties.

⁵⁵ http://www.communityprogress.net/filebin/Cost_of_Vacant_and_Blighted_Immergluck_FINAL_02.17.16.pdf

One tactic that could be considered to pilot this cooperation is to develop a coordinated approach to enforce the landlord registration ordinance. Because DCE does not inspect occupied buildings, MCPHD may be able to incorporate a registration verification as part its inspection process for rental properties with reported building standards violations. Such an approach could not only have an impact on compliance with landlord registration requirements, but also enable DCE and MCPHD to communicate about the condition of rental property and potentially identify properties that may become vacant and abandoned.

- 2.3. **Study property where the owner complies with the notice of violation.** Examine closely the data set of properties, estimated at 27%, where the owner complies and fixes up property in response to a single notice of UBL violation(s). If that universe of properties shares certain characteristics, for example located in a neighborhood with a relatively strong market, consider focusing additional efforts on similar properties and tracking and publicizing success.
- 2.4. **Study property where the owner does not comply with the notice of violation.** Examine data set of properties with open and closed code cases where no compliance is achieved in response to single notice of violation, and further divide properties into a) those that are vacant and abandoned and property tax current, b) those that are vacant and abandoned and property tax delinquent, c) those that appear to be owned by an individual or individuals with the intent to conduct necessary repairs but without the means to do so. Use these categorizations to inform whether further notice may compel compliance, or to bring such properties to the attention of the Working Group for direction on the most appropriate path for such property.
- 2.5. **Streamline demolition.** Demolition should take place in a strategic fashion and should be linked to specific stabilization, redevelopment and productive use goals that can be developed through the Working Group. Since Renew is currently serving as the non-profit Hardest Hit Fund demolition partner, consider City contract with Renew to also conduct all demolitions under UBL to take advantage of economies of scale, and to help Renew access capital needed to acquire properties ripe for Hardest Hit Funds demolition.
- 2.6. **Utilize the original receivership tool instead of the new version.** Considering the cost, time, and low likelihood of success, consider forgoing the new receivership tool requiring the declaration of property as abandoned until the process can be improved. Instead, utilize the original receivership tool in those limited circumstances where both the market and property condition generate the interest of a willing and responsible

receiver that can maintain, repair, or transfer the property in a manner consistent with local priorities.

- 2.7. **Draw on the collective knowledge of the Working Group to establish a coordinated approach for better implementation of the new receivership tool.** Should the City and the County wish to further explore the new receivership tool, consider drawing on the collective knowledge of the Working Group to establish a coordinated approach for better implementation of such a tool. Also consider reaching out to the court in advance of any filings to ask for guidance or concerns with the approach and to effectively communicate City-County end-goals and priorities for the use of such property.
- 2.8. **Expand the use of Hardest Hit Funds.** Consider working with the Indiana Housing and Community Development Authority to explore expanding the utilization of the newest round of Hardest Hit funds from the U.S. Department of Treasury for greening of vacant lots, or possibly for rehabilitation of vacant and abandoned properties.

Long Term Recommendations = Achievable in More Than 12 Months

- 2.9. **Incentivize timely re-use or redevelopment of boarded-up property.** Consider amending state law to provide for an additional civil penalty that may be added as a special assessment to the tax bill for property that remains boarded for more than 6 months.
- 2.10. **Elevate the enforcement of unpaid code liens on occupied properties.** Consider amending state and local law to ensure that unpaid code liens or judgments on occupied properties, rental and otherwise, may be added to the tax bill and enjoy the same priority status as UBL liens on vacant and abandoned properties. Further consider whether state law amendments should allocate a portion of revenue generated from such liens to City or County efforts aimed at addressing vacant and abandoned properties, perhaps through the Unsafe Building Fund or another fund accessible to agencies engaged in efforts to address vacant and abandoned properties.
- 2.11. **Track compliance if unpaid code liens on occupied properties are added to the tax bill.** If state and local law are amended to allow the addition of code liens on occupied properties to the tax bill, track any resulting increases in compliance rates. Also utilize newly generated revenues from increased compliance or fine payment to support rehab programs for low-income owner-occupants without the means to fix up their properties.

RECOMMENDATIONS FOR IMPROVEMENTS TO THE TAX SALE PROCESS

Short Term Recommendations = Achievable Within 12 Months

- 3.1. **Prioritize ensuring property has clear, marketable title.** Consider making a top priority of the Working Group an established process to support the County Treasurer in its efforts to provide *Mennonite* quality notice in all phases of the tax sale process. Continue to extinguish liens from past taxes and assessments to ensure property acquired by the County and transferred to DMD for purposes of the land banking program⁵⁶ can easily offer clear, marketable title to potential purchasers and developers, regardless of which tax enforcement sale or process was used to acquire the property.
- 3.2. **Task members of the Working Group to convene a meeting with local title insurers and tax sale purchasers.** Use the meeting to determine what, if any, processes or procedures could be adopted to ensure the title conveyed through the delinquent tax enforcement process is marketable and insurable, such that an additional quiet title action is unnecessary. Recognizing that the burden of providing notice throughout the delinquent property tax enforcement process falls to the County, also task the Working Group with determining whether and how it could help support the County implement processes or procedures, if any, that result from such a meeting.
- 3.3. **Continue to work with the County Treasurer's office to examine the list of properties that do not receive the minimum bid at the tax sale and are subject to the expedited redemption period.** Through the Working Group, strategically identify and work with the County to acquire property through the land banking program housed in DMD for redevelopment purposes and priorities identified by the Working Group.
- 3.4. **Task the Working Group to review the process by which a property must be declared abandoned to qualify the property for the expedited sale of the deed instead of the tax sale.** Ensure that the Working Group, with input from the County Treasurer, establishes a clear and coordinated purpose for when and how the City seeks to declare a property as abandoned. Once that message and purpose is clear and all parties are on the same page, consider meeting with the court to identify and address any concerns with utilizing the state law-authorized administrative process of declaring property vacant or abandoned, making the case that the 6-month window is not a sufficient time period in which to complete the court process of declaring property vacant or abandoned.

⁵⁶ See Section 4 for discussion of the City's land banking program.

- 3.5. **Consider piloting the certification of property NSFS where the cost to abate violations under the UBL would exceed the fair market value of the property.** For properties with relatively low market value, it may be that the cost of repairs and the cost of removing weeds, trash and debris will exceed the fair market value.
- 3.6. **Consider piloting the certification of property NSFS for any and all properties subject to demolition orders, thereby expediting the acquisition of title.** Consider adoption of standing Council or Mayoral Executive Order for transfer of all such properties, once title is with the City, to Renew or subsequent Hardest Hit Fund non-profit partner in bulk transfers for Hardest Hit Fund demolition program. Any such Order should also contemplate a method to support post-transfer expenditures that are not covered under the current Hardest Hit Fund program and may be related to maintenance fees or property tax payments made by Renew or other Hardest Hit Fund non-profit partner.
- 3.7. **Consider piloting the identification of serially tax delinquent properties.** After July 1, the City should study the list of properties eligible for the tax sale and attempt to identify ten (10) or more properties owned by the same person or group of persons and whether those properties were acquired through a previous tax sale. Assess the feasibility of identifying serially tax delinquent property after July 1 but in advance of the tax sale given notice and other requirements. If such identification is feasible, consider notifying the court of the City's intent before filing a petition in order to address any concerns the court might have with the process or the law, generally. In addition, ensure Mennonite quality notice is provided. Because this process could result in the City receiving a deed to each property, only consider this option if the properties are ones that make sense to acquire based on priorities established by the Working Group and capacity to hold or dispose of the properties.

Long Term Recommendations = Achievable in More Than 12 Months

- 3.8. **Consider exploring the impact of the 1995 Mayoral Order.** To ensure the tax sale tools are being utilized in a manner consistent with the shared vision of the Working Group, consider either revising or re-interpreting the 1995 Mayoral Order granting the authority to dispose of property acquired through the surplus process of the tax sale to the Marion County Board of Commissioners. This transfer of the Mayor's statutory

authority adds a layer of complexity and inefficiency to many of the redevelopment tools authorized for use by the MDC under state law.⁵⁷

- 3.9. **Pilot each available tool and conduct a comprehensive assessment.** Once each available tool has been thoroughly vetted and assessed, consider whether the current toolbox, especially with respect to expedited property tax enforcement, is sufficient to achieve the goals of the Working Group. Only if the available tools prove insufficient, consider recommending additional state law changes if appropriate, including whether or not past tools like the former expedited tax sale procedure (where property was subjected to the tax sale surplus procedure if it was delinquent for two consecutive tax installments and contained an open UBL violation) are viable options.
- 3.10. **Amend state law to ensure tax sale notice requirements mandate *Mennonite* quality notice.** One suggestion could be to amend the law to require *all* parties with a legally protected interest be notified once, when the County or certificate holder petitions the court for a deed to the property.
- 3.11. **Consider amending state law to contemplate a single legal proceeding in which tax delinquent property is certified as abandoned and sold.** Consider that when property identified by the City in advance of the tax sale is declared abandoned that, after appropriate notice, the deed is immediately offered for sale in the same legal proceeding to qualified bidders, or to a land bank for a credit bid, which allows the land bank to bid the minimum amount for a property in exchange for assumption of the responsibility of the unpaid taxes.
- 3.12. **Consider amending state law to eliminate the sale of tax certificates and the post-sale redemption period.** Instead, consider offering a single sale of delinquent property, after appropriate constitutional notice, at which a fee simple interest is conveyed and a deed to the property is issued. The property should be offered for a minimum bid that includes all prior and current years' unpaid taxes, special assessments, UBL and other code enforcement penalties and abatement costs, fully loaded costs of the sale and noticing requirements, plus applicable interest and penalties. A key part of this recommendation is that any change must continue to afford property owners an opportunity to redeem by paying the total amount of unpaid taxes, assessments and other costs and penalties at any point prior to the sale of the property.

⁵⁷ See, for example, IC § 36-7-15.1-1 *et seq.*, authorizing, in part, the MDC's acquisition of certain properties for no cost and the extinguishment of past taxes and assessments.

LAND BANKING OBSERVATIONS AND RECOMMENDATIONS

Short Term Recommendations = Achievable Within 12 Months

- 4.1. **As one of its first priorities, task the Working Group with exploring the current structure of the land bank program and its relationship with Renew.** Now is the time to re-consider whether the land bank program should be moved fully in-house once again and made a solely public governmental entity that partners with non-profit and private partners on dispositions. The first step must be to ask the question, “what problem is the land bank trying to solve?” When that question is answered, consider whether the new land bank legislation offers more viable options to address the problem through the creation of a public land bank. Regardless of the ultimate decision, the working group must prioritize the disposition of the roughly 700 properties in the DMD inventory, and identify dedicated funding sources for current and future land bank activities.
- 4.2. **Task the Working Group to explore whether the recovery of the first year of property taxes of those properties sold through the Indy Land Bank and Renew is being deposited in the appropriate fund.** If not, further explore whether state law changes might be necessary to provide the land banking program a more appropriate dedicated revenue stream or if the new land bank enabling legislation might be expanded to incorporate a dedicated revenue stream. For an example of relevant recommended state law changes to consider, please see Frank Alexander’s *Land Banks and Land Banking, 2nd Edition 2015*, Appendix D, Section 11, page 148.
- 4.3. **Ensure transparent redevelopment policies and procedures.** Transparency is critical – the Working Group must set clear policies and priorities based on the new shared vision and strategies to address Vacant and abandoned Property. Renew has done a commendable job of ensuring its processes and priorities are clearly indicated on its website; consider building on those documents.
- 4.4. **Each part of the land banking program must be adequately represented in the Working Group.** Participants should include the manager of the land banking program within DMD, a DMD representative who serves on the MDC, and a representative from Renew. Their inclusion is important to ensure coordination with the Working Group, particularly as it relates to strategic acquisition and achievable end-use of property.
- 4.5. **Improve maintenance of land banking program inventory through community involvement.** Task the Working Group to explore programs from around the country,

and to take a closer look at programs currently underway in Indianapolis that employ residents, ex-offenders, or youth to help maintain the land banking program's inventory by performing basic maintenance or rehab work.

Long Term Recommendations = Achievable in More Than 12 Months

- 4.6. **Consider strengthening the ties of the land banking program to the tax sale process through either policy or state law changes.** The land banking program should be able to acquire properties not just through the surplus sale procedure⁵⁸ but from each stage of the tax sale process.
- 4.7. **Consider exploring state law changes that would broaden the land banking program's disposition powers.** Changes could include the purposes for which the property may be used and to whom it may be transferred. For example, a simple change would be to expand the types of non-profits that are currently qualified to purchase properties through the land banking program and to grant broad discretion to the land banking program to qualify such purchasers based on the purchaser's capacity to achieve a productive, stabilizing use of the property. The disposition authority in the new land bank enabling legislation provides an example of improved disposition powers, but more research needs to be done to reveal whether the legislation's funding and acquisition limitations for now make it a less than ideal replacement for the current program. Consider also comparing the sample land bank enabling legislation in Frank Alexander's *Land Banks and Land Banking, 2nd Edition 2015*, Appendix D to the new Indiana legislation.

⁵⁸ See Section 3, Subsection A.

APPENDIX C: LEGAL & POLICY TOOLS

INDIANAPOLIS LEGAL AND POLICY TOOLS TO ADDRESS VACANT AND ABANDONED PROPERTIES*

| Legal/Policy Tool → Property Type ↓ | UBL Repair Order | UBL Secure/Board Up | UBL Demolition Order | MDCHD Enforcement | Weed and Trash Abatement | UBL Original Statutory Receivership | UBL Receivership Pursuant to New, 2015 Statute for property declared abandoned | Likely Sale of Tax Certificate to Private Tax Sale Purchaser | Likely automatic assignment of tax certificate to County in the absence of private bids at tax certificate sale | Likely qualified for expedited public auction of tax deeds | Likely candidate for Mayoral declaration of Not Suitable for Sale | Likely qualified for County or City extinguishment of back taxes |
|---|------------------|---------------------|----------------------|-------------------|--------------------------|-------------------------------------|--|--|---|--|---|--|
| Vacant, Code Compliant, Property Tax Current | | | | | | | | | | | | |
| Vacant, Code Compliant, Property Tax Delinquent, FMV higher than back taxes owed | | | | | | | | ✓ | | | | |
| Vacant, Code Compliant, Property Tax Delinquent, FMV lower than back taxes owed | | | | | | | | | ✓ | | | ✓ |
| Vacant, Certified Abandoned, Property Tax Delinquent, FMV higher than back taxes owed | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ |
| Vacant, Certified Abandoned, Property Tax Delinquent, FMV lower than back taxes owed | ✓ | ✓ | ✓ | | ✓ | | ✓ | | ✓ | ✓ | | ✓ |
| Vacant, In Violation of Code, Property Tax Current, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | | | | | | |
| Vacant, In Violation of Code, Property Tax Current, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | | | | ✓ | |
| Vacant, In Violation of Code, Property Tax Delinquent, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | | | |

| Legal/Policy Tool→ Property Type ↓ | UBL Repair Order | UBL Secure/Board Up | UBL Demolition Order | MDCHD Enforcement | Weed and Trash Abatement | UBL Original Statutory Receivership | UBL Receivership Pursuant to New, 2015 Statute for property declared abandoned | Likely Sale of Tax Certificate to Private Tax Sale Purchaser | Likely automatic assignment of tax certificate to County in the absence of private bids at tax certificate sale | Likely qualified for expedited public auction of tax deeds | Likely candidate for Mayoral declaration of Not Suitable for Sale | Likely qualified for County or City extinguishment of back taxes |
|--|------------------|---------------------|----------------------|-------------------|--------------------------|-------------------------------------|--|--|---|--|---|--|
| Vacant, In Violation of Code, Property Tax Delinquent, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | ✓ | ✓ | | ✓ | ✓ |
| Vacant, Subject to Demolition Order, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | ✓ | | | ✓ | ✓ |
| Vacant, Subject to Demolition Order, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | | ✓ | | ✓ | ✓ |
| Vacant lot, Demolished by City, title held by record owner charged with violations, FMV higher than amount of public liens | | | | | ✓ | | | ✓ | | | | ✓ |
| Vacant lot, Demolished by City, title held by record owner charged with violations, FMV lower than amount of public liens | | | | | ✓ | | | | ✓ | | | ✓ |
| Vacant, "Unsafe," Property Tax Current, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | | | | | |
| Vacant, "Unsafe," Property Tax Current, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | | | | ✓ | |
| Vacant, "Unsafe," Property Tax Delinquent, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | | | ✓ |
| Vacant, "Unsafe," Property Tax Delinquent, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | ✓ | ✓ | | ✓ | ✓ |

| Legal/Policy Tool→ Property Type ↓ | UBL Repair Order | UBL Secure/Board Up | UBL Demolition Order | MDCHD Enforcement | Weed and Trash Abatement | UBL Original Statutory Receivership | UBL Receivership Pursuant to New, 2015 Statute for property declared abandoned | Likely Sale of Tax Certificate to Private Tax Sale Purchaser | Likely automatic assignment of tax certificate to County in the absence of private bids at tax certificate sale | Likely qualified for expedited public auction of tax deeds | Likely candidate for Mayoral declaration of Not Suitable for Sale | Likely qualified for County or City extinguishment of back taxes |
|---|------------------|---------------------|----------------------|-------------------|--------------------------|-------------------------------------|--|--|---|--|---|--|
| Vacant, "Abandoned," Property Tax Current, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | | | ✓ | | |
| Vacant, "Abandoned," Property Tax Current, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | | | ✓ | ✓ | |
| Vacant, "Abandoned," Property Tax Delinquent, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ |
| Vacant, "Abandoned," Property Tax Delinquent, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | | ✓ | ✓ | ✓ | ✓ |
| Vacant, "Abandoned," Property Tax Delinquent, Tax Certificate held by private third party, FMV higher than amount of public liens | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ | | |
| Vacant, "Abandoned," Property Tax Delinquent, Tax Certificate Held by the County | ✓ | ✓ | ✓ | | ✓ | | | | | ✓ | | ✓ |
| Vacant, "Abandoned," Property Tax Delinquent, Tax Certificate held by private third party, FMV lower than amount of public liens | ✓ | ✓ | ✓ | | ✓ | | | | ✓ | ✓ | ✓ | ✓ |
| Vacant, "Abandoned," Property owned by entity with tax exempt status | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | ✓ | | ✓ |

**This chart was prepared by the Center for Community Progress for illustrative purposes only, to demonstrate examples of the variety of vacant property typologies located in Indianapolis and possible tools available to impact such properties. We hope this chart will provide a helpful framework for policy makers, community leaders and other stakeholders to define with specificity the characteristics of vacant and abandoned properties in Indianapolis, and to consider the breadth of public systems and tools available to address those properties effectively. The applicability of and whether and how to utilize a particular legal tool on a specific address in Indianapolis is subject to the direction and guidance of local counsel.*



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