

Dealing with Abandoned & Dilapidated Buildings: Strategies for Saving, Maintaining and Enhancing Our Downtown Architectural Assets

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In cities and towns of all sizes, municipal officials point to dilapidated structures as a challenge in their efforts to promote the highest possible quality of life and bring economic growth to their hometowns. The failure of offending property owners to repair or demolish dilapidated structures creates blight and a financial drain on community resources. It shifts the cost of abating violations from the responsible party to all taxpayers. Notes

Dealing with these unsafe commercial and residential structures is a challenging task that requires officials to consider and carefully balance the rights of the offending property owners with rights of the owners of adjacent properties and the community at large. Because of the wide array of situations encountered and sensitivity of the property rights issue, municipalities must have a variety of tools that can be selected and effectively applied to the specific circumstances of each code enforcement case.

What's Available

Cities and towns can adopt ordinances relating to the upkeep of property. These ordinances may provide for notification to the owner outlining the conditions needing to be corrected and may require the owner to take the necessary steps to correct the conditions. The ordinances may also outline how the municipality may correct the conditions if the owner fails to take appropriate action.

As with any ordinance, cities and towns must have procedures in place that provide for due process and proper notification to the property owner when the city moves to abate a problem. Likewise, any local ordinance needs to spell out explicitly the notice procedures, method of notice as well as a procedure for appeals of decisions made by the code enforcement officials.

State law gives cities and towns the authority to enforce the International Building Codes and to adopt by reference certain appendices to this code. One of the most widely adopted appendices is the International Property Maintenance Code, which establishes standards to help ensure public health, safety and welfare of the community by requiring the maintenance of existing structures and premises. The International Property Maintenance Code provides a framework for dealing with dilapidated structures in any city no matter the size.

The International Property Maintenance Code contains a prescribed and tested process of providing proper notice as well as a specific method of serving the notice to property owners. Because this code can be adopted by reference with only minor modifications, it is a good option for municipalities starting a new code enforcement program or looking to modify their existing program. A PDF version of this code may be found by following this link:

https://www.dropbox.com/s/upw4ttgdgusxoz0/2012_International_Property_Maintenance_Code.pdf

What happens when property owners fail to correct serious code violations? One option available to the municipality is to correct the violation. If the municipality corrects the unsafe conditions associated with the property, most state law allows the municipality to place a lien equal to the cost of the abatement on the property and collect the lien in the same manner as municipal taxes.

Challenges

These code enforcement methods have limited effectiveness in certain situations. Liens on property generally can only be collected when a property is sold, and many county governments do not recognize code enforcement liens at tax sales. This means that liens might not be collected at tax sales.

Another problem with liens is that there is often a significant lag between filing the lien and collecting payment because sales of dilapidated properties occur infrequently. Likewise, ordinance summons are not effective when a property owner cannot be located or lives outside of the community or state. Ordinance summons must be personally served upon the offender.

These tools also have limited effectiveness when the property owner lacks the financial resources to abate the violations. Jailing offenders only increases the cost to the municipality and often fails to correct the violation.

Clearly, there are no “silver bullet” solutions that can solve each unique situation in every community. However, all across America certain strategies for dealing with abandoned and dilapidated buildings have begun to gain traction in dealing with this issue. A few of these strategies are noted below.

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Strategies for Abandoned and Dilapidated Buildings

1. Early Warning Database

Use an early warning database to identify problem properties and to facilitate collaboration.

Too often, municipalities only find out about vacant properties after they have started to cause serious problems. An early warning database collects and organizes basic information about conditions that suggest a property is likely to become vacant. Local officials and organizations can use that information to identify at-risk properties and take action before a problem grows or gets out of control. A database can be useful for code enforcement officials, police and fire departments, community development departments, Main Street programs and neighborhood organizations.

A database can be as simple as a spreadsheet that lists problem properties and indicates whether each property has one or more of the key indicators of vacancy or abandonment, such as tax delinquency, nuisance abatement actions, utility shut-offs, or foreclosure filings. It can also be expanded to include information about the district where the property is located, such as demographic data, crime statistics, and real estate conditions. An even more comprehensive database could include information about these properties from various municipal departments. Many municipalities already collect much or all of the information in a basic database, and it is just a matter of putting that information together in one place. Even the most simple database can be used to identify problem properties and neighborhoods, guide decision making, and coordinate activity across municipal departments.

Key Benefits

Identify problem properties

A database helps a municipality identify properties that are vacant or at risk for vacancy, making it possible to intervene early and avoid more serious problems for the property.

Coordinate municipal action

A database helps a municipality share critical information with various local government departments and other key stakeholders and use it to coordinate action and facilitate collaboration.

2. Minimum Maintenance Ordinance

Use a minimum maintenance ordinance to provide an objective, district-wide standard of care for properties.

The failure to maintain property directly impacts property values of adjacent property and, in the worst case, can provide an area that attracts criminal activities. To protect a district from deterioration, a number of local governments have established property maintenance standards. There is a limit, however, on how far a jurisdiction may go in regulating unsightly areas on private property. It is an open question in many states whether their courts would uphold a beautification ordinance or a property maintenance or appearance code if the regulation is based purely upon aesthetic grounds.

The premise is that failure to provide minimum maintenance creates unsanitary and unsafe conditions, negatively impacts the aesthetic value of the community, and reduces property values. Local governments considering property standards need to work with legal counsel to make sure that the necessary procedural requirements are included in any public nuisance or property maintenance ordinance and that staff responsible for enforcement receive the necessary training.

The hardships encountered when enforcing MMOs are typically two-fold. First, the local government lacks the political will or manpower to enforce the ordinance. Second, the municipality lacks the funding required to enforce the ordinance by providing temporary clean-up and/or stabilization and weatherization measures.

Key Benefits

Objective standards

Every property owner is held to the same standard of care. This should hopefully address concerns that enforcement is due solely on the grounds of subjective aesthetic standards.

Legal authority

Assuming due process and clear communications are in effect, a MMO provides solid legal grounds for enforcing upkeep on any individual property for the sake of the community good in terms of safety and welfare.

3. Visual Enhancement Treatments

Use visual enhancement treatments as a temporary means of improving the appearance of a building while it is being prepared for occupancy or sale.

The appearance of vacancies in the downtown area can send a negative message and create the perception of a lack of retail vibrancy. To combat those perceptions and “buy time” until a building becomes occupied, any of the approaches noted below and illustrated at right can be considered.

Place artwork in vacant display windows if the interior space appearance is satisfactory. If the interior space is in detrimental condition, consider masking the windows from the interior with butcher paper or from the exterior with vinyl cling wraps. The masks can feature nostalgic photos or historic postcards of the community or images such as a map of downtown highlighting shopping and dining destinations. Place “community hero” posters in the windows to build community pride and draw attention away from the vacant building.

Key Benefits

Inexpensive

The above-noted techniques are inexpensive yet can reap significant visual rewards and temper perception of the district while buildings are being rehabilitated or sold.

Notes



4. Financial Incentives

Use financial incentives to stimulate private sector building renovation investment.

While it can be argued that a property owner that has neglected their property should not be rewarded with a financial incentive, by the same token, the economic and community benefit derived from an improved building typically outweighs perceived injustices. There are a whole host of potential incentives that can be brought to bear on this issue. Some of the most common and strategic methods are noted below.

- **Facade Grants:** Either single components (e.g. signs, awnings, paint) or overall facade grants can motivate an owner to enhance their building.
- **Historic Preservation Tax Credits:** Qualifying buildings are eligible for either 10% or 20% federal tax credits while many states match the federal credits up to 25%.
- **Tax Abatement:** This strategy freezes the taxable rate at the pre-renovation value so that improvements to the building do not render an immediate spike in property taxes.

Key Benefits

Gap financing

Sometimes these financial incentives are the difference between rehabilitating a building or letting it sit vacant. Through a nominal incentive from the public sector, the private sector might be motivated to invest in the renovation of an otherwise marginal property.

5. Vacant Building Registry

Use a vacant building registry to motivate owners to maintain buildings and return them to productive use, identify the party responsible for problem properties, monitor vacant properties, and defray costs of providing related municipal services.

A vacant building registry is an ordinance that requires owners (and, in some cases, financial institutions with an interest in a property) to register vacant buildings with a municipality. Effective registry programs also require registrants to pay a fee at regular intervals, which defrays the additional costs of providing municipal services associated with such properties. Fees also create a strong financial incentive for owners to secure and maintain vacant property and return it to productive use. Effective programs require registrants to provide 24-hour contact information, which makes it easier for a municipality to contact the owner or the owner's agent if there is a problem with the property. Some registry programs go further and include provisions that compel registrants to maintain, secure and insure vacant properties, and prepare and implement plans to return them to productive use. Good registry programs are implemented in conjunction with strong code enforcement and often include steep fines for noncompliance. A model Vacant Building Ordinance from Emporia, Kansas may be found at the following link: http://www.communitydesignsolutions.com/public/VBO_Emporia_Kansas.docx

Key Benefits

Motivate owners

Code enforcement alone isn't always enough to motivate owners to maintain vacant properties. Vacant building registries usually require payment of fees, and these added costs create an additional incentive for owners to maintain their properties.

Identify responsible parties to contact if there is a problem

Municipalities can use the information collected in the registry to contact the party responsible for a property if there is a problem.

Defray costs

Revenue generated from registration fees helps cover costs incurred by municipalities in monitoring vacant properties and enforcing vacant property requirements.

6. Receivership

Ensure that someone with the necessary expertise and resources repairs or rehabilitates a vacant property.

Receivership is a powerful but infrequently used tool for ensuring that seriously troubled properties are repaired or rehabilitated. Receivership is sometimes used as a last resort when other strategies, like traditional code enforcement, don't motivate an owner to perform necessary maintenance and repairs and a property is a danger to the community. If a property is not being properly maintained, a municipality can go to court and seek to have a receiver appointed to take care of the property. If the court appoints a receiver, this third party is authorized to act as if it owns the property. The receiver can take any step the court authorizes to repair or rehabilitate the property.

Receivers can finance the work with cash loans from banks or the municipality. In exchange, the receiver gives the lender a special certificate, which basically guarantees that it will get the full value of the loan back with interest. If the owner of the property doesn't pay back the receiver's loan with interest, the certificate becomes a lien on the property, which must be paid back before all other encumbrances on the property except taxes. This process provides the receiver with funds needed to repair the property and allows the bank or municipality financing the repairs to make a profit on its loan.

Key Benefits

Repair and rehabilitate vacant property

When other methods fail to motivate an owner to maintain a property, this process, enabled by state law, can give a receiver powerful tools to ensure that troubled properties are repaired or rehabilitated.

Pay for repairs and rehabilitation

It is often difficult to get financing to repair or rehabilitate a vacant property. The receivership process, if enabled by state law, gives receivers this critical tool to finance such repair activity.

Property owner rights

Since the property owner may retrieve the property at any point in the process by reimbursing the receiver for all costs associated with the project, the issue of property takings is addressed.

7. Acquisition or Demolition

Acquire properties to stabilize or rehabilitate individual properties or to redevelop an entire area or district in communities with large numbers of vacant properties. Demolish vacant properties that pose significant danger to the community and cannot be adequately addressed in any other way.

Acquisition: In districts where property values have fallen significantly, owners and private investors may not take proper care of a property. This neglect can cause problems for adjacent properties, and the problems can begin to spiral out of control. In situations where the private market has little incentive to act, the best alternative may be for a municipality to acquire properties.

The municipality can act aggressively (especially if it possesses a Community Development Corporation or a Redevelopment Authority) to improve a single property that is causing problems, or to improve several properties in an effort to redevelop a larger area. Municipalities can acquire properties individually or as part of a coordinated acquisition and redevelopment strategy. Where downtown stabilization or revitalization efforts require acquisition of larger numbers of properties, land banks have proven to be a very effective strategy. Though acquiring properties can be a useful and powerful tool, it is not a quick solution to a pressing problem—the process often takes a very long time.

Demolition: When a property is causing very serious problems that present a danger to the surrounding community, and the owner is not taking necessary steps to address the problem, a municipality may initiate demolition proceedings. After complying with procedures specified by state law and/or municipal ordinance, the municipality can demolish the property.

While the preservation of a downtown's architectural assets --especially its historic buildings-- is of paramount importance, occasionally the demolition of a delinquent building may cost a municipality less than taking care of a troubled property. What's more, under some circumstances, a municipality can recover the costs associated with the demolition. Carefully targeted demolition can help stabilize property values in the surrounding community and help lay the foundation for redevelopment.

Key Benefits: Acquisition

Return properties to productive use

By acquiring vacant properties that have no near-term prospect of being redeveloped by the private market, municipalities can return them to productive use, helping to stabilize communities more quickly.

Promote redevelopment

Property acquisition allows municipalities to reshape an entire district.

Key Benefits: Demolition

Remove blight

Demolishing seriously troubled buildings can help stabilize or improve struggling districts. Demolition may be the best option when vacant properties are hurting the community around them and nothing else can restore the property to productive use.

Prompt owners to take responsibility

Sometimes a threat by the municipality to demolish a property compels recalcitrant owners to take responsibility for troubled properties.

Minimize municipal costs

While demolishing a building is expensive, it is sometimes less expensive in the long run than incurring all of the municipal costs associated with taking care of a troubled building.

8. Land Value Tax

A land value tax is a tax that is assessed on the value of a piece of land, rather than the value of the buildings that sit on it. Under a land tax, you are effectively taxed on the value of your location, which is mostly a result of what is nearby.

In contrast, in most American cities, property taxes are assessed on both land and buildings ("improvements"). Taxing improvement value acts as a disincentive to put land to productive use—since by increasing the value of your building, you will also increase your tax liability—and encourages land speculation. Taxing only land, or mostly land, helps resolve these issues.

An informative article and video that explains the Land Value Tax by the professionals at Strong Towns may be found at: <https://www.strongtowns.org/landvaluetax>

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