

Nobody Home

The Rise of Vacancy

Part II -- OPTIONS

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His hometown of Flint, Mich. was in steep decline when Dan Kildee was elected Genesee County treasurer 14 years ago. Its days as a thriving, broad-shouldered factory town were gone. Most plants were shuttered or running well below capacity. Some 60,000 General Motors jobs alone were lost. And the city was well on its way toward shedding nearly half of its population.

The fallout included an epidemic of vacant and abandoned properties. Blight was overtaking many neighborhoods. Tax delinquency was starving the city and school district of desperately needed revenue.

When the county's antiquated tax foreclosure process was pressed into action, it took up to seven years to run its course. Houses deteriorated as they sat vacant. If they sold, it was at public auction, where they were exposed to speculators who were more interested in turning a profit on a modest investment than making repairs to improve them. Market values fell, block after block.

"It didn't take long to realize that not only was the system not up to the task of dealing with the problem, it was actually part of the problem," said Kildee. "It was really a destructive process."

Such a scenario is not unfamiliar in parts of southwestern Pennsylvania, West Virginia and Ohio. Places ravaged by poverty, steady economic decline and population loss, find 20 percent or more of their houses are vacant, according to 2010 U.S. Census data. And the legal processes used to control vacant property, such as tax foreclosure, do little to stem the growing problem.

New laws for combating vacant and blighted properties are emerging in Pennsylvania as more policymakers recognize the risks involved in allowing vacant properties to languish for years and perpetuate the costly cycle of decline.

But land banking, which is widely seen the best option for dealing with vacant property on a large scale, is not available in Pennsylvania. Creating and empowering a land bank, such as the one that Kildee helped put in place in Genesee County, requires

special legislation and property tax reform, both of which are still being discussed in Harrisburg.

Tax reform and land banking laws in Michigan gave Genesee County a powerful set of legal tools that let officials take control of thousands of vacant properties relatively quickly – within two years, in most cases – and do so without exposing them to speculators at public auction.

“Having access to vacant property is critical,” said Bethany Davidson, deputy director of the nonprofit Pittsburgh Community Reinvestment Group. “It doesn’t matter what your vision is for it, if you don’t have access to it you’re at zero.”

Taking control

Local governments in southwestern Pennsylvania rely on long-standing state statutes in their attempts to control vacant, tax-delinquent properties. And they use their statutory authority sparingly.

In Pittsburgh, the city takes several hundred tax-delinquent, vacant lots and houses each year through treasurer’s sale. The city sweetens the deal for nonprofit community groups and others with the willingness and resources to reclaim blighted properties by assuming the burden and cost of clearing, or “quieting,” the titles.

In quieting the title, the city Law Department sweeps away what often amounts to tens of thousands of dollars in unpaid mortgage, water and sewage fees, tardy city, county and school district taxes and penalties and other liens.

“Probably 98 percent of the time, the amount of the delinquent taxes greatly exceeds the market value of the property. Community groups and the Urban Redevelopment Authority simply are not prepared to pay that amount of money to claim these properties,” said Mary Lou Tenenbaum, city Finance Department real estate manager.

Community groups can also take their time to close a deal. Once the city claims title of a vacant house wanted by a community development corporation, it offers to hold it in its Land Reserve for up to five years. “It gives us a way to control property and a flexible timeline to plan development,” said Kendall Pelling, East Liberty Development, Inc. project manager.

Costs and caps

The city today caps the number of vacant tax-delinquent properties it takes at treasurer’s sale at 300 a year. And it limits acquisitions to properties that have an identified buyer – a resident who wants a lot for a side yard or a community group that wants to rehab a vacant house as part of a redevelopment plan.

That wasn't always the case, as the city's inventory of more than 7,500 vacant lots suggests.

"Decades earlier, the city took a lot of property," said Janet Koczerzat, city Department of Law real estate supervisor. "The reasoning was: If you're delinquent, I'm taking it. We don't do that anymore. It's much more structured because of the cost and the liability. If you take abandoned properties, you own them, you have the liability and the costs and you pay." Take, for example, the postage costs for quieting the title of a vacant lot in Greenfield sold through the city side yard program, which offers residents a chance to buy a lot from the city inventory for \$200. The city had to notify 26 former owners and lien holders of the pending sale by certified mail, at just under \$15 per notice. "It cost us more in postage than it cost the buyer to purchase it," said Koczerzat.

And while maintaining a vacant lot may require little more than mowing, the city struggles to stay on top of the lots it owns, performing annual maintenance on only 27 percent of the lots in its inventory of tax-delinquent property, according to an unpublished report prepared for the city's Land Recycling Task Force.

Allegheny County, through its Vacant Property Program, helps municipalities, community development corporations and others take ownership of vacant tax-delinquent property by flexing the eminent domain-like authority it has under the state's Urban Redevelopment Authority law. It also pays for clearing the title, which costs about \$3,000 for each property. But it takes a buyer to step forward before the county moves to take control of a vacant property.

"Our plan is to help in on-demand situations," said Richard Ranii, manager of the Allegheny County Economic Development Department's Housing and Human Services Division. "Individuals interested in a side yard can come to us about getting that parcel. For others, such as the Mon Valley Initiative, who have a development plan in place and need to get 12 parcels, we will help them do that. But someone has to come to us first with an interest in a property."

Since 2004, the program helped transfer ownership of some 500 vacant, tax-delinquent properties to buyers interested in recycling them into something that better serves their neighborhoods.

Yet, at that rate, the program does little to reduce the number of vacant houses in the county, which stands at 55,000, according to the U.S. Census. And it doesn't keep pace with the rate at which properties are becoming vacant.

Policymakers awaken

Pennsylvania still lags behind some states, such as Michigan and Ohio, in addressing large-scale vacancy. But new laws and additions to existing statutes offer better options for taking steps to curb vacancy, such as seizing control of tax-delinquent properties and

cracking down on chronic code violators whose neglect encourages blight to spread like a contagion.

“There’s been shift in mentality,” said Elizabeth Hersh, executive director of the Housing Alliance of Pennsylvania, a nonprofit coalition with 500 member organizations statewide. “Cities and municipalities are starting to think about their land as an asset – a troubled asset, maybe, but an asset. And there’s a growing awareness that the problems surrounding those troubled assets are problems we can solve.”

Code enforcement was toughened in April when the state’s Neighborhood Reclamation and Revitalization Act became law, despite the concerns of trade groups such as the Pennsylvania Association of Realtors. The law, which Hersh describes as “a pretty big hammer,” lets municipalities do more than place liens against properties with serious and persistent code violations. Now, they can fine, extradite if necessary and attach the private assets of landlords and other owners of problem properties, as well as deny them water, building and other permits.

And the two-year-old Abandoned and Blighted Property Conservatorship Act offers a hedge against vacant properties and land speculators who tend to perpetuate the problem. Under the law, municipalities, community groups and others can ask the court to appoint a third-party to take possession of a blighted, abandoned building and rehabilitate or tear it down, then offer it back to the owner for the cost of the work, or sell it under court supervision to someone else.

With money from The Heinz Endowments, attorney Irene McLaughlin is working with the Housing Alliance of Pennsylvania and community groups on using conservatorship and other new legal tools to help control blight in Pittsburgh’s Homewood neighborhood. Nearly 44 percent of the land parcels in the neighborhood are vacant, according to a study by the University of Pittsburgh Center for Urban and Social Research. And the latest U.S. Census found 28 percent of the houses and apartments in Homewood as vacant.

“Conservatorship is a way of taking control of those properties in advance of taking title,” said McLaughlin, a former city magistrate and consultant on vacant property issues. “Rather than wait, you can go ahead and stabilize the problem property while you try to figure out what the ownership situation is.”

But conservatorship is a surgical tool not meant to address the scale of vacant and blighted property found in major cities, counties and regions across Pennsylvania.

The seven-county Pittsburgh Metropolitan Statistical Area holds more than 100,400 vacant houses alone, according to the U.S. Census. The percentage of vacant houses in the region has risen from 6.8 percent to 9 percent since 1990. In Allegheny County, it rose from 6.8 to 9 percent; in Beaver County, from 5.8 to 8.7 percent; in Westmoreland County, from 6.2 to 8.6 percent. Even in Butler County, which has the lowest vacant housing rate in the region, it increased from 6.3 to 6.8 percent.

Banking vacant property

Genesee County, Mich. was beset by similar trends when Kildee began his 12-year stint as treasurer in 1997. Needing a better way to control the rising tide of vacant properties before they fell prey to land speculators and blight, he turned to a land bank model that new laws and property tax reforms in Michigan made possible.

The land bank allows the county to quickly take ownership of thousands of tax-delinquent properties through tax foreclosure and reuse them to advance community improvement strategies rather than selling them off at auction to the highest bidder, often land speculators who may not have the community's best interests in mind.

“Speculators prefer competitive auctions because for the most part they don't think of the property as real estate. It's just a piece of paper with a dollar amount attached to it,” said Kildee, who left government to launch the Center for Community Progress, a nonprofit that provides technical assistance on vacant and abandoned property issues. “They can buy a property at a deep discount at a tax sale without ever seeing it, flip it to someone else at a marginal profit and then it's not their problem anymore.

“We know those systems have failed. We've had a half of a century experience with them and all you have to do is to go to Flint or Cleveland or Gary, Ind. to see how that process has worked.”

Once the land bank takes a property, it can rehab, sell, rent or demolish it. The land bank in Genesee County created a program to help homeowners avoid tax foreclosure and adopted a redevelopment plan for all of the property it acquires. Today, the land bank has nearly 4,000 tax-foreclosed properties under its control. A similar land bank in Cuyahoga County, Ohio acquired some 900 vacant properties last year – three times what Pittsburgh takes through treasurer's sale.

Those land banks also acquire the revenue which tax-delinquent properties generate. One of the hidden truths about tax delinquency is that most owners pay back taxes and penalties after being threatened with foreclosure. The interest, penalties and principal collected go toward maintaining, demolishing, rehabbing and marketing properties in their inventories.

In Cuyahoga County, that amounts to \$6 million to \$8 million a year in potential revenue. In Michigan, the land bank leverages its revenue potential to borrow inexpensively and pay municipalities all taxes owed on a property when it acquires it, rather than making them wait for the collection process to run its course.

Pennsylvania state Rep. John Taylor (R-Philadelphia) introduced land bank legislation in June. [Pittsburgh's Land Recycling Task Force, Mayor Luke Ravenstahl and the Pittsburgh Community Reinvestment Group, a coalition of community organizations in and around the city, endorsed the bill, which is being considered by the House Urban Affairs Committee.](#)

Kildee, whose organization works with several states on land banking and property tax reform, says vacant and blighted property is one of those rare issues that crosses the partisan political divide. “Once there’s that revelation the current system isn’t working and there’s a better way, we get a lot of buy in. We saw that in Ohio, which led to land banks in Cleveland and Toledo, and in Syracuse, N.Y. and we’re seeing hopeful signs in Pennsylvania, too.”

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