

Sustainable Communities: Taking Vacant Properties Solutions to Scale

Tools in the Vacant Properties Success Kit—Municipal and State Responses



Professor Frank S. Alexander
Emory Law School

Professor Joe Schilling
Metropolitan Institute at Virginia Tech



Local Initiatives Support Corporation (LISC) is dedicated to helping nonprofit community development corporations (CDCs) transform distressed neighborhoods into healthy communities of choice and opportunity – good places to work, do business, and raise children.

LISC is a national organization with a community focus. Our program staff are based in every city and many of the rural areas where LISC-supported community development takes shape. In collaboration with CDCs, LISC staff help identify local priorities and challenges, delivering the most appropriate support to meet local needs.

Visit www.lisc.org for more information about LISC.

What is the Center for Community Progress?

- ❑ Launched January 2010
- ❑ Takes to scale the efforts of the nation's leading organizations and individuals on issues of revitalization and reuse of vacant, abandoned, and underutilized properties.
- ❑ The mission: to create vibrant communities through the reuse of vacant property in America's cities and town. We will transform the systems that dictate how the community development, government, and private development fields repurpose these properties.
- ❑ The Center focuses on: Technical Assistance & Capacity Building, Policy & Research, Coalition Building, and Communications.

What is the Center for Community Progress

- Flint, MI and Washington, DC offices.
- Focus on the relationships between national, state, and local policy and implementation.
 - ▣ Connects our work to national policymakers and allied organizations around the country, and analyze the national trends.
 - ▣ Provides the organization with real-life application and "grounding" of the focus of our work.

Municipal & State Responses

Key Intervention Points

- I. Property Tax Foreclosure Reform
- II. Housing and Building Code Enforcement
- III. Receivership Actions
- IV. Vacant Property Registration Ordinances
- V. Substantive Mortgage Product Interventions
- VI. Substantive Mortgage Foreclosure Interventions
- VII. Land Banks and Land Banking

Municipal & State Responses

Post-Default to Pre-Foreclosure Strategies



Goal: How to keep foreclosure REO from being a liability and making it into an asset.

Municipal & State Responses

Post-Foreclosure and End of Redemption Strategies

Foreclosure

End of Redemption

Challenges:

- Identifying F-Sale Purchaser
- Impact on former owners
- Property Maintenance and Code Enforcement
- Length of redemption on abandoned properties

Opportunities:

- Require, by statute, all F-Sale Deeds to be filed of record within 30 days of sale
- Seek short term leases at 3x monthly escow
- Immediate code enforcement actions; possibility of vacant property registration ordinance, or creation of public “foreclosure assessments”
- Eliminate or shorten post-foreclosure redemption periods on vacant and abandoned properties

Goal: How to keep foreclosure REO from being a liability and making it into an asset.

Municipal & State Responses

REO Conversions to Community Assets

Foreclosure
End of Redemption

Community Assets

Challenges:

Finding identity of REO holder or agent

Inventory Triage

Negotiating short term leases and management agreements

Negotiating acquisitions by Gov. agencies & NGOs

Third part investors: speculators

Opportunities:

Seek to have all MEs identify REO agent with management and disposition authority

Segregate by condition; availability for occupancy; geographic concentration

Immediate goal of occupancy; cash flow only to cover management, utilities, taxes, ins.

NSP funded acquisitions, NCST facilitated direct acquisitions

Inspections coupled with Point-of-Sale Ordinances; vacant property assessments

Goal: How to keep foreclosure REO from being a liability and making it into an asset.

Municipal & State Responses

Property Tax Foreclosure Reform – Common Problems

- ! Existing systems take 3 to 7 years
- ! Existing systems do not provide insurable title
- ! Existing systems create little incentives for responsible behavior
- ! Existing systems reward tax lien investors

Municipal & State Responses

Property Tax Foreclosure Reform – Fixes

- ✓ Shorten time frame to 2 years
- ✓ Shift to judicial foreclosure from non-judicial
- ✓ Maximize notice to all Interested Parties
- ✓ Halt all lien and certificate sales to investors
- ✓ Create Delinquent Tax Financing Structures
- ✓ Tie transfers to land bank authorities

Municipal & State Responses

Housing & Building Code Enforcement

- Local Government Legal Authority: State codes and local ordinances
- Policy Goals:
 - ▣ Gain compliance with applicable codes and ordinances
 - ▣ Prevent properties from becoming vacant
 - ▣ Stabilize neighborhoods with blight and decay
 - ▣ Facilitate reclamation and reuse
 - ▣ Recover costs

Municipal & State Responses

Housing & Building Code Enforcement

- Regulatory Ordinances
 - ▣ Inspections and Point of Sale
 - ▣ Vacant Property Registration Ordinances
 - ▣ Cost Recovery Ordinances
- Administrative Proceedings
 - ▣ Citations and Civil Penalties
 - ▣ Nuisance Abatement and Abatement Liens
- Judicial Remedies—Criminal v. Civil Injunctions

Municipal & State Responses

Housing & Building Code Enforcement

- Strategic Code Enforcement—select the right remedy at the right time at the right place!
 - Underlying Code
 - Property Condition
 - Owner's Profile
 - Internal Capacity and Resources
 - External Consideration

Municipal & State Responses

Housing and Building Code Enforcement: Judicial Abatement & Receivership Actions

- Civil action to abate public nuisances and/or substandard housing
- Who can bring the civil action?
- What are the civil remedies? Injunction, penalties, contempt, receiver, abatement order, rehabilitation and/or sale of the property
- Who are or could be receivers?
- Powers of judicially appointed receivers

Municipal & State Responses

Housing and Building Code Enforcement: Cost Recovery From Abatement Actions

- **Range of CE Activities:** 1) board & secure; 2) demolition; 3) vacant lot cleanup; 4) failure to register/obtain permits; 5) inspections
- **Internal Procedures:** 1) fully load all overhead costs; 2) accurately record all disbursements; 3) record notice; and 4) perfect lien filing
- **Abatement and Enforcement Lien Procedures:** 1) super-priority status; 2) adequacy of lien enforcement proceedings; 3) lien foreclosures and transfers to land banks

Municipal & State Responses

Housing and Building Code Enforcement: Vacant Property Registration Ordinances

- Policy Goals
- Local and state authority
- Triggers for Obligation to Register and Inspect
- Parties identified in Registration Ordinances
- Obligations of Parties Identified
- Assessments for Ordinance Violations
- Escalating Assessments Based on Length of Vacancy

Municipal & State Responses

Substantive Mortgage Foreclosure Interventions (1/3)

- Requirement that loans be based on income rather than equity
- Requirement that loans be based on verified income
- Limits on Debt Coverage Ratios (aggregate housing costs as percentage of income)
- Bans on Option ARMs or teaser rates
- Bans on negative amortization
- Bans on prepayment penalties
- Require monthly escrow of taxes and insurance

Municipal & State Responses

Substantive Mortgage Foreclosure Interventions (2/3)

- Mandatory mediation in judicial foreclosure states
- Prohibition on MERS as foreclosing entity
- Requirement that foreclosure notices identify party with full authority to renegotiate the note
- Requirement that all foreclosure deeds be recorded within 60 days of sale
- In non-judicial foreclosure states, increase quality and quantity of notice to owners and interested parties

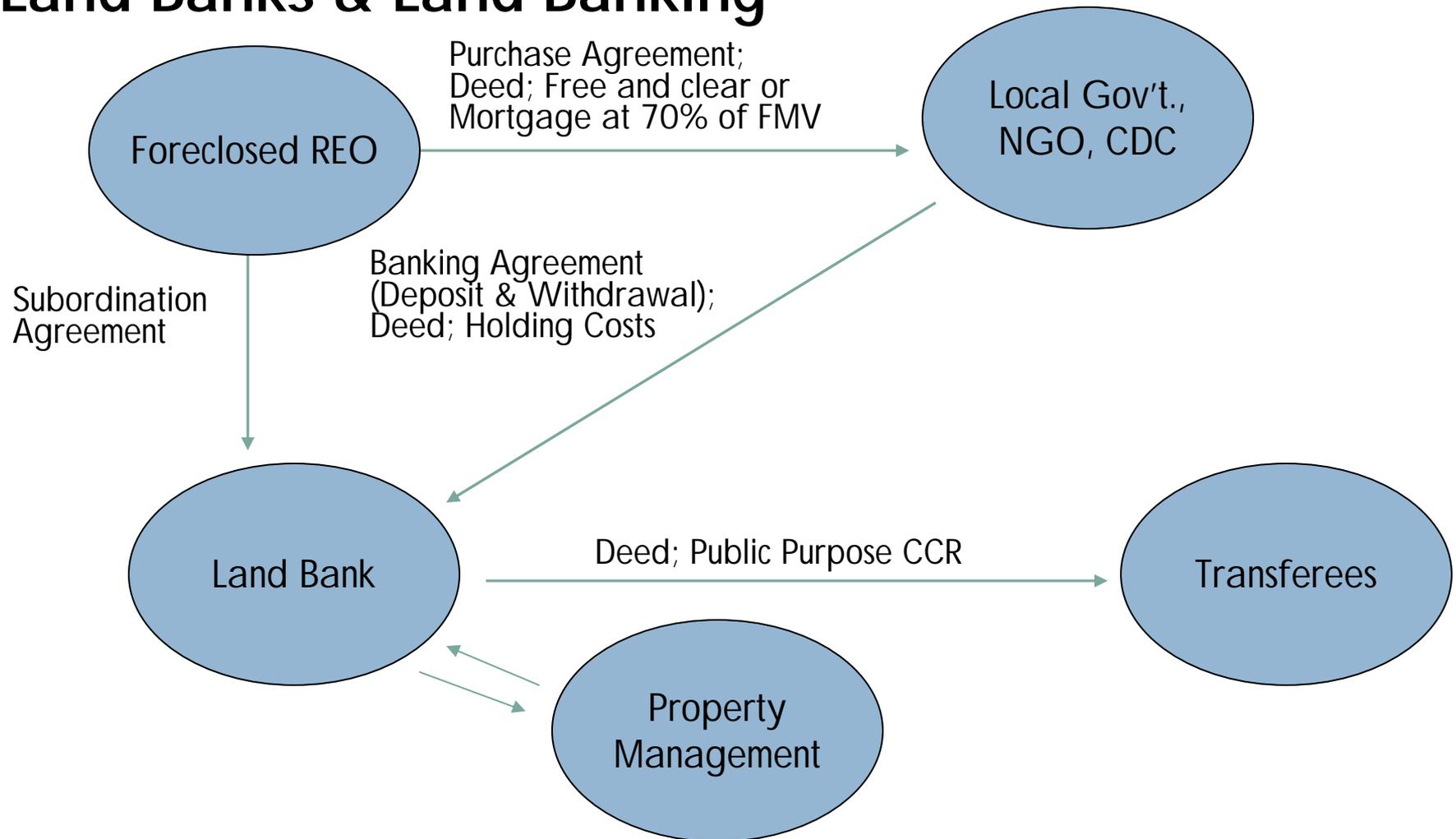
Municipal & State Responses

Substantive Mortgage Foreclosure Interventions (3/3)

- Increase notice period in non-judicial foreclosure states
- Prohibit deficiency actions in residential mortgages
- Impose foreclosure “assessments” on all foreclosures
- Eliminate post-foreclosure redemption periods
- Impose penalties on judicial foreclosure “walk-aways”

Municipal & State Responses

Land Banks & Land Banking



CLEVELAND, OHIO: OCTOBER 13-15, 2010



RECLAIMING VACANT PROPERTIES:
the Intersection of Sustainability, Revitalization, and Policy Reform

reclaimingvacantproperties.org



Frank Alexander, frank.alexander@emory.edu

Joe Schilling, jms33@vt.edu

1.877.542.4842

For more info:

communityprogress.net (coming soon!)

vacantproperties.org

geneseeinstitute.org

transform.vacantproperties.org