

# **Building Hope: Tools for Transforming Abandoned and Blighted Properties into Community Assets**

**A Report on Dallas, Texas**

Prepared for: Builders of Hope

By: The University of Texas School of Law, Community Development Clinic  
Heather K. Way, Director  
Michelle McCarthy, Student Attorney  
John Scott, Student Attorney



December 2007

# Building Hope: Tools for Transforming Abandoned and Blighted Properties Into Community Assets

## A Report on Dallas, Texas

### Table of Contents

Introduction .....	2
<b>Part I. Code Enforcement</b> .....	5
Code Enforcement Laws in Dallas.....	5
Code Enforcement Process in Dallas .....	6
Administrative Enforcement.....	10
Civil Enforcement Actions .....	10
Self-Help Actions.....	11
Urban Rehabilitation Docket.....	12
Liens .....	13
Barriers to Effectiveness .....	13
Best Practices .....	16
<b>Part II. Criminal Nuisance Abatement</b> .....	23
Background .....	23
Texas Nuisance Abatement Law.....	23
History of Nuisance Abatement Enforcement in Dallas.....	24
Chapter 125 Procedures in Dallas .....	25
Barriers to Effectiveness .....	26
Best Practices .....	27
<b>Part III. Receivership</b> .....	29
Barriers to Effectiveness .....	30
Best Practices .....	31
<b>Part IV. Civil Asset Forfeitures</b> .....	33
Texas Chapter 59 Forfeitures .....	33
Barriers to Effectiveness .....	33
Federal Asset Forfeitures .....	34
Barriers to Effectiveness .....	35
Best Practices .....	35
<b>Part V. Recommendations for Action</b> .....	37
State Legislative Changes.....	37
City Policy Actions .....	38
Community-Based Actions .....	40
Follow-up Research .....	41
<b>Bibliography and Resources</b> .....	44

# Building Hope: Tools for Transforming Abandoned and Blighted Properties Into Community Assets

## A Report on Dallas, Texas

### Introduction

This report was prepared at the request of Builders of Hope, a Texas nonprofit corporation and community-based organization in West Dallas, to examine some of the different legal and policy tools that can be used to improve the abandoned and blighted properties that plague the community. Builders of Hope is working with other community organizations to transform a section of West Dallas into a safe, healthy, and viable neighborhood, with the belief that all residents have the right to live in neighborhoods free from crime and urban blight.

West Dallas is an area gripped in poverty and crime. In the 75212 zip code, which includes West Dallas, there are 22,789 residents. One out of three families in this area live below the poverty level. Sixty-five percent of the population over age 25 has not completed high school. The median household income is \$25,790, and the median housing values (\$41,483) are less than half of the median for the City of Dallas (\$109,153). West Dallas's crime rates are significantly higher than the rest of the City—with some areas suffering from crimes rates as high as 5-8 times the city rate. In one census tract area (the area in between Singleton, Westmoreland, and I-30), for example, the residential property crime rate in 2004 was 252.4 crimes per 1,000 persons—roughly 8 times the city rate.<sup>1</sup>



DAMEON RUNNELS/ Staff Artist

<sup>1</sup> J. McDonald Williams Institute, "Research Compilation: West Dallas (Zip Code 75212)," December 2006, pp. 7, 14.

Significant to this report, the area is also crippled by thousands of vacant, abandoned, and blighted properties—which contribute to criminal activity, detract from the area’s quality of life, and stand in the way of the nonprofit’s efforts to build hope for residents in the area. A 2006 window survey identified 11,390 total parcels in West Dallas, of which 2,791 were vacant lots, and 1,648 had major code issues.<sup>2</sup>

Anyone driving through this area cannot help but be struck by the level of abandonment and urban blight. These abandoned properties are a daily reminder of the loss of hope in the community and the reluctance of government and private institutions to invest in the community’s future. These properties are a persistent threat to the neighborhood and its residents.

The impact of these blighted properties are not limited to West Dallas, but instead are an economic drain to the entire City of Dallas. They lower property values of the surrounding residences, resulting in lower property tax revenues. They require costly city maintenance including repeated code inspections, trash clean up, and demolitions. They breed crime and place a heightened demand on law enforcement resources.<sup>3</sup> They undermine attempts to bring economic development to the area. If these blighted properties are not addressed, “even ambitious revitalization projects and neighborhood improvement expenditures may fail to increase demand.”<sup>4</sup>

Builders of Hope and other community groups in West Dallas still have hope—hope to see these properties rebuilt into decent, safe places to live. The transformation of these properties will result in multiple benefits not only to West Dallas, but also the entire city. These benefits include: increased residential and commercial property values resulting in increased tax revenues, reduced maintenance costs, and reduced demand on law enforcement resources.<sup>5</sup>

Builders of Hope is concerned with the large number of properties in West Dallas that fall into one of the following three categories:

- (1) vacant lots, which attract crime, dumping, and are an eyesore to the community.
- (2) abandoned and dilapidated homes, some of which are boarded up, which also attract crime, dumping, and are an eyesore to the community.
- (3) rental properties owned by absentee landlords that are not in compliance with code and are occupied by tenants engaging in criminal activity.

Builders of Hope has asked the Clinic to examine the City’s existing legal tools for dealing with these problem properties, to identify barriers with the existing strategies,

---

<sup>2</sup> James Murdoch, “2006 West Dallas Windshield Survey,” cd on file with author.

<sup>3</sup> See generally, National Vacant Properties Campaign, “Vacant Properties: The Trust Cost to Communities,” August 2005.

<sup>4</sup> Accordino, John and Gary T. Johnson, “Addressing the Vacant and Abandoned Property Problem,” *Journal of Urban Affairs* 22(3) (2000), p. 303.

<sup>5</sup> A five-year collaborative code enforcement effort in Sacramento, California led to a 28% increase in median home prices, a 10% increase in sales tax receipts, and a 32% reduction in crime. The economic benefits to the city exceeded the costs by almost \$8 million. Susan Catron & Robert W. Wassmer, “A Benefit-Cost Analysis of the Auburn Boulevard Revitalization Project,” February 4, 2005.

to examine model practices used in other cities, and to provide a set of recommended policies and strategies for moving forward. Over the past four months, to prepare this report, the Community Development Clinic interviewed more than 20 individuals from across the state, along with national experts; researched local ordinances, state statutes, and Texas case law; and reviewed numerous reports and publications on the topic of vacant, abandoned, and blighted properties.

Parts I-IV of this report examine the following legal tools that the City of Dallas has available to eliminate the problems associated with abandoned and blighted properties: code enforcement, criminal nuisance abatement, receivership, and asset forfeiture. For each tool, we researched the scope of the tool and how it works on the books and in practice. We then examined the different barriers that exist in maximizing the effectiveness of the tool. Parts I-IV also lay out best practices we researched from around the country pertaining to these tools and how these practices could be modeled in Dallas. Part V of the report lays out a set of recommendations and next steps for the community to consider in moving forward. Part VI sets forth a list of items for potential follow up research.

## Part I. Code Enforcement

Effective code enforcement is essential to revitalizing a distressed neighborhood. Problem properties can “deter investors, frustrate existing residents and generally contribute to an environment of fear, disorder, and crime” in a neighborhood.<sup>6</sup> Yet, code compliance in Dallas “has long ranked at the top of residents’ complaints.”<sup>7</sup> This section provides an overview of the code enforcement process in Dallas, identifies some barriers to effective code enforcement, and lists some best practices and ideas for reforms from cities around the country.

### **Code Enforcement Laws in Dallas**

There are several different state and local laws governing code enforcement in the City of Dallas. Chapter 54 of the Texas Local Government Code sets up parameters under which a municipality may enforce its health and safety ordinances. Chapter 214 of the Local Government Code governs municipal authority to regulate substandard buildings. Chapter 211 of the Texas Local Government Code concerns the enforcement of zoning ordinances. Chapter 27 of the Dallas City Code includes the City’s health and safety standards for the maintenance of residential and nonresidential structures, along with regulations for the repair and demolition of substandard buildings.

Property owners must comply with a set of minimum standards under Article 3, Chapter 27, of the Dallas City Code. These requirements are wide-ranging and include eliminating rodents, maintaining a residential structure in a weather-tight and water-tight condition, and maintaining the structural integrity of the structure. Other provisions of the City Code also govern maintenance conditions for properties. Chapter 18 of the City Code governs solid waste, weeds and vegetation, and junked vehicles. Chapter 7A governs littering. Each of these provisions carries its own set of penalties.

For vacant structures, the Dallas City Code includes a requirement that the doors and windows of a vacant structure (or vacant portion of a structure) be “securely closed” to prevent unauthorized entry.<sup>8</sup> If a structure is unsanitary or unsafe and presents an immediate danger to the health, safety, or welfare of the public or any occupant of the structure, the City may place a red placard warning of the dangerous condition. The City then has a duty to immediately refer the case to the City Attorney’s Office for a hearing in municipal court on the need to vacate any residents.<sup>9</sup> The City has a duty to secure a vacant structure that violates the minimum standards for structures in Article III of Chapter 27 and that is unoccupied or occupied by persons without a

---

<sup>6</sup> LISC & MetLife Foundation, “Leveraging Code Enforcement for Neighborhood Safety Initiatives: Insights from Community Developers,” p.1.

<sup>7</sup> Bush, Rudolph, “Dallas’ Code Compliance unit set to change procedures,” *Dallas Morning News*, December 6, 2007. The article describes the problem as a “Code Compliance department judged bureaucratic, unresponsive and incapable of tackling major problems that plague neighborhoods.”

<sup>8</sup> Dallas City Code § 27-11(a)(6).

<sup>9</sup> Dallas City Code § 27-15.1

right to live in the structure.<sup>10</sup> After securing the structure, the City has a duty to give notice to the owner; the owner then has a right to a public hearing in municipal court to contest the securing of the structure. The requirements for securing the property are in the Dallas Fire Code.

If the property remains boarded up after 180 days without being occupied by the owner or lawful tenant and has at least one visible violation of Chapter 27, the City can bring an action to require repair or demolition of the structure.<sup>11</sup> In actions to repair or demolish a substandard structure, if the court gives the owner more than 90 days to do work to bring the dangerous structure into compliance with code, the owner must submit progress reports. If the work is not done, the city may then complete the work at its own expense and has a lien for its expenses.<sup>12</sup>

The City may seek civil penalties or injunctive relief for code violations, although injunctive relief is available only in municipal or district court enforcement actions, and not in administrative actions. Injunctive remedies may include, depending on the facts: (1) requiring the property owner to comply with the city's code ordinances; (2) compelling repair or demolition of the property; (3) ordering a property to be vacated; (4) compelling a vacant property to be secured in compliance with the Dallas Fire Code within 30 days; and (4) granting approval for the City to repair or remove the structure and recover costs.<sup>13</sup> Stiff civil penalties are available if the City shows that the defendant had actual knowledge of the violation and failed to comply or take action after receiving the notice. Fines of up to \$1000 per day per violation are available for non-homestead property. If the property is the owner's lawful homestead, then fines are capped at \$10 a day under Chapter 27.<sup>14</sup>

### **Code Enforcement Process in Dallas**<sup>15</sup>

Code enforcement is conducted in several different City of Dallas departments. Most code enforcement is conducted under the City of Dallas Department of Code Enforcement (DCE). DCE is divided into nine geographical regions with code inspectors assigned to each. The DCE process for determining violations is largely complaint driven. The majority of complaints are received through the City's 3-1-1 non-emergency phone line, although complaints are also made through council members' offices and other avenues. Violations may also be located through inspectors' observations while in the field or as a result of the City's new multi-tenant licensing system, which requires regular inspections of multi-tenant buildings with more than three units and that are five years of age and older.<sup>16</sup> Through the licensing system, inspections are required at least every three years. Multi-tenant

---

<sup>10</sup> Dallas City Code § 27-16(b).

<sup>11</sup> Dallas City Code § 27-16(i).

<sup>12</sup> Dallas City Code § 27-16.3(c)(3).

<sup>13</sup> Dallas City Code § 27-16.7(b).

<sup>14</sup> Dallas City Code § 27-16.3(7).

<sup>15</sup> Much of this information was obtained from phone interviews with Dallas assistant city attorneys.

<sup>16</sup> See [http://www.dallascityhall.com/code\\_compliance/Multitenant.html](http://www.dallascityhall.com/code_compliance/Multitenant.html).

properties are also required to register annually with the Department of Code Compliance as well as the Office of Special Collections.<sup>17</sup>

After information about complaints, such as those received by 311 calls, is entered into the City's data system—an integrated information system accessible by all city departments—the complaints are referred to the DCE where appropriate. The DCE has the authority to conduct an inspection of the exterior of the premises, but not the interior unless permission is granted by the owner, occupant, or person in control of the premises.<sup>18</sup>

The DCE first tries to get owners to come into compliance before initiating proceedings against the owner. Code inspectors will first send the property owner a notice of violation which sets out the ordinance being violated and gives the owner a reasonable time period to comply, depending on the nature of the violation. Once the time has expired, the code inspector will re-inspect the property to determine if the violation was corrected. If the owner does not come into compliance after receiving a notice of violation, the code inspector generally writes a citation.

Some code enforcers in Dallas are not under the umbrella of the Code Compliance Department and report directly to the City Attorney's office instead. Two sections of the City Attorney's office employ their own code inspectors: the Code Compliance Section and the Community Prosecution Section. The Community Prosecution Section, which employs five code inspectors, was created to work in specific Dallas neighborhoods to develop proactive, creative solutions to quality of life problems, including code enforcement. There are ten attorneys assigned as Community Prosecutors, who may be involved in code enforcement cases involving properties in their assigned areas, although code enforcement is not necessarily their primary responsibility.

There are two primary ways in which a code violation is prosecuted: (1) an administrative enforcement action in the City's Hearing Officers Court; or (2) a civil action in municipal or district court.<sup>19</sup> The City of Dallas is now prosecuting the vast majority of code violations in the Hearing Officers Court, an administrative forum discussed below. There are three different sections of the City Attorney's office involved in prosecuting code violations. The Prosecution Section prosecutes all of the code citation cases in administrative court and the lawsuits filed in municipal court. Three attorneys work full time as civil adjudicators on these cases. The Code Compliance Section prosecutes all of the code compliance lawsuits filed in district court, primarily more complex cases involving multifamily and commercial properties. Cases with environmental enforcement issues are handled by the attorneys in the Code Compliance and Prosecution Section. The Community Prosecution Section is also involved in some code enforcement actions.

---

<sup>17</sup> City of Dallas, "Multi-tenant registration program," available at [http://www.dallascityhall.com/code\\_compliance/Multitenant.html](http://www.dallascityhall.com/code_compliance/Multitenant.html).

<sup>18</sup> Dallas City Code § 27-5.

<sup>19</sup> Under the statute, a civil action can also be filed in county court, but the City Attorney's office brings suits only in municipal or state district court.

In addition to doing code enforcement work, the City Attorney Code Compliance Section coordinates with the SAFE (Support Abatement Forfeiture and Enforcement) Team, which is a program of the Dallas Police Department. The SAFE Team consists of police officers, code enforcement officials, and attorneys, who pursue a comprehensive strategy addressing criminal activity and code compliance issues. (Further discussion of the SAFE Team is below in the section on criminal nuisance abatement). When appropriate, the Code Compliance Section will bring lawsuits against property owners that combine Chapter 54 code enforcement actions with other strategies such as Chapter 125 criminal nuisance abatement lawsuits and Local Government Code Chapter 211 zoning violation suits.

Under Chapter 27, the City is required to set up a Citizen Advocate Program to assist individuals who are found financially unable to comply with an administrative order.<sup>20</sup> Penalties and fines assessed under Chapter 27 go into the City's general fund, except for \$36 a violation, which goes into the Dallas Tomorrow Fund. Thirty percent of all civil fines collected under Chapter 54 also go into the Tomorrow Fund. The fund must be used for the sole purpose of rehabilitating and repairing properties for low-income persons who have committed code violations and who do not qualify for other repair assistance.<sup>21</sup>

In December 2007, in response to repeated complaints from residents, the City announced changes to its code enforcement process. These changes are being spearheaded by the Dallas City Manager and new interim director of code enforcement, Forest Turner. By April 1<sup>st</sup>, 2008, most code enforcement officers will be based out of one of five geographic regions in the city and be responsible for neighborhoods within those regions, instead of covering the entire City. The City is creating a new position, known as neighborhood code representatives. Each of the City's five regions will have three representatives, who will communicate directly with residents and community leaders and serve as an advocate to involve different city departments in addressing more complex code issues. The City is also investigating tightening some of its existing ordinances, including ordinances that govern high weeds and signs in storefront windows.<sup>22</sup>

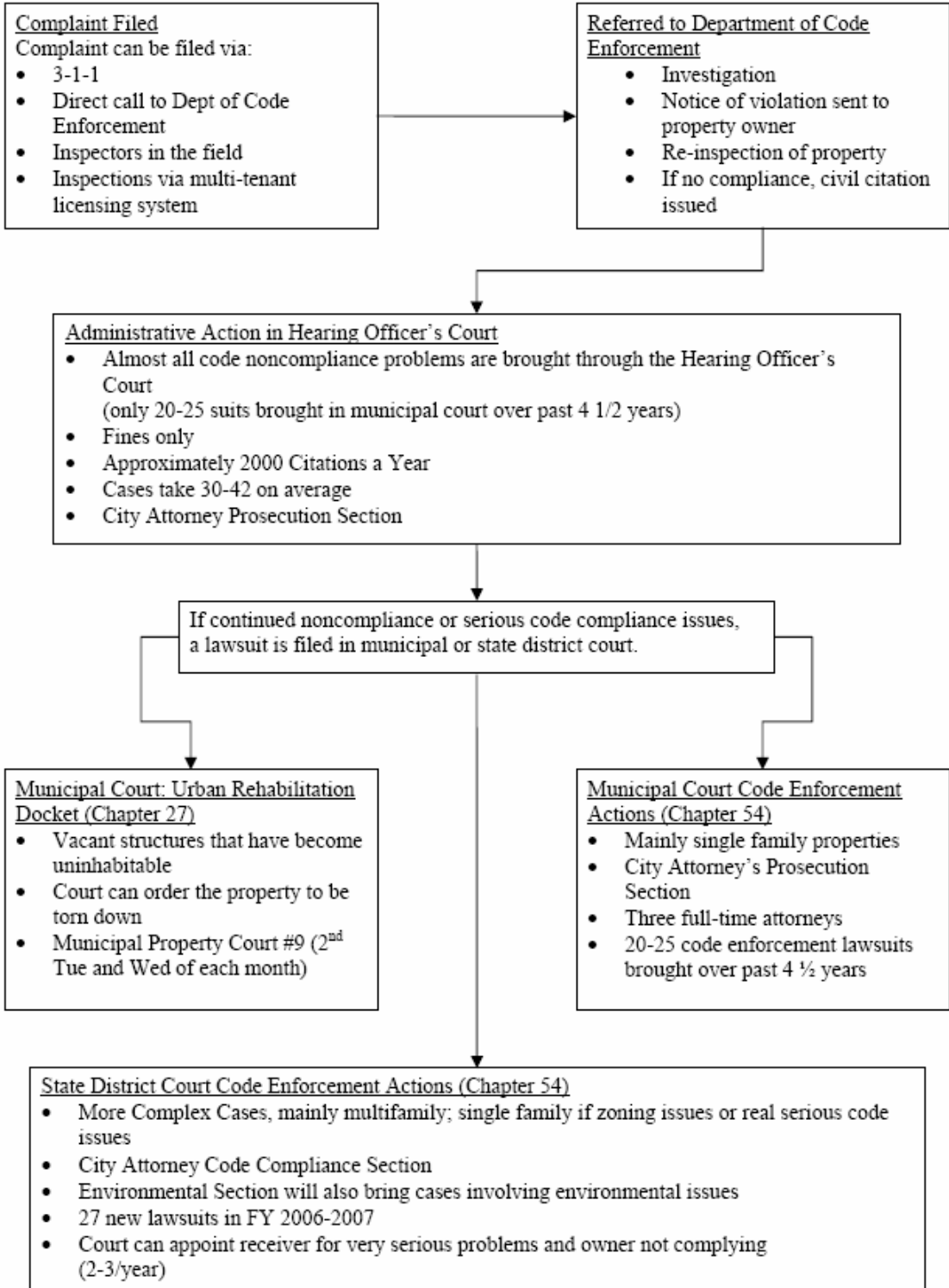
---

<sup>20</sup> Dallas City Code, § 27-16.19.

<sup>21</sup> Dallas City Code, §§ 27-16.21 to 27-16.23. These sections list other qualifications that individuals must also meet to receive assistance from the Dallas Tomorrow Fund.

<sup>22</sup> Bush, Rudolph, "Dallas' Code Compliance unit set to change procedures," *Dallas Morning News*, December 6, 2007.

# CODE COMPLIANCE PROCESS DALLAS, TEXAS



## **Administrative Enforcement**

In 2005, substantial revisions were made to the Dallas City Code to implement a comprehensive administrative process for handling civil code violations. The system was modeled after successful systems in cities such as Detroit, Chicago, and Seattle. Prior to that time, the City only had the option of writing criminal citations, which were prosecuted in municipal court. The heavy backlog led to cases taking one to two years to come to resolution. The heightened procedural requirements and burdens of proof in a criminal proceeding also created difficulties. For example, the defendant had to be identified by an eyewitness in every case. Cases could be easily dismissed if the code inspector who wrote the citation was unable to appear at the hearing to identify the defendant property owner.

Now, the vast majority of common violations contained in Chapters 7A, 18, and 27 of the Dallas City Code are known as “property codes” on which civil citations can be issued. These violations are then prosecuted in an administrative proceeding called the “Hearing Officers Court.”<sup>23</sup> For example, litter, weed, structural deficiency, and multi-tenant requirement violations can all be issued civil citations. Civil prosecution eases the burdens of proof, and the administrative forum allows for quicker movement of violations through the system.

About 2000 civil citations are processed through the administrative system each month. Per city ordinance, the hearing date cannot be earlier than 31 days after a citation is issued. Cases take 31-40 days on average to come to the hearing officer’s court. Most cases in the administrative process are resolved at the hearing because the citation creates a rebuttable presumption of violation, which means the owner must prove otherwise or the City automatically wins its case. The City asks for a finding of “liable” and for the full penalty to be assessed. The hearing officer then enters a finding of “liable” or “not liable,” and also has the discretion to reduce the fine amount from the maximum available penalties. The property owner has a right to file an appeal within 30 days in the municipal court.

## **Civil Enforcement Actions**

In addition to the administrative enforcement actions, the City Attorney’s office can prosecute code enforcement violations in civil actions filed in the municipal or state district court. Civil actions are not widely used and are typically brought only after an administrative citation has not brought about compliance. Sometimes a Chapter 54 code enforcement case will be joined with a lawsuit under Section 211 for zoning code violations, such as illegally running a business (e.g., a boarding house) out of a residence. Unlike with the administrative enforcement actions, injunctive relief is available in municipal and state district court actions, along with fines. Through injunctive relief, the court can order the owner to make specific repairs and take specific actions concerning the property. The court can also grant permission to the city to enter the property and make repairs, although the City of Dallas never seeks this relief because of the lack of resources. According to the City, typically a court’s

---

<sup>23</sup> Dallas City Code §§ 7A-20, 18-51, 27-4.

injunctive orders and the threat of fines and even jail time for violation of the orders are sufficient to get the owner to make the repairs.

Most cases against single-family properties are brought in the Hearing Officers Court. When an administrative action does not bring about compliance, the Prosecution Section of the City Attorney's Office can bring a lawsuit in municipal court. The Section has brought about 20 to 25 such lawsuits against single family properties over the past four and half years.

The Code Compliance Section of the City Attorney's Office handles cases filed in the state district court. The state forum is better suited to handle more complex cases, mainly those involving multi-tenant and commercial properties. In the 2006-2007 fiscal year, the Code Compliance Section filed approximately 27 new code enforcement lawsuits in the state district court. The Code Compliance Section will handle a small percentage of cases related to single family properties, especially those involving zoning violations and nuisance abatement issues.

Civil actions under Chapters 27 and 54 are not very widely used in part because of the complexity, time, and resources involved in bringing a lawsuit. Actions under Chapter 54 are more complicated to prosecute, in part because the standards imposed by the state statutes are high. For example, in order to receive injunctive relief under Chapter 54, the City must prove a substantial risk of health impact to the person or property of someone *other* than the owner.

Violations of Chapter 27 and Chapter 211 can also still be prosecuted criminally. Criminal cases represent only a small portion of the overall caseload involving code enforcement. Penalties for Chapter 211 zoning violations can include a fine, imprisonment, or both.<sup>24</sup> In Chapter 27, however, the City Code only allows for fines and not imprisonment.<sup>25</sup> A court can require jail time for contempt in Chapter 27 and Chapter 54 code enforcement cases when an owner refuses to comply with the court's injunctive orders.

### **Self-Help Actions**

Chapter 54 does not provide a procedure by which neighbors or community organizations can file their own lawsuits to require an owner to clean up a property or to seek injunctive relief to allow an organization to make the repairs. In Texas, however, there may a traditional court-recognized right whereby individuals can bring a "common law" right of action against a property owner for failing to abate a nuisance. We have not conducted research on the scope of Texas common law concerning self-help actions. Further research is needed to determine to what extent a self-help nuisance abatement action is legal in Texas under the common law.

---

<sup>24</sup> TX Local Gov't Code, § 211.012.

<sup>25</sup> Dallas City Code, § 27-4.

Generally, under the common law in other states, if the neighbors' health, safety, or quality of life is affected by a nuisance, they have the right, after providing notice to the owner, to enter the property and remedy the nuisance themselves. The owners can then file a civil action against the owner to reimburse the expense. Because of the financial risk involved in a self-help action, such an action must be approached cautiously.<sup>26</sup>

A Dallas Assistant City Attorney mentioned one instance in which two neighborhood groups in Lake Highlands recently intervened in a city code enforcement lawsuit involving nuisance issues, including an open sewage line, failure to maintain heating equipment, failure to keep areas free of insects and rodents, and failure to maintain fire alarms. The two groups, the Lake Highlands Area Improvement Association and the Highland Meadows Neighborhood Association, sought \$150 a day in damages.<sup>27</sup>

### **Urban Rehabilitation Docket**

When properties are seriously dilapidated and need to be torn down, the City Attorney's Office may seek to have the property demolished by filing an *in rem* action against the property in the municipal court's Urban Rehabilitation Docket, which is part of the Municipal Property Court #9.<sup>28</sup> The docket is set for two days a month, on the second Tuesday and Wednesday. Such actions are primarily filed for vacant, severely dilapidated single family homes. The Municipal Property Court also hears any Chapter 54 lawsuits filed in municipal court.

Under Chapter 27, if the structures are inhabited, the City must provide relocation assistance to the individuals living there, unless the occupant is the owner and has the financial means to repair the property.<sup>29</sup> State law also has a provision governing relocation benefits.<sup>30</sup> The City has limited resources to handle demolition cases cases.<sup>31</sup> The Urban Rehabilitation Docket can handle approximately 200 cases per year, and each case generally takes three to six months to be resolved. This number is in part limited by the court's resources available to hear cases and the limited budget allocated to enforcement of these actions. In the 2006-2007 fiscal year, the City Attorney filed approximately 167 such lawsuits.

---

<sup>26</sup> Mallach, Alan, *Bringing Buildings Back: From Abandoned Properties to Community Assets* (National Housing Institute 2006), p. 155.

<sup>27</sup> Wendy Hundley, "Damages sought from apartment complex," December 10, 2006, Dallas Morning News website: [http://www.dallasnews.com/sharedcontent/dws/news/city/richardson/stories/DN-apartments\\_10met.ART0.North.Edition1.3db98bd.html#](http://www.dallasnews.com/sharedcontent/dws/news/city/richardson/stories/DN-apartments_10met.ART0.North.Edition1.3db98bd.html#)

<sup>28</sup> Dallas City Code, § 27-16.3.

<sup>29</sup> Dallas City Code, § 27.16-3.

<sup>30</sup> TX Property Code, § 21.046(e).

<sup>31</sup> The DCE has a budget of \$896,514 and 6.0 FTE to provide relocation assistance for individuals whose structures are condemned as an urban nuisance, with the goal of helping 40 people a year.

## **Liens**

There are several different Texas and local laws governing liens. Chapters 54 and 214 of the Local Government Code are the more relevant state law provisions. Chapter 27 of the Dallas City Code also governs liens. The City has the authority to record liens against a property when an owner does not pay certain type of costs, fees, and penalties associated with code enforcement, such as the city's costs of mowing the premises, repairing or demolishing a structure, or unpaid court judgments.<sup>32</sup> The City then has the ability to foreclose on these liens, although there are exceptions for homestead properties.

Traditionally, the city has not foreclosed on non-tax liens. Instead, the Linebarger law firm, which handles the city's property tax collections, would foreclose on these liens only when the property also had ad valorem tax liens. The City has recently hired an attorney who, as part of the City Attorney General Litigation Section, will be focusing on collections, including collection on Chapter 54 judgments. It is unclear so far whether this attorney will also collect on demolition and mowing liens. Under Chapter 214.004 of the Local Government Code, it appears that a City cannot foreclose on a substandard building lien under that Chapter unless ad valorem taxes are also delinquent. Chapter 27 of the Dallas Code states that the City may foreclose on the liens unless the structure is occupied as a residential homestead by a person 65 years of age or older.<sup>33</sup> Further research is needed.

The City's liens for costs incurred in Chapter 27 actions are nontransferable to third parties and take priority over all liens, other than tax liens, as long as the City provides the other lien holders with notice and an opportunity to properly maintain the property.

## **Barriers to Effectiveness**

In the past, the Dallas municipal court system was so overloaded that bringing code violation suits to their conclusion could take one to two years if contested. Property owners operating multiple residential rental properties in West Dallas neighborhoods were able to exploit the system's inefficiencies and the already overloaded court system to further delay resolution of their cases. The City has since begun prosecuting the majority of code violations through its administrative forum since 2005 and through civil (rather than criminal) suits in municipal court. The administrative enforcement appears to have remedied some of the problems that plagued the former system, but problems remain. In the Summer of 2006, there was a backlog of 400 unresolved code complaints; by December 2007, this number was down to 139.<sup>34</sup>

More data is needed to assess the new system's success and impact in bringing the more recalcitrant property owners into compliance. There has been a lot of recent

---

<sup>32</sup> See, e.g., Dallas City Code, §§ 27-16.8(e), 27-19.8, 18-18; TX Local Gov't Code § 54.040(a).

<sup>33</sup> Dallas City Code, § 27-16.8(e).

<sup>34</sup> Bush, Rudolph, "Dallas' Code Compliance unit set to change procedures," *Dallas Morning News*, December 6, 2007.

turnover in the Department of Code Enforcement, and the staff we contacted in the department were either too new to answer our questions or did not return our phone calls. The fact that there continues to be a large backlog of code complaints and large number of vacant and blighted properties makes it evident, however, that something is still wrong with the current system and that the City needs to be more aggressive in improving the conditions of these neighborhoods. Close to 10% of properties in West Dallas have major code violations, and another 25% of properties are vacant.<sup>35</sup>

In recognition of the ongoing challenges involved in building an effective code enforcement system, in 2004, the City of Dallas retained McKinsey & Company to assess the City's code compliance and economic development programs. The final report included a set of eight recommendations, including the following:<sup>36</sup>

- Complete fixes to the 311 system to ensure that every request gets assigned to an inspector;
- Provide citizens with updates on progress for certain cases;
- Ensure that Code department managers get useful performance data from the 311 database;
- Hold the department accountable for its effectiveness in resolving code cases; and
- Regularly conduct surveys to measure citizen satisfaction with quality of life in Dallas.

It is unclear which of these recommendations have been implemented and, for those recommendations that have been implemented, what impact they have had on the code enforcement process. We recommend that a follow up reassessment be conducted.

Our primary focus was to examine the effectiveness and adequacy of the state and local laws governing code enforcement; we did not conduct a thorough analysis of the ways in which the code enforcement laws are being administered at the inspector level. Based on our analysis, however, we did identify the following barriers that remain under the new system:

- The City's code enforcement process is hampered by the lack of adequate dedicated funding and staff resources. This is a complaint we heard from several community leaders. Code enforcement takes time, people, and money, and there is not enough of these resources dedicated to code enforcement in Dallas.
- There continues to be limited public access in Dallas to information concerning code complaints and city enforcement actions. When a resident makes a call into 311, the resident does not hear back from the City regarding

---

<sup>35</sup> James Murdoch, "2006 West Dallas Windshield Survey," cd on file with author.

<sup>36</sup> McKinsey & Company, "Improving the City's Effectiveness in Code Compliance and Economic Development." Presentation to Dallas City Council, November 17, 2004, available at [www.mckinsey.com/](http://www.mckinsey.com/).

the status of the complaint, and it is difficult if not impossible to then independently track what happens to the complaint, short of submitting a public information request in writing. The lack of transparent, easily accessible information concerning code enforcement makes it difficult for neighborhoods to be engaged in the code enforcement process, and makes it difficult for neighborhoods to hold the city accountable for what types of code enforcement activities are happening or not happening in their neighborhoods.

- The City’s code enforcement strategy appears to remain primarily complaint driven—the “squeaky wheel gets the grease.” Inspectors are assigned to geographic areas which they patrol, but rely substantially on citizen complaints to locate problem properties. This leads to a more reactive, sporadic approach to code enforcement, rather than a proactive and strategic response to code violation issues.
- The code enforcement scheme is limited in its ability to address the problems of property owners who commit repeated code violations and yet fix up their properties as soon as an enforcement action begins. It is easy for property owners to evade penalties by demonstrating the violation is “fixed,” which starts the process over again.
- If the property is in such poor condition that the appropriate remedy is to order the occupants to vacate the premises or to demolish the premises, the City is required by law to provide relocation assistance to the residents (unless the occupant is the owner and has the financial means to repair the property, in which case the city only has to pay moving costs).<sup>37</sup> The code compliance department has a very limited budget for relocation benefits, so only vacant properties can be effectively targeted for demolition.
- There are several different city departments and sections charged with code enforcement responsibilities. While there is coordination between the Department of Code Enforcement, the City Attorney’s office, and the SAFE team, it is unclear how far-ranging and comprehensive this coordination is across these and other city departments, and whether the complex enforcement system results in a barrier to maximizing effective enforcement.
- The City’s failure to foreclose on its liens related to code enforcement activities is problematic. Owners have little incentive to pay if they know the liens will not be collected, and the city is foregoing thousands of dollars in revenues that could be re-invested in community revitalization efforts.

---

<sup>37</sup> Dallas City Code, § 27-16.3.

## **Best Practices**

- **Dedicated housing courts.** The consolidation of all property-related cases into dedicated housing courts has been effective in several cities. Specialized housing courts have been particularly effective where judges are specially elected or appointed to that court. A specialized court allows matters such as code enforcement to be a priority, rather than falling to the bottom of the judicial docket.<sup>38</sup> Judges from these courts can be active champions of healthy and safe neighborhoods.

One of Dallas’s municipal courts handles property-related actions, including a special Urban Rehabilitation docket which meets twice a month to handle the cases involving the demolition and repair of extremely dilapidated single family homes.

- **Example:** The Cleveland Housing Court is a national model for housing courts.<sup>39</sup> The court has exclusive jurisdiction over code enforcement cases, and also hears landlord tenant cases, foreclosures, nuisance abatement, and receivership actions. Forty to fifty code enforcement advocates, most affiliated with neighborhood organizations, track complaints and violation notices, and assist the City in properly documenting code enforcement cases. The advocates meet with the court once a quarter to share ideas. The court also employs housing specialists to provide counseling and assistance to landlords to help them achieve compliance. The court has criminal enforcement powers, starting with minor misdemeanor fines of \$150 a day to \$5,000 a day for violations by properties owned by corporations. The court has the authority to issue search warrants to allow the City to go inside the units. The court also has broad equitable powers so that the court can issue orders such as requiring the owner to go and live in the house. In 2007, the court had a budget of \$3 million that included \$2.2 million in salaries for a 45-person staff including one judge, a magistrate, and bailiffs. The court runs a housing clinic and code enforcement workshops and conducts a wide variety of other community outreach projects. The court sometimes holds community courts in the actual neighborhood where the property is located; the residents come out to hear the cases, which results in peer pressure on the landlord to abate the nuisance.

**Example:** Buffalo’s housing court is another national model.<sup>40</sup>

- **Effective code enforcement management system.** An effective code enforcement management system is critical—one that is effective from the bottom up and utilizes specific performance measurement targets. As part of

---

<sup>38</sup> Mallach, at 44.

<sup>39</sup> Most of the information in this report about the Cleveland Housing Court came from a presentation by the Housing Court’s Presiding Judge at the 2007 conference, “Reclaiming Vacant Properties: Strategies for Rebuilding America’s Neighborhoods.” For information about the Cleveland Housing Court, visit the court’s excellent website: <http://www.clevelandhousingcourt.org>.

<sup>40</sup> “Here Come the Judges: Housing and Environmental Courts,” Presentation at Reclaiming Vacant Properties Conference, September 25, 2007, notes on file with author.

an effective system, a city should provide regular and comprehensive training of its code enforcement personnel. A city should also train and encourage its inspectors to help citizens access resources to bring their properties back up to code, and a city should provide financial resources to assist owners with overcoming barriers to compliance.

Example: The former head of the City of Austin Code Enforcement Department emphasizes the importance of setting performance measurements based on compliance rather than the number of cases or amount of fines. The City of Austin found that a goal of “95% compliance within 90 days,” for example, was more effective than measuring the number of citations issued or the number of cases handled.

- **Posting and maintenance code requirements for uninhabitable and vacant properties.** An effective strategy to deal with properties that are uninhabitable and vacant is to require the owner to post a large “no trespass sign” so police can arrest anyone going onto the premises. The sign should be painted on the window or on boards—trespassers will rip up paper notices. The sign should also list where the owner lives and the owner’s contact information. Inspectors need to inspect the property once a week to make sure the notice is still intact. The maintenance code should also specify that putting boards up in the windows is not sufficient, but that buildings must have windows and meet other basic standards, or otherwise the property is subject to fines and demolition.
- **Proactive enforcement.** Instead of only pursuing violations on a complaint-driven, reactive basis, a best practice is to create an effective targeting strategy for enforcement that complements responses to complaints. One expert recommends implementing a process that is not complaint or politically driven, but is instead intended to further substantive public policy goals.<sup>41</sup> For example, the City may target specific at-risk geographic areas for systematic enforcement or target properties with a greater risk of deterioration such as, for example, properties with tax delinquencies or unpaid utility bills.<sup>42</sup>

Example: In the past, the City of Austin created priority property lists for each designated geographic area and started with the worst offenders for each area and worked down the list.

Example: In Louisville, Kentucky, the Neighborhood Roundtable identifies the ten worst properties in their areas. City inspectors conduct intensified inspections on these properties and generate a before and after report on each property.

---

<sup>41</sup> Mallach, at 41.

<sup>42</sup> Mallach, at 43.

Example: Toledo, Ohio, has created a “Dirty Dozen” program. Under this program, a property and its owner are added to the Dirty Dozen list when the property is identified as a contributor to blight in a neighborhood. When a list of 12 properties has been assembled, a team of inspectors from several city departments converges on the properties, inspects them, and issues citations. Furthermore, the location of the properties, a picture of each, and the name of the owner are provided to the news media and published on the City’s web site.<sup>43</sup>

- **Effective coordination across city departments.** A keystone of a good code enforcement program is one in which resources are dedicated to capacity building and effective coordination of responsibilities across departments with code enforcement responsibilities. A city’s code enforcement program will also be more effective if it is coordinated with other city departments and agencies that are regularly in the field, including the police department, fire department, utility companies, animal control, and public works department.<sup>44</sup> There should be regular communication across city departments. Personnel in city departments and agencies should be cross-trained to report problems. For example, if a bailiff evicting a tenant sees a property in disrepair, the bailiff can be trained and required to report this to the city code enforcement department. If the court orders a house to be boarded up, then the water department needs to be turning the water off to the house.
- **Rental registration.** Other cities have had success with registration systems, which require landlords to register their rental properties, provide contact information for a central database, and obtain licensing or occupancy permits. Rental registration also provides the city with expanded opportunities to inspect the property and educate owners about their responsibilities as property owners and landlords. Dallas has implemented a new multi-tenant registration system in the past two years which requires inspections on a rotating basis each year. This idea has been proposed, but not enacted in Dallas, to extend this program to single-family rental homes.

Example: Los Angeles has adopted a Systematic Code Enforcement Program, which provides for the inspection every five years of all multifamily properties with two or more units, and an annual fee of \$35.52 a unit.<sup>45</sup>

Example: New Jersey rent courts will not enter eviction orders for landlords who have not complied with the state’s registration requirements.<sup>46</sup>

---

<sup>43</sup> Finkbeiner, Carlton, “The Dirty Dozen,” in *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities* (United States Conference of Mayors, June 2006).

<sup>44</sup> Mallach, at 41-42.

<sup>45</sup> City of Los Angeles Housing Department website: <http://www.ci.la.ca.us/LAHD/code.htm>.

<sup>46</sup> Mallach, at 43

- **Community engagement and collaboration.** The more a community can be engaged as a partner in code enforcement, the more effective the process will be. Neighborhood groups can be involved in helping a city track code violations, and can also be engaged in monitoring the process for accountability and efficiency.<sup>47</sup> When a city fails to meet its duties to enforce code violations, the community should have the right to then bring its own enforcement action.

Example: In Memphis, neighborhood groups have created the Problem Properties Campaign to support neighborhoods' efforts to redevelop and eliminate neglected properties.<sup>48</sup>

Example: In Cleveland, the local housing court judge engages in a variety of activities that engage the community and connect the judge to the problems of blighted properties. For example, the judge meets once a quarter with community groups to talk about problem properties, conducts site visits to see the neighborhoods and problem properties, and distributes a newsletter to educate the community about tools to deal with problem properties.

Example: The Providence Nuisance Abatement Task Force is composed of community development corporations, the deputy attorney general, and representatives from several city departments, including the police, fire, housing, and code departments. The task force meets twice a month to work on approximately 20 problem properties nominated by the community, police, and others. The task force follows each property through resolution for at least six months.<sup>49</sup>

Example: Baltimore has adopted a Community Bill of Rights, which grants community organizations the authority to seek injunctions to enforce a broad range of municipal code provisions when the city does not take action.<sup>50</sup>

Example: In Atlanta, the City trains volunteer "neighborhood deputies" who patrol the neighborhood and send notices of potential code violations to property owners and occupants. If the conditions are not corrected, the deputies refer the case to the city code enforcement department. The program costs the City just \$80,000 to run, the same as the cost of two full-time housing inspectors.<sup>51</sup>

---

<sup>47</sup> Mallach, at 44.

<sup>48</sup> Problem Properties Collaborative website: <http://problemproperties.typepad.com>.

<sup>49</sup> LISC & MetLife Foundation, "Leveraging Code Enforcement for Neighborhood Safety Initiatives: Insights from Community Developers," p. 6.

<sup>50</sup> Kelly, James J, "Refreshing the Heart of the City: Vacant Building Receivership as a Tool for Neighborhood Revitalization and Community Empowerment," *Journal of Affordable Housing* 13(2) (2004), p. 236, n. 78 (citing Md. Code Ann., Real Prop. § 14-123 (1996)).

<sup>51</sup> Mallach, at 42.

- **Vacant property accountability ordinances.** Cities have implemented an array of ordinances to increase the accountability of vacant property owners. These ordinances may require a range of registration fees, maintenance standards, liability insurance requirements, and enforcement mechanisms. Under a vacant property registration system, the owner of a vacant property must register the property with the City and pay a fee, ranging from \$50 to \$5,000. A vacant property registration system allows a city to be proactive instead of reactive by knowing when a property has become vacant and discouraging owners from letting their properties remain vacant. The fees also allow a city to shift the cost of enforcement for problems arising from vacant buildings onto the shoulders of problematic property owners versus the general citizenry. A number of cities also require the owners of vacant buildings to post the owners' name and contact information on the property.

Example: In Wilmington, Delaware, the city government has implemented a set of stiff, graduated fees based on the number of years the property is vacant (approximately \$500 per year). Several months before assessing the fees, notices are sent to each owner offering a one-time, one-year fee waiver if the owner rehabilitates, sells, or demolishes his or her property. While the goal of the program is to get vacant properties back into shape and into use, the program was immediately successful in collecting higher amounts of revenue to cover the cost of monitoring, citing, and prosecuting non-compliant owners.<sup>52</sup>

Example: Chula Vista, California, enacted its vacant property registration system out of concern with the high rate of foreclosures in the City. Under the City ordinance, out-of-town lenders must (1) record assignment of a deed of trust; (2) inspect the property upon recordation of mortgage default; and (3) register the property if it becomes vacant and is in mortgage default. The fees cover the cost of the City's program. The owner must hire a local contact company to secure the property and also post contact information on the property. Owners have ten days to comply. For noncompliance, the City can issue administrative citations and civil penalties and recover the full costs of city enforcement (includes hourly cost of city staff at \$123 an hour). Receivership is also available as a remedy.<sup>53</sup>

Example: In Cincinnati, Ohio, an owner is required to get a license whenever a building is ordered to be vacated because it is uninhabitable. If the property is fixed up and becomes habitable again, the owner no longer has to retain a license. The fee for the initial year is \$900, and the fees then increase to \$2,700 a year. If the fees are not paid, the City can institute a civil action and file a lien on the property, on which the City can then foreclose. The owner

---

<sup>52</sup> Baker, James M., "Vacant Property Registration Fee Program," in *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, (United States Conference of Mayors, June 2006), p. 40.

<sup>53</sup> Chula Vista Municipal Code § 15.60.

must also maintain liability insurance in the amount of \$300,000 for residential property, and \$1 million for commercial properties.

- **Ban on vacant properties.** Several cities consider any building that is vacant to be in violation of city code and subject to penalties. These cities require owners of vacant properties to take affirmative steps to either rehabilitate or demolish their properties.

Example: Owners of vacant properties in San Diego are required to submit for approval a “Statement of Intent” to bring vacant structures into productive use. The Statement of Intent must include the following: (1) expected period of vacancy; (2) maintenance plan during period of vacancy; and (3) a plan and time line for the lawful occupancy, rehabilitation, or demolition of the structure.<sup>54</sup>

Example: In Minneapolis, the City can fine and demolish a vacant property after it has been boarded up for 60 days or more.<sup>55</sup>

Example: Louisville, Kentucky, pursuant to authority under state law, imposes an “abandoned urban property” tax on properties which have been vacant or unimproved for one year and have been tax delinquent for at least three years or violate certain maintenance standards. The abandoned urban property tax is three times the regular property tax rate.<sup>56</sup>

- **Public shaming.** In an attempt to publicly shame landlords whose properties are a blight to the community, some cities place a large sign on the front of properties with serious code violations, listing the landlord’s name and contact information.

Example: Syracuse, New York.<sup>57</sup>

- **Abandoned property coordinator.** In a system that inherently involves multiple city departments and sections with diverse enforcement responsibilities, it is helpful to have one person with clearly delegated oversight over the entire system who can serve as a liaison among various departments, property owners, and residents.

Example: San Diego has a vacant properties coordinator who is in charge of administering the city’s nuisance abatement program. The coordinator’s responsibilities include: maintaining an inventory of all vacant properties, coordinating efforts among city departments, performing liaison tasks with the

---

<sup>54</sup> City of San Diego, Neighborhood Code Compliance Department, “Vacant Property Rehabilitation Programs,” available at <http://www.sandiego.gov/nccd/housing/vacant.shtml>.

<sup>55</sup> Minneapolis Code of Ordinances, § 249.30(a)(2).

<sup>56</sup> Louisville, Kentucky Housing and Community Development Department website: <http://www.louisvilleky.gov/Housing/Abandoned+Urban+Property.htm>

<sup>57</sup> Enterprise Foundation, “Solving Chronic Nuisance Problems: A Guide for Neighborhoods”

city's vacant property task force, and communicating with community groups and local institutions.<sup>58</sup>

- **Property information system.** A property information system that provides current and comprehensive information about properties is a critical part of any effective abandoned and blighted property initiative. Cities can then use this data to target resources to the areas in the need of most attention. The system should be accessible via the Internet and allow the city and residents in the community to easily track and monitor the code enforcement process.<sup>59</sup> The system should also provide the community with the tools to assess the impact of the code enforcement. A well-run system will “inform planning, intervention, and research around abandoned properties.”<sup>60</sup>

Example: Philadelphia's Neighborhood Information System is accessible to city staff, community development corporations, and other community-based agencies that have contracts with the city.<sup>61</sup> Certain parts of the system are also available to the public at large. The system was created in partnership with the University of Pennsylvania and tracks a wide array of information related to properties, including the date of purchase, purchase price, tax delinquency status, city code violations, and utility terminations. The system has been particularly valuable in neighborhood planning for activities such as housing rehabilitation.

Other Examples: Baltimore, Chicago, Los Angeles, Memphis, and New York.

---

<sup>58</sup> National Vacant Properties Campaign, “Strategies & Technical Tools,” available at: <http://www.vacantproperties.org/strategies/tools.html>.

<sup>59</sup> Mallach, at 45.

<sup>60</sup> Hillier, Amy, et al., “Predicting Housing Abandonment with the Philadelphia Neighborhood Information System,” *Journal of Urban Affairs*, 25(1) (2003), p. 92.

<sup>61</sup> Hillier, at 92.

## **Part II. Criminal Nuisance Abatement**

### **Background**

Nuisance abatement is one of the most effective enforcement strategies that cities have for dealing with abandoned and blighted properties that are sources of repeated criminal activity. In many parts of Dallas, police calls for drug dealing, illegal weapons, and crimes against property are a regular occurrence. Drug dealing and other criminal activity contributes to a neighborhood's vulnerability and has a detrimental impact on the residents' quality of life and well-being. When a particular property is the source of repeated criminal activity (such as drug dealing by tenants and their guests), and the owner has failed to take reasonable steps to stop the activity (such as evicting the tenants), a nuisance abatement lawsuit is an important tool that cities use to shut down the criminal activity on the property.

### **Texas Nuisance Abatement Law**

In Texas, a nuisance abatement action can be brought under Chapter 125 of the Texas Civil Practice and Remedies Code. Nuisance abatement under Chapter 125 covers two types of nuisances: common nuisance and public nuisance. A common nuisance occurs when a property serves as the location for habitual criminal activity, including drugs, gambling, and prostitution. A common nuisance abatement action is brought against a property, the property's owner or maintainer, or the person who uses the property as a nuisance. A public nuisance occurs where a property is habitually used by a gang for gang activity. A public nuisance suit can be brought against any person who owns or is responsible for maintaining a property being used for habitual gang activities. Unlike common nuisance, the property itself may not be sued.

Both civil and public nuisance abatement actions are based upon a showing that the property owner both allowed the illegal acts to occur on the property and failed to make reasonable attempts to stop them. A suit to abate and enjoin a common or public nuisance may be brought by: (1) an individual; (2) the district, county, or city attorney; or (3) the Texas Attorney General.

In addition to maintaining a property habitually for criminal activity, common nuisance requires that the person who maintains the property: (1) knowingly tolerates the activity; and (2) fails to make reasonable attempts to abate the activity.<sup>62</sup> In a common nuisance suit, the court may consider the fact that an illegal activity is frequently committed at a property as evidence that the defendant knowingly tolerated the activity. The court may also consider evidence that persons have been arrested for prohibited activities on the property, evidence of the general reputation of the place, and evidence that the defendant refused to cooperate with law enforcement or emergency services with respect to the activity. As a

---

<sup>62</sup> TX Civil Practice & Remedies Code, § 125.0015(a).

precondition to filing a nuisance abatement lawsuit, the party filing the suit must first consider whether the property owner promptly notified law enforcement of the occurrence of criminal acts on the property and whether he or she cooperated with the law enforcement investigation.<sup>63</sup>

If the city or individual bringing the suit is successful in the abatement action, the court will issue a preliminary or permanent injunction ordering the property owner to abate the nuisance. Typically, the court will issue a preliminary injunction first and a permanent injunction and penalties, as appropriate, after a trial on the merits. The court order may include specific steps the owner must take to improve the property. In a common nuisance suit brought against the property (instead of the owner), the court must order that the property be closed for one year after the date of judgment. Violation of the injunctive order can subject the property owner to a fine of \$1,000 to \$10,000 and confinement in jail for 10-30 days.<sup>64</sup>

Evidence used in a nuisance abatement action usually consists of some or all of the following: arrest reports, citations, search warrants, incident reports, complaints, and calls for police service at the property, along with videotapes or photographs of illegal behavior conducted on the property.<sup>65</sup> A good nuisance abatement case rests on multiple violations within a certain time period. The Attorney General's guidebook on nuisance abatement, for instance, provides an example of a property involving six or more arrests for the same type of illegal activity within the past six months to a year. For a successful nuisance abatement action where a property is linked to criminal activity, policy reports need to identify the property and be specific as to the connection between the crime and the property.

A nuisance abatement action may also be brought under the Texas Alcoholic Beverages Code, Section 101.70, for violations of the code, such as illegally serving alcohol to minors.

## **History of Nuisance Abatement Enforcement in Dallas**

Until this year, the City of Dallas had not made use of nuisance abatement for several years due to prior allegations of police abuse. Business and apartment owners alleged that the City of Dallas was targeting legitimate business, using Chapter 125 as justification to require those owners to implement expensive security measures to abate criminal activity. Opponents of Dallas's conduct said the police's behavior amounted to requiring owners to perform law enforcement's function of policing against criminal activity.<sup>66</sup> House Bill 1690, authored by Representative Terry Keel,

---

<sup>63</sup> TX Civil Practice & Remedies Code, § 125.002(h).

<sup>64</sup> TX Civil Practice & Remedies Code, § 125.002(d).

<sup>65</sup> Attorney General of Texas, Criminal Law Enforcement Division, *Nuisance Abatement Manual* (14<sup>th</sup> ed. 2005), pp.10-16.

<sup>66</sup> Ramshaw, Emily, "Cutting Through Crime Owners, City Disagrees on Efforts to Keep Area Around Carwash Safe," *The Dallas Morning News*, December 3, 2004: 1B.; Brooks, Karen, "State: Dallas Ran 'Amok' More Legislation on Nuisance Rules Urged; Miller Touts Changes," *The Dallas Morning News*,

was specifically directed at alleged misuses of the nuisance abatement laws by the City of Dallas against multi-family property owners and businesses.

House Bill 1690 amended Chapter 125 by: (1) enlarging what a city must prove before a property owner can be held responsible for criminal activity; (2) rewarding owners who promptly report criminal activity; and (3) preventing the city from using evidence that the owner reported criminal activity against the owner in an abatement proceeding. This year, through a bill filed by Representative Scott Hochberg from Houston, the Legislature made additional modifications to Chapter 125 by eliminating the requirement of a bond for common nuisance suits brought against the property.

In the Fall of 2007, following the implementation of new local procedures, the City started to bring Chapter 125 nuisance abatement enforcement actions again, after a hiatus of several years. Criminal nuisances continue to be a severe problem in Dallas. In West Dallas, for example, there are properties with as many as 69 criminal offenses committed on the property within the course of just two years.

## **Chapter 125 Procedures in Dallas**

Nuisance abatement actions are brought through the City's SAFE Team. The SAFE Team is a unit within the Dallas Police Department that was created to reduce criminal nuisances by integrating the police department, code enforcement department, the fire department, and the city attorneys.

As discussed above, the City of Dallas has implemented a new process to handle nuisance abatement cases in the wake of alleged misuse and changes to Chapter 125. Local beat officers will first respond to an allegation of criminal activity on a property. The complaint is received and is entered into a citywide database for tracking. If the officers are unable to resolve the problem, a recommendation will be made to open a SAFE Team investigation.

The SAFE Team will research the property at issue to determine if a SAFE case should be opened. Generally, at least three abatable offenses must have been committed on the property within a year before the SAFE Team will consider taking action. If the case appears worthwhile, a SAFE Team unit consisting of a police officer, code officer, and fire inspector will be dispatched to inspect the property.

Once the SAFE Team decides to go forward on a property, certain procedures are followed. First, the SAFE Team will contact the owner to set up an "accord meeting." At this tape-recorded meeting, the owner is advised of the activities occurring on the property and what the owner can do to help address the problem with the assistance

---

March 4, 2006: 1A; State of Texas, House Committee on Criminal Jurisprudence and House General Investigating and Ethics Committee, "Report on Joint Interim Study Charge 2006," February 28, 2006.

of local law enforcement. Second, the team will return to the property within thirty days to determine whether the owner has taken the suggested steps to abate the problem and whether the problem persists. The team will also check computer records to see if additional complaints or offenses have been registered against the property since the accord meeting. The SAFE Team will continue to work with the property owner despite initial noncompliance or setbacks. Finally, if the owner continually fails to cooperate, the SAFE Team will begin processing a Chapter 125 abatement suit through the team's assistant city attorney.

### **Barriers to Effectiveness**

Nuisance abatement actions are just now being brought again in the City of Dallas after a series of legislative changes. As a result, more time and data is needed to assess the impact of these changes and the effectiveness of Chapter 125 actions as a tool to remedy blighted properties. We spoke to assistant city attorneys in Texas who felt that the current statute is working well and that further legislative reforms are unneeded. Because of the large number of single family properties that are sources of repeated criminal activity in Dallas, more resources for nuisance abatement actions are definitely needed.

The following are the barriers we identified based on comparison with other state and city laws and procedures:

- The Texas nuisance abatement statute is vague in several respects. For one, the statute does not define when an owner “knowingly tolerates” criminal activity and what it means to not make “reasonable attempts” to abate the activity. This lack of statutory guidance makes it more challenging to successfully bring a nuisance abatement action. Furthermore, the Texas statute defines a nuisance as a “place to which persons habitually go” for certain criminal activity, but does not define how many criminal violations need to be tied to a property before it can be deemed habitual. Further legislative guidance at the local or state level as to when a nuisance abatement action may be brought could make Chapter 125 more effective.

Houston, for example, has a new detailed city ordinance that allows for “excessive criminal activity” to be abated and sets forth a detailed definition of what is considered to be “excessive.” The Houston ordinance also provides for “remediation” inspections of problem properties, along with inspection fees of \$400.<sup>67</sup>

- Nuisance abatement procedures can lead to property abandonment, rather than property improvement. For instance, when the city sues a property instead of the property owner, Texas law requires that the property be shut down for a year if a permanent injunction is obtained. The property then becomes an abandoned structure subject to being vandalized and stripped,

---

<sup>67</sup> City of Houston Ordinance No. 2006-1124.

and thus at risk of becoming a greater nuisance than before.<sup>68</sup> If a property needs to be shut down, it may be preferable to place the property in the hands of a receiver instead who can be responsible for maintaining the property.

- Community organizations do not have a right under Chapter 125 to bring nuisance abatement actions and, even if they did have the right, Chapter 125 nuisance abatement is limited to abating criminal activity, and not the other types of property-related problems that can plague a community. If a community organization in a Dallas neighborhood is impacted by blighted properties and wants to bring its own legal action, it has to file a common law action, for which there is much less guidance. While individual residents currently have the right to bring a criminal nuisance abatement action, they rarely do so, in part because of the lack of resources and possible even fear of retaliation, especially when drug activity on the property is involved.

### **Best Practices**

- **Clear definitions of abatable nuisances.** Clearly defined instances in the state law of when a nuisance is abatable fosters compliance.

Example: In Cleveland, if three or more criminal activities occur within 30 days on the same property, the property is declared a nuisance.

- **Making nuisance a felony.** Failure to abate serious nuisances can be made a felony, such as in Phoenix, where the City has achieved a 98% compliance rate for landlords.
- **Eviction of tenants.** When tenants commit multiple or serious crimes on or near their leased premises, some cities impose an obligation on the landlord to evict the tenant, and the city has the authority to evict the tenant if the landlord fails to fulfill this obligation.

Example: In Los Angeles, a landlord must evict a tenant who has been arrested within 1,000 feet of the unit for violent or narcotic crimes. California law also provides that a city attorney can bring an eviction action for tenants who commit crimes on their property.<sup>69</sup>

- **Self-help nuisance abatement actions.** If recourse to local government proves ineffective, community organizations impacted by nuisance property should have the clear legislative authority to bring self-help nuisance abatement actions, and also bring nuisance abatement actions that pertain to health and safety violations and nuisances beyond just those involving criminal activity. Community groups have a long-term vested interest in the community and

---

<sup>68</sup> Mallach, at 47.

<sup>69</sup> LA Ordinance, , § 47.50; Cal. Health & Safety Code, § 11571.1.

may have access to resources such as pro bono legal assistance to file these actions.

Example: Maryland's Drug Nuisance Abatement Law allows community groups to seek injunctive relief when a property is being used as an illegal drug business.<sup>70</sup>

Example: In Baltimore, Maryland, residents of the Butcher's Hill community brought a self-help abatement action against a property that was the source of repeated drug activity. The neighbors sent a letter to the property owner that they intended to board up the property and, when the owner did not respond, the residents followed through on their letter. The residents then went to court to cover their labor and material costs.<sup>71</sup>

---

<sup>70</sup> MD. Code Ann., Real Prop. § 14-120 (1996).

<sup>71</sup> Sarbanes, Michael, "Neighbors Plow Field of Nightmares," *Shelterforce* 80, March/April 1995.

## Part III. Receivership

Receivership is an important tool that, if used appropriately, “liberates neighborhood development previously stalled by the lingering presence of vacant houses that stubbornly defied more traditional approaches.”<sup>72</sup> Receivership “can significantly enhance a community’s efforts to deal with problem properties.”<sup>73</sup>

Traditional code enforcement utilizes fines and injunctions to coerce the property owner into renovating his or her property.<sup>74</sup> Yet, even after fines mount, the owner may still fail to repair the property—this is especially true when the property is abandoned and the owner cannot be located. Receivership laws give the authority to a third party to make repairs to the property and to pay for the repairs out of rents and other proceeds from the property. Where the goal is restoring a property versus demolition, receivership can be a more powerful and appropriate strategy than code enforcement and nuisance abatement.

Under Chapter 214.003 of the Texas Local Government Code, home rule cities may ask a court to appoint a receiver to take over a property that is not in substantial compliance with municipal ordinances regarding fire protection, structural integrity, zoning, or disposal of refuse—except for single family properties that are owner-occupied. A nonprofit organization with a demonstrated record of rehabilitating properties can be appointed as a receiver. The court also has authority to appoint a receiver under Section 64.001 of the Texas Civil Practice & Remedies Code to allow, among other things, the City to collect on a debt, such as a court judgment. Under this latter section, the receiver must be a citizen and registered to vote—organizations are ineligible for service.

The receiver has the authority to enter into rental leases, collect rents on the property, make any repairs necessary to bring the property into compliance with minimum standards, and exercise any other authority that an owner of the property would have, with the exception of selling the property. Under Chapter 214, after restoring the property to meet minimum code standards, the receiver submits to the court an accounting of all incomes, costs, and expenses, including a receivership fee of up to 10 percent of the costs and expenses. The net income, if any, is returned to the owner. If the total costs and expenses exceed the income, the receiver may maintain control of the property until the expenses are recovered or until the receivership is terminated.

A receiver has a lien on the property for all unreimbursed expenses. The court may order sale of the property if the receiver has been in control for more than a year and the owner has failed to repay the expenses (and if no other lienholders have intervened in the action and offered to repay the costs and assume control). The sale must be conducted pursuant to the provisions of Chapter 51 of the Texas Property

---

<sup>72</sup> Kelly, at 231.

<sup>73</sup> Mallach, at 49.

<sup>74</sup> Kelly, at 214.

Code, which require a public auction. The receiver may bid on the property at the sale and may use a lien as credit toward the purchase. The receiver's lien takes priority over all other liens.

One of the greatest benefits of receivership is that, like tax foreclosure and bankruptcy actions, it can be used to release other clouds on the property's title. As a super priority lien, when the receiver forecloses on its lien, it clears out the other liens.

In Dallas, the city seeks a court-appointed receiver in approximately two to three cases a year in situations where an owner refuses to comply with a court's orders and the property is in very bad shape. Receivership is done as a last resort. Most recently, the court appointed a receiver for a multi-family property on Malcolm X Boulevard. The receiver will have the right to recover his costs incurred in running and fixing up the property. The city has not sought a receiver for a single family property, at least not in the past several years.

### **Barriers to Effectiveness**

- The grounds upon which a receivership action can be brought in Texas are limited. Along with Arizona, Texas has the most narrowly drafted statute in the country.<sup>75</sup> Under Chapter 214, an action is limited to owners who are not in substantial compliance with ordinances regarding fire protection, structural integrity, zoning, or disposal of refuse. Thus, for example, a receiver could not be appointed for a building that is dilapidated and poses a health and safety hazard but does not have structural integrity issues or other issues that fall under one of the other three qualifications listed above. Vacant properties are also presumably ineligible unless it is being used for trash dumping.
- Tenants, residents, and community organizations are unable to bring a receivership action in Texas under Chapter 214 or Chapter 64.
- Receivership can be expensive and time consuming. The receiver needs to have the ability to manage the property and have the financial means to pay for bringing the property back into compliance with code, especially if the short-term rents from the property are insufficient to cover the rehabilitation costs. The legal fees in bringing a suit, especially if it is contested, can be significant. Access to pro bono legal resources is helpful. Receivership actions against occupied properties are the most complex.
- Local title companies must be on board to ensure that the process results in clear title.

---

<sup>75</sup> Mallach, at 51.

## Best Practices

Allan Mallach, in his book *Bringing Buildings Back*, includes a great list of best practices and considerations that should go into the drafting of a receivership policy. These practices include:

- **Nonprofit authority to bring a receivership action.** A receivership statute should grant nonprofit organizations, community groups, and residents the authority to bring their own receivership action. By being able to bring receivership actions, nonprofit organizations can bring additional resources to the table and build upon a city's efforts to bring problem properties into compliance with the law.

Example: Baltimore has implemented one of the broadest receivership ordinances, under which a nonprofit, as an agent for the City, has the power to ask the court to appoint a receiver for any vacant property that has an outstanding building violation notice. Under the ordinance, the court can grant the receiver the authority to foreclose on the property before any rehabilitation work is done and to auction the property off to a developer with a demonstrated ability of rehabilitating the property immediately. To avoid the appointment of a receiver, the owner must post a bond to guaranty performance.<sup>76</sup> Actions have been brought against owners of more than 300 properties, with roughly half of the owners taking action to rehabilitate the property.

Example: Cleveland brings a maximum of 50 receivership cases a year against residential properties, which are typically vacant. One nonprofit organization is appointed as the receiver in all of the cases.

Other examples: Illinois and Missouri law allow for nonprofit organizations to bring a receivership action. New Jersey law allows for "qualified rehabilitation agencies" to bring an action.<sup>77</sup>

- **Authority for the receiver to sell the property to promote neighborhood goals.** A receivership law should ensure that the reuse of the property is consistent with the neighborhood's revitalization plans and housing goals. The law should also provide for a judicially supervised sale if the owner fails to regain control within a reasonable amount of time.<sup>78</sup>

Example: New Jersey requires that the property be used for housing for low- and moderate-income households. Instead of requiring a sale, Illinois law allows for a quitclaim deed to be issued to the receiver if the owner does not regain control of the property within two years. The property must be used for

---

<sup>76</sup> Kelly, at 218-19.

<sup>77</sup> Mallach, at 162.

<sup>78</sup> Mallach, at 63.

low- and moderate-income housing for at least ten years. Missouri law is similar in allowing a judicial quitclaim to be issued if the owner does not regain control of the property within a year.<sup>79</sup>

- **Allow for extinguishment of all liens and other interests in the property upon sale or transfer of the property.** A receivership statute should ensure that the purchaser of the property gains clear title, free from liens and other interests.<sup>80</sup>

Example: New Jersey

---

<sup>79</sup> Mallach, at 164.

<sup>80</sup> Mallach, at 161.

## **Part IV. Civil Asset Forfeitures**

### **Texas Chapter 59 Forfeitures**

Chapter 59 of the Texas Code of Criminal Procedure provides authority for a law enforcement agency to seize real property that is being used in the commission of certain types of crimes, including drug distribution and first degree or second degree felonies. The police seize the property by securing the premises and taking control of the property. The District Attorney's office then has 30 days to file a civil "in rem" ("against the property") action in district court. Throughout the court action, the police have the responsibility for keeping up the property. To the extent the government's lawsuit is successful, the owner then relinquishes any interest in the property. The property or proceeds from the property can then be used only for law enforcement purposes. If the property is sold, it must be sold at a public auction. Because asset forfeiture involves relinquishment of an owner's property interests, the procedure is generally used for forfeiture of real property in only narrow circumstances involving serious and repeated criminal activity.

If the crimes on the property are committed by someone other than the owner, the owner can raise an "innocent owner" defense. Prior to 2003, an owner had to prove that he or she did not "knew or reasonably should have known" of the criminal activity. In 2003, however, this defense was expanded. Now, an owner can be successful as long as the owner can show that the property "was used or intended to be used without the effective consent of the owner."<sup>81</sup> We could not find any court guidance concerning this defense. Based on the language alone, however, we conclude that it will be very difficult, if not impossible, to successfully bring an asset forfeiture action against property that is owned by an absentee landlord, even in the case of repeated criminal activity on the property.

### **Barriers to Effectiveness**

Civil asset forfeiture of real property is used very sparingly in Dallas. The last time an action was brought was in 2001, and the case then took three years to complete. There are several barriers in Texas to using this tool for transforming blighted properties into community assets:

- Under state law, the police are required to seize and secure the property as soon as the civil forfeiture lawsuit is filed in court and to then maintain the property throughout the forfeiture action, which can drag on for two years or even longer. The maintenance of the property during this time period requires lots of resources. The police must either maintain the property in-house or hire an outside entity such as a property management company to keep up the property. The state also is subject to liability for

---

<sup>81</sup> TX Code of Crim. Proc., § 59.02(h)(1)(C).

any damages that happen to the property during the lawsuit, in the event the state loses the lawsuit. Unlike the federal government, which has a U.S. Marshall's office that is trained and equipped to maintain seized property, the State of Texas does not have a similar agency.

- If the property is in a low-income neighborhood and is encumbered by liens, the government is less likely to take on the liability of bringing a property through the asset forfeiture process. The government is responsible for paying off any liens on the property after the government obtains ownership of the property. The government will also want to be able to recoup its costs of maintaining the property and other costs involved in the forfeiture action.
- The innocent owner defense is very broad and does not appear to place an affirmative requirement on a landlord to evict tenants or otherwise be proactive in keeping the property free from crime. Because of the lack of guidance in the statute and from courts as to what this standard means, the District Attorney's office is reluctant to bring actions involving a potential innocent owner defense.
- To successfully win an asset forfeiture action requires lots of footwork on the part of the local police department, as well as collaboration between the police and other government agencies. The police need special training on how to make these cases work.

### **Federal Asset Forfeitures**

The federal government has the power to seize properties being used for certain types of criminal activities, including a violation of federal drug trafficking laws.<sup>82</sup> Unlike the state asset forfeiture policy, the federal government does not have to take control of the property until after the civil forfeiture action is completed. This cuts down on administrative costs and dramatically lowers the government's liability exposure. Pending the court action, the government can obtain a restraining order to require that the property is maintained and that the mortgage and property tax payments remain current.

The federal statute also provides more guidance on when and how an owner can raise an "innocent owner" defense, thereby eliminating some of the ambiguity that exists with the Texas law. For example, to claim the defense, the owner must prove by a preponderance of the evidence that, "upon learning of the conduct giving rise to the forfeiture, [the owner] did all that reasonably could be expected under the circumstances to terminate such use of the property." Examples of doing all "that could be reasonably expected" include revoking permission for those engaging in the

---

<sup>82</sup> The relevant provisions of the federal civil asset forfeiture statute are contained in 18 U.S.C. §§ 881, 983, and 981. The Department of Justice has published a comprehensive manual outlining the government's policies and procedures on asset forfeiture: United States Department of Justice, United States Marshall, Asset Forfeiture Office, *Real Property Manual* (Aug. 2001).

conduct to use the property or taking reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.<sup>83</sup>

Typically, property seized by the federal government must be used for law enforcement purposes. The federal government, however, has a program called Operation Goodwill, which allows for the transfer of seized properties in a short period of time to community organizations to improve neighborhoods and build goodwill between law enforcement agencies and communities. The properties must then be used to support drug abuse treatment, crime prevention and education, housing, job skills, or other community-based public health and safety programs.

The United States Attorney's office told us that they would potentially be interested in working with the District Attorney and Dallas police department on some of the drug house cases in West Dallas, especially if done in collaboration with the Weed and Seed program. The federal asset forfeiture statute provides for the sharing of forfeited assets with state and local law enforcement agencies and encourages cooperation among different agencies.

### **Barriers to Effectiveness**

- There needs to be more collaboration between federal and local agencies and training for police on how to build cases specifically for potential future civil forfeiture actions. It is important for the law enforcement agencies to have special training on civil forfeitures and on how to give notice to owners for each criminal activity occurring on the property.
- The federal government is generally reluctant to seize real properties with little value because of the cost of maintaining the property and paying off any liens on the property. However, these costs to the federal government can be abated if the property is transferred to a community group such as through U.S. Operation Goodwill or the City of Dallas land bank.
- A federal asset forfeiture action requires many different layers of approval from different government agencies, which can take a lot of time to obtain and can make asset forfeiture a very cumbersome process.

### **Best Practices**

There are several instances in which the federal government has worked in collaboration with community groups to seize blighted properties being used for criminal activity, and then transferred the property to community groups.

- In Tulsa, Oklahoma, the U.S. Department of Justice seized nine properties in a neighborhood being used to sell cocaine. After the owner and conspirators were convicted, the government seized the properties. Recognizing the risk of

---

<sup>83</sup> 18 U.S.C. § 983(d)(B)(i).

selling the property at low prices to speculators and recycling the problem of absentee ownership, the federal government gave the properties to Habitat for Humanity, through U.S. Operation Goodwill.<sup>84</sup>

- In Portland, Oregon, the federal government seized a drive-through business being used for drug distribution. The government transferred the property to a neighborhood group to be used as a community center.<sup>85</sup>

---

<sup>84</sup> Ginnie Graham, "Officials Celebrate Property Transfer," *Tulsa World*, Aug. 5, 2005.

<sup>85</sup> United State Attorney's Office for the District of Oregon, "U.S. Marshal Transfers Criminally-Forfeited Property Across the Street from Franklin High School and Atkinson Elementary School to Community Organization," press release, June 6, 2006, available at <http://www.usdoj.gov/usao/or/pressroom2006.htm>.

## **Part V. Recommendations for Action**

Based on an examination of Dallas’s existing policies concerning abandoned and blighted properties, and based on an examination of best practices from around the country, we recommend the following actions in moving forward:

### **State Legislative Changes**

1. **Amend the state law governing receivership actions to include the following:**
  - Expand state law to allow community organizations and residents to file a receivership action.
  - Expand the grounds upon which a receivership action can be brought.
  - Allow the receivership property to be sold to the land bank or nonprofit organization as an alternative to the public auction. Require that use of the property after resale be consistent with the neighborhood’s revitalization plans and housing goals.
  - Allow for extinguishment of all liens and other clouds on title upon the sale or transfer of the property.
  
2. **Reform state law on civil asset forfeiture to:**
  - Allow for the government to take control of the property upon completion of the court forfeiture action, instead of upon the filing of the lawsuit.
  - Provide for expedited court review of asset forfeiture actions (a “rocket docket”).
  - Provide guidance on when an owner may raise an innocent owner defense. Disallow defense from being raised when landlords of single family properties fail to evict tenants who are allowing the property to be used for repeated criminal activity, such as drug distribution. Also disallow defense for landlords who own multiple properties that are the sources of repeated criminal activity and are rented to “straw renters” with names on several leases of the landlord’s properties.
  - Allow for seized real property to be transferred to a community land bank, or to other community groups for affordable housing, crime prevention education, and other community-based programs.
  - Allow for the District Attorney to place a super-priority lien on the property for the costs of bringing an asset forfeiture action and maintaining the property that, upon foreclosure, would extinguish all other liens and other clouds on title.
  
3. **Amend state nuisance abatement law to:**
  - Include clearly defined instances of when a nuisance abatement lawsuit can be filed, including an obligation for landlords to evict tenants living in units with three or more drug violations over the course of a year.

- Provide authority for community-based nonprofit organizations to bring self-help nuisance abatement actions and extend authority to non-criminal nuisances.
- Extend state law to create a special cause of action against landlords who own multiple single family properties that are repeatedly used for criminal activity, who rent to “straw renters” whose names are on several leases of the landlord, and who fail to obtain criminal background checks for all of the occupants.

## **City Policy Actions**

1. **Hire a Neighborhood Preservation Coordinator who reports directly to the Mayor.** Because the tasks required to revitalize a neighborhood are handled by many different city departments in Dallas (including the Housing Department, Economic Development, Police, Code Compliance, Public Works, and Sanitation Services), there needs to be one point person who reports directly to the Mayor to in regards to revitalizing the City’s neighborhood improvement districts: (1) facilitate collaboration and coordination across the different city departments; (2) oversee the implementation of a comprehensive revitalization plan for each district.
2. **Create a Community Bill of Rights** granting community organizations the authority to seek injunctions to enforce municipal code ordinance when the City does not take action.
3. **Retain McKinsey & Associates to conduct a follow up audit of the city’s code enforcement process.** The implementation of the administrative adjudicative process by the City of Dallas in 2004 appears to be an important step towards dealing with problem properties more effectively. An analysis should also be conducted to determine the effectiveness of the new administrative process and to determine which of the 2004 recommendations have been successfully implemented and the impact of the implementation.
4. **Adopt and fund a Comprehensive Neighborhood Preservation Initiative.** Enact a general obligation bond initiative to fund a proactive preservation and code enforcement program in the City’s most distressed neighborhoods. The initiative should include support to distressed neighborhoods to develop and implement comprehensive neighborhood revitalization plans, and include specific numerical targets of properties to be revitalized through renovations or demolition and new construction or “greening” projects. For example, Columbus, Ohio, through its Home Again Program, used \$25 million in bonds to target 1,000 vacant homes over six years for preservation and home rehabilitation.
5. **Tighten the City’s vacant property ordinances and increase enforcement.** Change the City’s ordinances to make it illegal to own a building that is vacant

and boarded up for at least 90 days, by eliminating the requirement that the building must also violate another provision of the Code, and shortening the time period from 180 days. Require property owners to post no trespassing signs on properties that are vacant over a certain time period. Increase capacity to bring more lawsuits against severely dilapidated properties to order the repair or demolition of these structures as appropriate, and provide funding to nonprofit organizations to acquire and revitalize these properties. As needed, expand the Urban Rehabilitation Docket to handle a higher load of these cases.

6. **Explore adoption of the Cleveland Housing Court model** and its reliance on code enforcement advocates from the community, the utilization of code enforcement workshops, and other community outreach activities.
7. **Explore amending the city ordinance governing relocation benefits for dangerous structures.** Bring together neighborhood leaders and tenant advocates to discuss changes to the City ordinance governing relocation benefits, to consider imposing the duty on the landlord and not the City, and to consider creating exceptions to the law by which the City can proceed to repair or demolish a dangerous single family structure without having to pay for the relocation costs of tenants. In the alternative, explore the creation of additional funding to pay for relocation benefits, such as a new vacant property registration system. Amendments to state law may also be required.
8. **Adopt performance measurement targets for code compliance efforts in distressed neighborhoods,** based on the number of units that are brought into compliance and then remain in compliance over a one-year period. In collaboration with neighborhoods. For example, create a list of the top ten worst properties for each neighborhood improvement district and bring together city departments and neighborhood groups to revitalize these properties within a year.
9. **Extend the multi-tenant registration system to all rental properties.** Rental registration systems provide opportunities and obligations for code inspectors to be on site at properties that are the subject of serious code violations. The costs of the system can be offset by requiring small registration fees and through fines placed against noncompliant properties. The ordinance should also provide city code inspectors with authority to inspect the inside of single family rental properties.
10. **Create a publicly-accessible data system along the lines of the Philadelphia model.** The system should include the following information: property valuation, tax status, municipal liens, code violations, crime reports, utility shut-offs, building permits, sales, and foreclosures. The data system should be set up to allow residents to track the processing of code enforcement actions and outcomes and allow community organizations to create maps and track performance measurements. The system should also include an early-

warning system to flag problem properties before the problems escalate. We recommend the City partner with a local university to track trends, to evaluate the magnitude of problem properties in specific neighborhoods, and analyze the effectiveness of different types of intervention strategies.

11. **Adopt a vacant property registration system.** Require owners of properties that have become vacant or abandoned for a certain length of time to register formally with the local government and pay a registration fee.
12. **Target a portion of money collected from code enforcement and nuisance abatement actions** to fund community-based activities such as community watch programs, rehabilitation of houses, and video cameras for neighborhoods to film drug activity. Also target a portion of proceeds to expand training to city staff on code enforcement and best practices.
13. **Enforce the city's liens related to code enforcement activity.** Further research is needed to find out why the City has not foreclosed on liens related to code enforcement actions, outside of tax foreclosure lawsuits. Possible amendment to state law is needed.
14. **Dedicate additional resources and tools to shut down single family rental properties and landlords who own single family properties that are sources of repeated criminal offenses.** It is shocking that there are properties in West Dallas with as many as 69 criminal offenses on an individual single family property over the course of just two years. It is next to impossible for any neighborhood to revitalize under these conditions. Police reports for crimes linked to properties should automatically be sent to the property owner. When there are more than three to six crimes on a single family property over the course of six months, the city should bring a nuisance abatement action to shut down the property or bring a receivership action to allow a nonprofit organization to take over the property (amendments to state law will be needed to expand receivership actions in this regards). The city should explore adopting new laws and policies to deal with the problems of straw renters and landlords who own multiple single family properties that are the sources of repeated criminal activity.

## **Community-Based Actions**

1. **Expose the high costs of property abandonment.** We recommend that Builders of Hope work with a local university to conduct a study of the costs that abandoned and blighted properties impose on the city, including the costs of heightened police enforcement, maintenance, and lower property values. The study should include a cost-benefit analysis to the city of creating and expanding code enforcement programs. In order to expand local support for code enforcement and nuisance abatement, it is critical that the public and

government understand why they should care about this and the economic impact it has on the city as a whole.

2. **Explore partnerships between neighborhood groups and the City of Dallas to recruit volunteer “housing specialists,”** similar to those used in Cleveland and Atlanta. The specialists could work in coordination with the City’s new neighborhood code representatives to assist with tracking code violations, notifying owners, and providing information to property owners about bringing properties into compliance. This program could also be used to track the effectiveness of the City’s current code enforcement program. For example, the volunteer housing specialists in each neighborhood could create a list of the ten worst properties, report these to the City, and track what happens to the properties over the course of a year. A picture of these properties could also be posted on a website and forwarded to the news media.
3. **Raise funds to create a receivership program and work with the city to appoint nonprofit organizations as receivers in more code enforcement and abandoned building cases.**
4. The City of Dallas has recently created a task force to look at the problems of vacant properties. **Community groups should contact the city and ask to be included in the task force early on so they can contribute their perspectives and ideas.**
5. **Develop a partnership among the community, the United States Attorney’s office, and the Dallas County District Attorney’s office to implement an organized collaborative criminal nuisance abatement initiative** that: (a) targets properties being used as drug houses, (b) trains police on building an asset forfeiture case, and (c) where appropriate, seizes the properties under the federal civil asset forfeiture laws and transfers the properties to community-based nonprofits through U.S. Operation Goodwill for affordable housing and community-based programs. Invite the District Attorney and United States Attorney on a bus tour to point out the worst properties in the neighborhood and educate them about the problems the community is facing.
6. **Sponsor a roundtable,** in partnership with the National Vacant Properties Campaign, to bring together neighborhood groups, Dallas leaders, and national experts to discuss the current barriers to revitalizing neighborhoods in Dallas and develop a community plan of action for dealing with the issues of abandoned and blighted properties.

### **Follow-up Research**

During our research, we came across several other recommended tools for communities to utilize in transforming vacant and abandoned properties into

community assets. The following tools are some of the ones we have highlighted for potential areas of future research:

1. **Straw renters.** A couple of persons we spoke with raised a problem with straw renters: persons, usually women, who put their names on multiple leases on behalf of someone with a criminal history who then utilizes the property for drug activity. Further research is needed on this issue.
2. **Greening programs.** For areas with large numbers of vacant lots, community greening programs (such as the Philadelphia Green Project) have been an important component of some neighborhood revitalization efforts, through the creation of projects such as community gardens and pocket parks. Further research on these programs and how they could benefit West Dallas may be appropriate.
3. **Spot eminent domain.** A narrowly defined eminent domain statute that targets vacant blighted properties has been effective in some cities, through targeting the worst unoccupied properties while protecting the interests of owners living in their homes as well as tenants. We recommend further research on these statutes.
4. **Foreclosure Issues.** Because of the current foreclosure crisis, we recommend research on how this crisis is impacting Dallas neighborhoods and West Dallas in particular: Are banks keeping up foreclosed properties and, if not, are additional policies needed to ensure that these properties are code compliant and do not remain vacant for extended periods of time? Several cities have adopted specific policies to deal with the abandoned property issues generate by the large number of foreclosed properties in the market.
5. **Comprehensive research on the worst properties.** There is currently a lack of information on the full range of issues associated with problem properties in West Dallas. For the 100 properties generating the most police calls, it would be informative to know more about these properties; for example, what percent are occupied by homeowners versus renters, who the property owners are, whether the properties have tax delinquencies, and how many have code enforcement violations. It is difficult to craft a policy response to eliminate crime and blight associated with properties without first understanding the full scope of the issues associated with these properties.
6. **Models of community engagement.** Further research is needed on different models of community engagement whereby neighborhood residents are active and playing an effective role in the code enforcement process. Potential models for research include Atlanta, Philadelphia, and Baltimore.
7. **Expansion of land bank.** Many of the vacant and abandoned properties in West Dallas have tax delinquencies, but the current city land bank program is at capacity in terms of the properties it can bring through the tax foreclosure

process. Further research is needed to determine how the land bank can be expanded to target more of these properties with multiple years of tax delinquencies, and also how the tax foreclosure process could be improved to further facilitate the sale of these properties.

8. **Self-help common law nuisance abatement actions.** Research is needed to determine to what extent community organizations or residents impacted by a nuisance property can bring a common law action to require repairs or make the repairs themselves.
9. **Foreclosure on city liens.** Further research is needed on whether and how the city may foreclose on properties with liens related to code enforcement. How many liens are there and how often are these liens not part of an ad valorem tax foreclosure action? Why has the city not historically foreclosed on these liens?

# Bibliography and Resources

## Internet Resources

National Vacant Properties Campaign: <http://www.vacantproperties.org/>  
LISC Online Resource Library: <http://www.lisc.org/section/resources/>

## Publications and Miscellaneous

Accordino, John and Gary T. Johnson, "Addressing the Vacant and Abandoned Property Problem," *Journal of Urban Affairs* 22(3) (2000): 301-315.

Apgar, William C., Mark Duda, and Rochelle Nawrocki Gorey, "The Municipal Cost of Foreclosures: A Chicago Case Study," A report prepared for the Homeownership Preservation Foundation, Minneapolis, February 27, 2005.

Attorney General of Texas, Criminal Law Enforcement Division, *Nuisance Abatement Manual* (14<sup>th</sup> ed. 2005).

Brooks, Karen, "State: Dallas Ran 'Amok' More Legislation on Nuisance Rules Urged; Miller Touts Changes," *The Dallas Morning News*, March 4, 2006: 1A.

Bush, Rudolph, "Dallas' Code Compliance unit set to change procedures," *Dallas Morning News*, December 6, 2007.

Campbell, John H, "Solving Chronic Nuisance Problems: A Guide for Neighborhood Leaders," A report developed under the direction of the Enterprise Foundation, 2001.

*Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, (United States Conference of Mayors, June 2006).

Edgeworth, Dee R., *Asset Forfeiture: Practice and Procedure in State & Federal Courts* (American Bar Association, 2004).

Eiserer, Tanya, "Nuisance Law Still Debated Dallas: Anti-Crime Statute Called Vague; Others See Success," *The Dallas Morning News*, May 14, 2005: 1B.

Eiserer, Tanya, et al., "Dallas at the Tipping Point: Update 2005," online posting, December 17, 2007, available at Dallas Morning News Online, [www.dallasnews.com](http://www.dallasnews.com).

Enterprise Foundation, "Solving Chronic Nuisance Problems: A Guide for Neighborhoods"

Goetz, Edward G., et al., "Pay Now or Pay More Later: St. Paul's Experience in Rehabilitating Vacant Housing," *Cura Reporter*, April 1998, 12-15.

Griswold, Nigel G. and Patricia E. Norris, "Economic Impacts of Residential Property Abandonment and the Genesee County Land Bank in Flint, Michigan" MSU Land Policy Institute Report #2007-05, April 2007.

- Hillier, Amy E., et al., "Predicting Housing Abandonment with the Philadelphia Neighborhood Information System," *Journal of Urban Affairs*, 25(1) (2003): 91-105.
- Hundley, Wendy, "Damages Sought from Apartment Complex," *The Dallas Morning News*, December 10, 2006, available at <dallasnews.com>.
- "Illegal Drug Trafficking Proceeds Will Help Rebuild a Tulsa Neighborhood," United States Department of Justice Press Release, August 4, 2005, on file with author.
- Immergluck, Dan and Geoff Smith, "There Goes the Neighborhood: The Effect of Single-Family Mortgage Foreclosures on Property Values," Woodstock Institute, June 2005.
- J. McDonald Williams Institute, "Research Compilations: West Dallas (ZIP Code 75212)," December 2006.
- Kelly, James J, "Refreshing the Heart of the City: Vacant Building Receivership as a Tool for Neighborhood Revitalization and Community Empowerment," *Journal of Affordable Housing* 13(2) (2004): 210-238.
- Korosec, Thomas, "Anatomy of a Smear; When People Started Asking Why Dallas' Finest Were Loosing the War on Slumlords, Someone Reached for the Bag of Dirty Tricks," *The Dallas Observer*, November 18, 1999.
- Korosec, Thomas, "How the Slumlord Beats the City Every Time," *The Dallas Observer*, June 3, 1999.
- Kromer, John, "Vacant Property Policy and Practice: Baltimore and Philadelphia," The Brookings Institution, October 2002.
- LISC & MetLife Foundation, "Leveraging Code Enforcement for Neighborhood Safety: Insights for Community Developers."
- Lopez, Nora, "City Savors Its Wins in Code Cases Symbolic Progress Seen Against Property Owners," *The Dallas Morning News*, August 30, 1999: 11A.
- Los Angeles Housing Department, "Systematic Code Enforcement Program (SCEP)," available at [www.lacity.org/LAHD/code.htm](http://www.lacity.org/LAHD/code.htm).
- Mallach, Alan, "Preventing Abandonment," a summary of issues from *Bringing Buildings Back: from Abandoned Properties to Community Assets* (National Housing Institute 2006).
- Mallach, Alan, et. al. "Cleveland at the Crossroads: Turning Abandonment into Opportunity," June 2005.
- McKinsey & Company, "Improving the City's Effectiveness in Code Compliance and Economic Development," Presentation to Dallas City Council, November 17, 2004, available at [www.mckinsey.com/](http://www.mckinsey.com/).
- Murdoch, James, "2006 West Dallas Windshield Survey," on file with author.

- National Vacant Properties Campaign, "Vacant Properties: The Trust Cost to Communities," August 2005.
- Patterson, Jr., T.J., "Texas Nuisance Abatement Statutes," Presentation at the University of Texas School of Law Land Use and Planning Conference, March 2005.
- PCPC Justice Task Force, "Developing a Legal Strategy for Builders of Hope," PCPC Justice Task Force presentation, September 2007, on file with author.
- Pennsylvania Horticultural Society, "Seeing Green: Study Finds Greening is a Good Investment," Pennsylvania Horticultural Society, November 7, 2007, available at [www.pennsylvaniahorticulturalsociety.org/phlgreen/seeinggreen.htm](http://www.pennsylvaniahorticulturalsociety.org/phlgreen/seeinggreen.htm).
- Proscio, Tony, "Safe Streets, Sound Communities," Local Initiatives Support Corporation.
- Ramshaw, Emily, "Cutting Through Crime Owners, City Disagrees on Efforts to Keep Area Around Carwash Safe," *The Dallas Morning News*, December 3, 2004: 1B.
- Ramshaw, Emily, "Hearings Planned On Use Of Nuisance Law Dallas: Lawmaker From Austin Says City Has Misused Legislation," *The Dallas Morning News*, August 24, 2005: 14B.
- Ramshaw, Emily, "Legislators Take City to Task at Hearing Dallas: Officials Deny Police Used Harassment, Selectively Enforced State Nuisance Law," *The Dallas Morning News*, October 12, 2005: 8B.
- Sarbanes, Michael, "Neighbors Plow Field of Nightmares," *Shelterforce* 80, March/April 1995.
- Schilling, Joe, "Snapshots of Innovative Vacant Property Strategies," Fannie Mae Foundation 8(4) (2006).
- Schutz, Jim, "Five Cop Cars Hit a Businessman Who Cried to the City Manager." *The Dallas Observer*, August 4, 2007.
- State of Texas, House Committee on Criminal Jurisprudence and House General Investigating and Ethics Committee, "Report on Joint Interim Study Charge 2006," February 28, 2006.
- United States Department of Justice, United States Marshall, Asset Forfeiture Office, *Real Property Manual* (Aug. 2001).
- United State Attorney's Office for the District of Oregon, "U.S. Marshal Transfers Criminally-Forfeited Property Across the Street from Franklin High School and Atkinson Elementary School to Community Organization," press release, June 6, 2006, available at <http://www.usdoj.gov/usao/or/pressroom2006.htm>.