

National Vacant Properties Campaign

Study of Florida Property Disposition Processes as they Relate to Neighborhood Revitalization Efforts

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FINAL REPORT

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Background

Many urban areas experience significant disinvestment and abandonment, resulting in neighborhoods with high concentrations of unoccupied, substandard structures – both residential and commercial – and vacant lots. Cities that have high volumes of vacant and abandoned properties share two fundamental concerns:

- First, the presence of such properties constitutes a significant liability to the community. They contribute to decay and decline of social fabric that creates communities. They diminish the values of adjacent properties. They drain critically needed local government tax revenues.
- Second, existing laws, programs and policies do not always help leaders address the problem in the most efficient and effective ways. . In many cases, tax foreclosure laws have not been revised for decades and create incentives for abandonment rather than deterrents. Housing and building codes do not correspond with the nature of the housing stock and enforcement mechanisms may be antiquated. Community development programs may be ineffective in revitalization of neighborhoods, relying upon policies designed decades ago for large-scale urban renewal.

In an effort to provide information resources and technical assistance to localities with common vacant properties concerns and challenges in urban areas throughout the United States, the National Vacant Properties Campaign was created in 2003. It provides opportunities for localities and states to learn about the laws, programs and policies that can help convert vacant properties from liabilities to assets.

The Assignment and the Process

LISC Florida requested assistance from the National Vacant Properties Campaign to analyze Florida laws, programs and policies and to make recommendations that might help local jurisdictions in Florida to maximize their efforts toward the revitalization of neighborhoods and the creation of new work-force housing.

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The study included ways to address vacant, abandoned, tax delinquent, and blighted properties through:

- tax foreclosure process,
- code enforcement procedures,
- lien forgiveness programs,
- marketable title processes,
- advance acquisition and assemblage programs, and
- coordinated disposition programs.

Our investigation used Duval County and Jacksonville as the focal point and case study because of the strong working relationship between LISC Jacksonville and the City in joint efforts to revitalize neighborhoods. However, our recommendations have implications and provide a framework for new tools for all of Florida's local jurisdictions.

Our investigation process included:

- a series of individual interviews of key city staff and officials in late March, 2006
- a review of various local housing and community development documents, plans
- a review of state legislation
- the development of draft recommendations
- a subsequent focus group meeting of city staff and officials to react to the draft recommendations.

This Final Report outlines four priority recommendations, selected as priorities by the focus group. Three of the recommendations will require some form of legislative action by the state legislature. The fourth recommendation will require either local legislation at the state level (a bill applicable to the local jurisdiction, Jacksonville in this case) or new local ordinances or both. (All references in these recommendations are to Florida Stat. Ann.). Each recommendation provides a brief finding followed by the recommendation for specific legislative action.

1. Recovery of Public Expenditures for Nuisance Abatement Activities.

Florida law at the present time lacks clarity on the legal priority of expenditures by local governments to address code violations and remedy nuisances. This lack of clarity results in a significant loss to local governments of annual expenditures. Most jurisdictions in the United States have moved in recent years to hold that "nuisance abatement liens" have the same legal priority as property taxes (to be paid after property taxes are satisfied but before all other claims against the property). Such jurisdictions also now permit the amount of such nuisance abatement liens to be certified to the tax collector and collected through enforcement proceedings as part of the annual tax collection efforts. Property tax liens in Florida do have clear "super priority" status. § 197.122.

1) Create "super priority" status for public liens and enforce them as part of the property tax structure.

- a) As it is not clear that such public liens have equivalent super-priority status, amend § 197.122 to incorporate expressly a reference to such public liens.
- b) Enact a statutory amendment that would provide for local government authority (and discretion) to transfer to the tax collector all public liens, which will be added to and collected in the same manner as taxes. Such a statutory provision could parallel § 197.3632 which permits collection by the tax collector of special assessments as an optional method.
- c) Amend § 197.432 to provide that the minimum bid at a tax sale includes the amount of such public liens.
- d) Develop as a standard operating procedure close coordination between the offices of Jacksonville (Finance & Administration, Chief of Property Safety) and the Tax Collector for regular and automatic transmission of all public liens to the Tax Collector.

II. Eliminate the Redemption Periods for Properties Transferred to the City

Florida laws permit a longer period of time for the completion of a property tax foreclosure than any other jurisdiction in the United States. The problems posed by such lengthy time periods are compounded in the situations where property is transferred to the City and subsequently placed on a “lands available for taxes” list for up to three additional years.

Tax foreclosed properties “default” to the City only when there is no private third party who tenders the minimum bid at the certificate sale. When the private market determines that the taxes (as well as other public liens if Recommendation #1 is implemented) exceed fair market value of the underlying property, there is no legal or policy justification for continuing to recognize redemption rights and leave the property in an uncertain status.

1) Eliminate redemption rights in property transfers to the City.

- a) Amend § 197.432 to provide that as to all parcels of property for which the minimum bid is not tendered, the certificate shall be immediately transferred to the county, and the county may proceed immediately to foreclose such certificates by conducting a judicial “strict foreclosure” resulting in forfeiture of the property to the county. The effect is that as to county-held certificates there are no redemption rights.
- b) Amend § 197.502(7) to eliminate entirely the concept of the “lands available for taxes” list to provide that as to all properties for which there are no bidders at the public sale title to the property immediately escheats to the City and vests absolutely in the City. This change would eliminate the three year period that property must sit on this list.

III. Flexibility in City Property Acquisitions

Frank – can you provide a sentence or two that describes the problem this recommendation addresses and current state of affairs?

The transfer to the City of properties that do not receive a minimum bid should vest in the City with broad discretion on the subsequent use and disposition of such properties.

- l) Amend state statute (perhaps § 197.432(12)) to provide that the tax certificate issued to the City/County shall be free of all redemption rights.
 - a) Unless other amendments are made to the notice provisions of the tax foreclosure process, it will likely still be necessary for the City to have authority to conduct a final judicial proceeding providing constitutionally adequate notice to all parties. In the event no party pays the minimum bid and all costs, title to the property vests absolutely in the City.
 - b) Amend applicable statutes to make clear that as to all properties transferred to the City as a result of the tax enforcement process, the City has authority to transfer such properties to one or more local government agencies or authorities (such as a land bank authority) as designated by the City.

IV. “Land Banking” Functions

The City needs to have maximum flexibility on the use and disposition of properties acquired by the City through the tax enforcement process. To meet the needs for work-force housing, it must have discretion to create terms and policies for disposition that will maximize the likelihood of creation and preservation of such housing.

- l) By Charter Amendment or Local Ordinance create adequate legal authority for acquisition, management and disposition of properties.
 - a) By Charter Amendment permit the creation of a land bank authority. It would be the entity to which tax certificates and tax foreclosed properties would be transferred. The focus of land bank authority would be the immediate transfer of properties (and public assets) to achieve the stated public purposes, the intermediate management of public assets, and the supply of properties for long term availability for affordable housing.
 - b) Existing Florida law, § 197.592, provides for acquisition by the municipality of all properties acquired by a county through tax foreclosure. This section could perhaps use this as a key starting point for a land bank authority.