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EXPLORING EQUITABLE, EFFECTIVE, AND EFFICIENT SOLUTIONS TO VACANCY AND ABANDONMENT IN WINSTON- SALEM, NORTH CAROLINA

A Center for Community Progress Report to Winston-Salem, North Carolina

A Center for Community Progress Technical Assistance Report



This report was prepared by the Center for Community Progress with support from the University of North Carolina (UNC) School of Government. For additional information, please contact the authors listed below.

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ABOUT CENTER FOR COMMUNITY PROGRESS

The mission of Center for Community Progress is to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. Founded in 2010, Community Progress is the leading national, nonprofit resource for urban, suburban, and rural communities seeking to address the full cycle of property revitalization. The organization fulfills its mission by nurturing strong leadership and supporting systemic reforms. Community Progress works to ensure that public, private, and community leaders have the knowledge and capacity to create and sustain change. It also works to ensure that all communities have the policies, tools, and resources they need to support the effective, equitable reuse of vacant, abandoned, and deteriorated properties. More information is available at www.communityprogress.net.

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Executive Summary

The City of Winston-Salem (City) requested technical assistance from the Center for Community Progress (Community Progress) to help local officials and their partners better understand the systemic causes of and develop local solutions to vacant, abandoned, and deteriorated (VAD) properties.

The focus of the engagement was to assess the systems and local practices related to VAD properties, including but not limited to data and information management systems and practices, housing and building code enforcement systems and practices, delinquent property tax enforcement systems and practices, and the acquisition and disposition of VAD properties. The findings and recommendations of that assessment are the focus of this report, and are intended to provide City leaders and partners with a menu of options for consideration to implement a more equitable, effective, and efficient approach to vacancy and abandonment.

The focus of this assessment was on *vacant* properties that are abandoned and/or deteriorated. While there are likely many occupied properties that are substandard and generating nuisances—threatening the health and safety of occupants and neighbors and undermining the vitality of neighborhoods—the tools and policies associated with occupied properties are different and introduce an entirely different set of equitable considerations. This report does, on occasion, reference or mention occupied properties, but all recommendations are made with the premise that the properties under analysis and subject to attention are *vacant*.

The assessment was led by a two-member team (Technical Assistance Team), including Tarik Abdelazim, Associate Director of National Technical Assistance at Community Progress, and Tyler Mulligan, Professor of Public Law and Government at the University of North Carolina (UNC) School of Government.

The assessment findings and related recommendations contained in this report are informed by the following:

- A preliminary review of state and local law and policy pertaining to housing and building code enforcement and property tax enforcement systems, the two key legal systems related to vacancy and abandonment.

- A preliminary review of recently completed and ongoing local initiatives, an online scan of relevant news and documents (such as budgets and performance reports, neighborhood plans, the 2018 Housing Study and Needs Assessment, and GIS maps), and multiple phone conversations with the City’s designated liaisons for this engagement.
- A two-day site visit, conducted June 27-28, during which the Technical Assistance Team met and interviewed nearly 30 local stakeholders, including City elected officials and senior leadership, executive leaders of Forsyth County (County), as well as representatives from nonprofits and neighborhood groups that could likely play a role in a more coordinated effort to stabilize and revitalize neighborhoods in Winston-Salem.¹
- Follow-up phone interviews with a number of stakeholders interviewed, and a second round of data gathering and analysis with the support of staff at MapForsyth, an intergovernmental agency that provides dedicated GIS services to the region.
- The Technical Assistance Team’s expertise in the legal systems of vacancy and abandonment, and knowledge of in-state and national best practices and creative interventions to minimize the negative impacts of VAD properties.

Through the activities above, the Technical Assistance Team identified five key takeaways for the City and its partners to consider:

1. **Center Equity, both as a Foundation Principle and a Desired Outcome.** The history of land use, housing, and lending policies throughout much of the 20th century across America intentionally or indirectly harmed communities of color. As the City and its partners seek to address vacancy and abandonment and seed disinvested neighborhoods with opportunity and vitality, it should do so with an honest and humble embrace of this troubled past, and thus commit to centering equity in the important work going forward. That means working *alongside* and *with* the community—not for it—in hopes of earning the trust of those residents most impacted by vacancy and abandonment. Moreover, with many local stakeholders also sharing concerns about various housing market forces—such as gentrification; dropping home values in select neighborhoods; the lack of quality, affordable rentals; and the “appraisal gap” challenge²—the City should understand that implementing more effective strategies to address VAD properties can actually help advance a long-term vision of inclusive, equitable neighborhoods. The two are not separate and distinct, but linked and complementary, such that *tackling vacancy and abandonment opens up numerous pathways to achieve inclusive neighborhoods and broad equitable development*. It is up to local leaders and stakeholders to determine if, and to what degree, they choose to pursue these pathways.

¹ To view a full list of site visit participants, please see Appendix A.

² The appraisal gap challenge is the difference between the costs of acquiring and rehabbing a property and the resulting post-rehab property value. In weak housing markets, the appraisal gap challenge can present a significant barrier to responsible investment in VAD properties, and will typically require some form of public subsidy to fill the gap in order to incentivize rehabilitation.

2. **Connect and Coordinate the Work, Informed by Common Knowledge, Shared Goals, and a Long-term Strategic Vision.** Many different City departments touch, in some way, VAD properties. Those that do, collect and maintain important parcel data points that if aggregated, analyzed, and mapped, could set the stage for far more strategic and impactful interventions, policies, and programs. Fostering and institutionalizing a culture of inter-departmental coordination is key to tackling VAD properties, and creating and sustaining an inter-departmental task force is the most effective way to achieve this. A Vacant Properties Task Force, accountable to political leadership and the community, will allow for improved data sharing and analysis, but will also help ensure all public servants and officials share a common knowledge, long-term goals, and a strategic vision for the neighbors and neighborhoods of Winston-Salem.
3. **Restore the Vitality of Housing Markets and Maximize Impact by Focusing and Coordinating Neighborhood Investments.** This report explores the limitations of and potential reforms to current practices, policies, and key legal systems related to vacancy and abandonment, but it is also important for local stakeholders to acknowledge how economics and housing markets can influence and shape a neighborhood's trajectory. For historically disinvested neighborhoods, single property interventions may help eliminate threats to public safety or create one new unit of affordable housing for a fortunate family, but neither action is sufficient to "shift the underlying market," which if done equitably, could build community wealth for vulnerable homeowners and attract a wave of new private investment, without displacement, that all residents can enjoy. With this in mind, the City and its partners ought to challenge the conventional approach of distributing resources and actions citywide, in which every political ward has a fair share. A new approach, informed by better data practices and improved coordination across agencies and sectors, would focus significant and varied investments in small geographical areas (residential blocks, not square miles) to optimize impact and generate the greatest return.
4. **Engage and Partner with the County in an Intentional Effort to Optimize the Tax Enforcement System.** The County collects property taxes with competence and professionalism for the City. There appear to be no substantive barriers to implementing a few minor policy and operational changes to optimize the system in support of the City's commitment to implement a more equitable, effective, and efficient approach to VAD properties. What's needed is a sustained commitment to dialogue and a shared understanding of how reforms can be mutually beneficial to the County, City, and the residents of Winston-Salem. The dedication of some City resources over the near term could make the partnership with the County even more productive for the City, and yield better outcomes for neighbors and neighborhoods in the long-term.
5. **Build Capacity to Steward VAD Properties.** VAD properties present legal and financial barriers that are difficult for the private market to overcome—or they exist in neighborhoods historically neglected that are unattractive to investors looking for sizable returns. The recommendations in this report point to ways to eliminate those barriers and, when possible, to do it in a targeted way, coordinated with other place-

based interventions, that reactivates neighborhood markets. There is no way for the local government to avoid playing a temporary stewardship role for some of these VAD properties. For that reason, it's important that the City explore the optimal way to build the capacity to acquire, maintain, and steward VAD properties back to productive use in a way that is effective and efficient and delivers equitable outcomes.

6. **Seize the Moment and Act Now.** There are three key reasons to avoid delays. First, it seems from local interviews and the Technical Assistance Team's objective assessment that there exists in the City right now exactly the type of leadership that is needed to engage this critical review of the status quo and push forward with systemic reforms and more proactive strategies pursuant to long-term goals of equitable development and inclusive neighborhoods. Second, there seems to be a clear interest to both tackle vacancy and abandonment *and* advance equity and inclusion—right when some neighborhoods are experiencing significant upside and others are sliding further into decline. Third, time is the enemy when it comes to VAD properties, and as the costs imposed by vacancy and abandonment are well-documented and significant, the greatest cost comes from doing nothing. A window presents itself—and this is the time to act.

This report offers preliminary findings of current conditions and challenges, as well as related recommendations that the City and its partners might consider as they move forward with their efforts to address the negative impacts of VAD properties in an equitable, effective, and efficient manner. The following sections begin with a general overview for educational purposes, and then follow with the Technical Assistance Team's findings and recommendations:

- Section one provides salient background and local context, highlighting current conditions and the lasting legacy of historic racist policies and practices that were ubiquitous in America throughout the 20th century. The intent of this first section is to help explain why racial equity and justice are centered throughout this report.
- Section two examines current practices in data collection, management, and analysis.
- Section three focuses on the City's current approach to housing and building code enforcement specific to VAD properties.
- Section four unpacks the laws and policies that shape and influence the design and implementation of delinquent property tax enforcement, which is administered by the County on behalf of the City.
- Section five briefly discusses land banking and community partnerships, and the importance of building the temporary capacity to acquire, maintain, and steward VAD properties back to productive use in support of advancing a long-term vision of equitable development and inclusive neighborhoods.
- Section six provides some brief concluding remarks.

The recommendations in this report should be viewed as a comprehensive menu of options. Implementing some and not others is possible, but most will be more impactful when implemented together. Many recommendations point to the need to not only *reform* the key systems related to vacancy and abandonment, but also foster stronger and sustained *links between* these reformed systems to achieve a data-driven, coordinated, and comprehensive approach to VAD properties.

Throughout this report, citations to North Carolina law are provided wherever possible, but the recommendations that follow do not constitute legal advice. The recommendations are based on the Technical Assistance Team's national expertise and in-state legal knowledge and expertise. All recommendations are subject to the review and guidance of local legal counsel, and the decisions about which to pursue are left entirely to City leadership and its many partners.

I. Background and Local Context

Winston-Salem, at first glance, is unlike other communities that are seeking more equitable, effective, and efficient solutions to vacancy and abandonment. Systemic or large-scale vacancy in many communities, rural and urban, is primarily due to a significant population loss over the last 30 to 50 years, with some typical “rust belt” examples included in Table 1. However, Winston-Salem has seen a population *increase* of approximately 72% during the same period. The upward trend has been consistent and steady, with a 30% increase in population since 2000 alone (according to 2013-2017 ACS).

City	POPULATION		% Change
	1970	2010	
Gary, IN	175,415	80,294	-54%
Detroit, MI	1,514,063	713,777	-53%
St. Louis, MO	622,236	319,294	-49%
Buffalo, NY	462,768	261,310	-44%
Pittsburgh, PA	520,117	305,704	-41%
Baltimore, MD	905,787	620,961	-31%
Toledo, OH	383,818	287,208	-25%
Winston-Salem, NC	133,683	229,617	72%

TABLE 1: Population decline from 1970 - 2010 in select “rust belt” cities that have challenges with large-scale vacancy and abandonment, compared to Winston-Salem’s significant increase during the same term.

Local officials explained that the area is steadily attracting new residents, thanks to a resurgent downtown and an upstart economy re-centered around the biotech and nanotech sectors, but that a good portion of the population increase over the decades (and up until the mid-2000s) is due to annexation. Winston-Salem’s approximate population of 246,000 is now dispersed across 180 square miles. Compare that to Toledo, OH, a similarly-sized city (current population of approximately 275,000) with significant VAD challenges, packed into 84 square miles.

Annexation of inner ring suburbs over the decades has somewhat masked the challenges of historic core neighborhoods where poverty is high, homeownership rates are low, and both public and private investments have been either deferred or redirected.

Fortunately, these persistent challenges to the health, safety, and vitality of urban core neighborhoods now seem to command greater attention, and it seems to be primarily as a result of new political leadership and fresh senior leadership across multiple departments and agencies. Some of the local stakeholders interviewed concurred, suggesting that high levels of poverty, the negative impacts of the historic patterns of racial segregation, and disinvested neighborhoods—they’ve been evident for decades. What’s different, some local stakeholders explained, is that the City seems to be earnestly paying attention and seeking creative solutions.

Activity in the last few years seems to support this perspective. The City recently completed a comprehensive Housing Study and Needs Assessment (“2018 Housing Study”) that offers a suite of recommendations on how to seize the projected ten-year population increase to “spur opportunities to **confront historical patterns of segregation**, as well as evoke a renewed focus on **creating inclusive and equitable communities** with respect to housing and economic opportunity.”³ To a large degree, this technical report complements the 2018 Housing Study by offering concrete steps on how to actualize and implement some of the key recommendations. See Table 2 below for some of the more relevant recommendations from the 2018 Housing Study that this technical report can help actualize.

RELEVANT RECOMMENDATIONS IN THE 2018 HOUSING STUDY	
➤	“With a significant housing stock that is aging, explicit focus on rehabilitation of vacant, historic and aging units may present a strategic opportunity to help meet projected new housing demand over the next 10 years.” (p. 19)
➤	“Employ a coordinated approach that integrates code enforcement, the TURN program, and other community assets into a larger place-based revitalization vision.” (p. 27)
➤	“In markets or neighborhoods with less competition for land, publicly-owned parcels offer an important opportunity to catalyze development and seed revitalization.” (p. 23)
➤	“Track and reserve publicly-owned land, especially in current and emerging neighborhoods of opportunity, for affordable housing.” (p. 34)
➤	“Enhance ability of mission-driven and <u>responsible</u> developers to obtain site control.” (p. 26)
➤	“Improve site access by giving mission-driven developers first opportunity to access publicly-owned and/or tax foreclosed properties.” (p. 30)
➤	“Explore feasibility of establishing a municipal Land Bank as an option to return vacant, abandoned, and possible tax foreclosed properties to productive use while strategically reducing further deterioration of vacant properties.” (p. 28)
➤	“Provide operating funds for a local nonprofit organization to become a Community Land Trust in communities like East Winston and the Northeast sections of the city.” (p. 32)

TABLE 2:
A sampling of some recommendations made in the 2018 Housing Study that will be difficult to achieve without implementing some of the reforms to policies, practices, and partnerships that are outlined in this report.

Last Election Day, voters in Winston-Salem approved a \$122 million bond package put forward by City officials.⁴ The bond package dedicates \$11.7 million for housing, and millions of dollars of investments in economic development and infrastructure are being targeted in support of neighborhood revitalization efforts in some of Winston-Salem’s historically disinvested neighborhoods. According to City officials, some of these bond funds will be used to replenish the

³ The December 2018 study, *Winston Salem/Forsyth County Housing Study and Needs Assessment*, was prepared by Enterprise Community Partners, Inc., for the City of Winston-Salem Community Development Department. A copy of the final study is available online for public review at <https://tinyurl.com/y6bfgkv2>.

⁴ See <http://www.cityofws.org/2018bonds#housing-details> for more details about the 2018 Bond Package and planned activities.

City’s Transforming Urban Residential Neighborhoods (TURN) program, which provides income-eligible homeowners financial support for housing rehabilitation, with the money coming in the form of a direct or forgivable loan.

This summer, Winston-Salem was one of three cities from across the country competitively selected to participate in ForEveryoneHome, a new initiative from Grounded Solutions Network that, through technical assistance, peer learning, and community engagement, seeks to help mixed-market⁵ cities chart a path to inclusive growth and equitable development through lasting housing affordability.⁶ These trends suggest that current City leadership is thinking more strategically about disinvestment and VAD properties *alongside* equity and inclusion.

The City’s actions and efforts are impressive, and offer some respite from segregationist policies enacted in the past by Winston-Salem and many other urban communities across the country throughout much of the 20th century—with direct or tacit support from state and federal governments.

Winston-Salem, for example, became the second city in North Carolina to enact a municipal segregation ordinance.⁷ That 1912 ordinance was invalidated just two years later, but City leaders were undeterred.⁸ The City later enacted race-based zoning districts that included restrictions on the use and occupancy of the property.⁹ Federal policies further reinforced these patterns by withholding federal mortgage insurance in black neighborhoods in a policy known as “redlining,” which had the effect of strictly narrowing opportunities for black individuals to access financing to purchase a home and build wealth.¹⁰ Redlined neighborhoods (see Figure 1) experienced decline because acquiring and/or redeveloping property within those neighborhoods had been made impractical or unattractive from an investment perspective—and public investments and services were typically directed elsewhere.

⁵ Mixed-market cities is a term to describe cities that have strong housing markets in some neighborhoods, very weak housing markets in other neighborhoods, and a swath of neighborhoods somewhere in between.

⁶ To learn more about Grounded Solutions Network and the ForEveryoneHome initiative, see <https://groundedsolutions.org/ForEveryoneHome>. For disclosure purposes, Grounded Solutions Network and the Center for Community Progress are strategic partners on many initiatives and have provided joint technical assistance in a number of communities. Knowing both organizations are currently providing technical assistance to City leaders and their community partners, the Technical Assistance Team made an intentional effort to think about VAD strategies in the context of the complementary and ongoing work performed under the ForEveryoneHome initiative.

⁷ The 1912 ordinance made it unlawful for a “colored person” or white person to own property on a street where the majority of residents were of the opposite race, even should property descend by inheritance. Mr. Darnell, a black tobacco worker, challenged the ordinance after he was arrested for moving his family into a house located on a predominantly white block. In *State v. Darnell*, 166 N.C. 300 (1914), the state supreme court invalidated the ordinance, finding that municipal lawmakers had exceeded their “authority to make ordinances for the general welfare,” as the law clearly violated both black and white property owners’ fundamental right to acquire and dispose of property. *Id.*

⁸ In 1922, the mayor advocated for a resolution that would provide for white and colored districts, stating that “the establishment of definite lines in the City separating white and colored districts . . . would be a great step toward the prevention of racial trouble[.]” City of Winston-Salem Government Meeting Notes: 1920-1929. <https://www.cityofws.org/portals/0/pdf/marketing-and-communications/History/Winston-Salem/Winston-Salem%201920-1929.pdf>.

⁹ In 1930, the City adopted a comprehensive zoning ordinance that divided the city into zoning districts and placed restrictions on the use and occupancy of the property. Specifically, the ordinance required “persons of the Negro race” and “persons of the White race” to live in separate residential areas. See *Clinard v. City of Winston-Salem*, 217 N.C. 119 (1940). For national examples of this practice, see *The Racial Origins of Zoning in America*, (1997) by Christopher Silver.

¹⁰ Josh Silver, *The Purpose and Design of the Community Reinvestment Act (CRA): An Examination of the 1977 Hearings and Passage of the CRA*, National Community Reinvestment Coalition, June 14, 2019. <https://ncrc.org/the-purpose-and-design-of-the-community-reinvestment-act-cra-an-examination-of-the-1977-hearings-and-passage-of-the-cra/>.

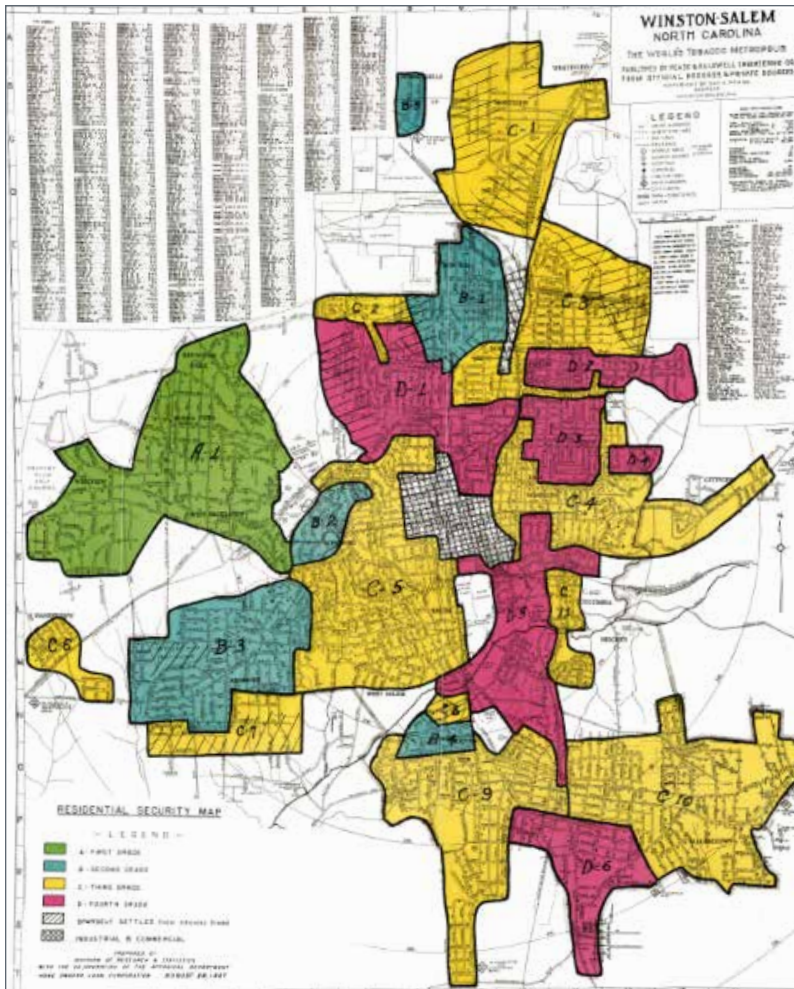


FIGURE 1: A Federal Home Owners' Loan Corporation (HOLC) map, also known as a redlining map, for the City of Winston-Salem. Residents in the redlined neighborhoods were unable to secure traditional mortgage financing, as these neighborhoods were deemed to high of a risk because of “undesirable elements,” which meant the presence of immigrants and people of color. There is a strong correspondence between the neighborhoods redlined in the 1930s and the ones today that are disproportionately impacted by VAD properties. *Source: Mapping Inequality, University of Richmond*

Even when some public investments were made, such as those under the guise of “urban renewal” and the “fight against blight,” the impacts to black business districts and black neighborhoods were disproportionately devastating. In Winston-Salem, poor black neighborhoods were leveled in the 1960s to make room for Highway 52 (see Figure 2), which also resulted in walling off much of East Winston from the rest of the City.¹¹

Winston-Salem was not alone in enacting laws to reinforce formal and informal patterns of segregation. For decades, numerous local and federal policies sought to justify and institutionalize racial segregation throughout the nation, hemming black residents into urban ghettos and severely restricting their mobility and opportunities.¹² For instance, when developers of subdivisions sought federal insurance of private loans, the Federal Housing Administration (FHA) required race-based restrictive deed covenants to be included on all homes in the project. The covenants prohibited white homeowners from selling homes to black individuals or families. So not only did redlining serve to

¹¹ The urban redevelopment plan that enabled the construction of Highway 52 is described in a Master’s degree thesis project by Shane Cruise, *Reynoldstown: Race, Blight, Disease, Highway Construction and the Transformation of Winston-Salem, North Carolina*, 5 (2011), https://www.scribd.com/document/401094810/Reynoldstown-Race-Blight-Disease-Highway-Construction-and-the-Transformation-of-Winston-Salem-North-Carolina#from_embed.

¹² See Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*, May 2017, which was a finalist for the National Book Award in non-fiction.

lock black residents into poor neighborhoods that couldn't attract investment, the restrictive deed covenants often required by FHA, which were enforced up until the 1950s (and in some rare cases, even longer), denied middle class black families the freedom to move into outer ring or suburban neighborhoods that promised wealth-creating opportunities.¹³

The legacy of these inequitable and unjust land use, housing, and lending policies live on today. Research shows many metropolitan areas, cities, and schools in particular, still exhibit high degrees of segregation. According to a 2018 report by The Center for Investigative Journalism, the gap in the national homeownership rate between white homeowners and black homeowners is *higher now than it was during the Jim Crow era*.¹⁴ The wealth gap is also racialized and staggering. According to a 2017 report, the median wealth of white households was about \$134,000, while the median wealth of black households was approximately \$11,000.¹⁵ The authors caution that if the racial wealth divide is left unaddressed, median black household wealth is on a path to hit zero in 2053.



FIGURE 2: Ariel photos of Winston-Salem's first black neighborhood, in 1951 (left) and 1971 (right), after the construction of Highway 52, one of nearly 1,000 urban renewal projects across the country that not only disproportionately disrupted and then razed the homes and businesses of black Americans, but also created physical barriers that contributed to segregation. More than 3,000 black residents called this neighborhood home in 1950, the majority of which worked at the RJ Reynolds Tobacco Company. *Source: Reynoldstown: Race, Blight, Disease, Highway Construction, and the Transformation of Winston-Salem, North Carolina, S.N Cruise, 2011.*

¹³ Ibid.

¹⁴ Aaron Glantz and E. Martinez, *Kept Out*, 2/15/18, <https://www.revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership>.

¹⁵ Dedrick Asante-Muhammad, C. Collins, J. Hoxie, and E. Nieves, *The Road to Zero Wealth: How the Racial Wealth Divide is Hollowing out America's Middle Class*, September 2017, https://prosperitynow.org/files/PDFs/road_to_zero_wealth.pdf.

No local government alone could ever fully undo the damage caused by these historic and systemic patterns of injustice, but every local government could choose to learn from them, and even better, seek ways to offer space for an honest, but difficult dialogue about this history. Local officials could humbly acknowledge the pain and trauma that certain communities have experienced more acutely than others, particularly under the banner of “fighting blight,” and pledge to not repeat the mistakes. The focus of the work this time around should not be to “eliminate blight,” but rather to invest in equity and inclusion.

Highlighting this history, which by no means is unique to Winston-Salem, is not meant as a finger-pointing exercise. It is meant to put this report in context, in that Community Progress has an expressed commitment to racial equity and justice, and that the recommendations in this report are provided with **equity as both a foundational principle and a desired outcome.**

II. Data Systems: Understanding the Problem and Coordinating Efforts

A. OVERVIEW

It is not uncommon to find communities grasping for solutions to VAD properties before the true nature and extent of the problem is even understood, or launching new programs and neighborhood investments in a scatter-shot approach without regard to the strength or responsiveness of neighborhood housing markets.

However, VAD properties come in many variations, and emerge within a wide variety of neighborhood housing markets. While there are many different strategies and policy decisions that communities can explore and implement, decisions must be driven by data—parcel data, neighborhood market data, and social data (community feedback).

In interviews with local stakeholders, a number of different subsets of VAD properties were mentioned:

- **Abandoned properties**, an unoccupied property where the owner has walked away from the property, which could have been a landlord that drained the final equity from a substandard rental or a speculator that forfeited their bet.
- **Heirs properties**, where the owner has died without an estate plan, and the title may be fractured among numerous potential heirs, none of whom want to take responsibility for the property.
- **Vacant rental properties**, where the owner, having been served an order from the City to “repair or vacate and close,” chose to vacate and close in order to achieve compliance because they lacked the resources to repair the multiple code violations.
- **Zombie properties (vacant homes)**, where the lending institution or bank may have initiated a mortgage foreclosure, but then intentionally delayed or abandoned the process because the property was underwater or of little value.

- **Vacant and abandoned lots**, still privately-owned, because the City had carried out a demolition but neither the City nor the County want to incur the costs of property tax foreclosure given the nominal value of the single vacant lot.
- **Vacant commercial or industrial properties**, where the possibility of contamination worries local or county officials enough that inaction is deemed a safe and responsible approach.

Whether in Winston-Salem or elsewhere, the inventory of VAD properties is never uniform, and the above variations identified by local stakeholders during the site visit point to two important lessons. First, that a deeper understanding of the inventory of VAD properties needs to be achieved through the efficient collection, integration, and analysis of multiple parcel data points. Second, that a number of locally-appropriate tools, tactics, and policy reforms are needed, and that these solutions *need to be applied correctly and strategically* in order to achieve equitable and effective outcomes.

The good news is that aggregating parcel data to better understand the nature, extent, and location of vacancy and abandonment can be achieved with minimal cost. In fact, most communities already track many of the key parcel data points, but do so in a siloed manner across multiple departments or even governmental agencies. Thus, the keys to gaining greater clarity about the inventory of VAD properties are building a common consensus among stakeholders of the value of proper data collection, management, and sharing practices; a sustained commitment to inter-departmental coordination; and political leadership that prioritizes this work in order to build a robust foundation for a more comprehensive and strategic approach to VAD properties.

B. FINDINGS

Prior to the site visit, the Technical Assistance Team made a number of data requests of local stakeholders. The goal was not only to begin to examine the nature and extent of VAD properties, but also to test the quality and accessibility of datasets that will prove vital in the work going forward. Some of the datasets requested included:¹⁶

- Number of properties with two years of delinquent taxes, and the number of properties with five years or more of delinquent taxes
- Number of properties where water service has been shut off for six months or more
- Properties with outstanding and unpaid demolition liens
- Properties with outstanding and unpaid sanitation liens
- Number of properties with open “repair or vacate and close” orders
- Number of properties deemed unsafe and condemned by the City
- Number of properties owned by either the County or the City

¹⁶ The reader will find more detailed descriptions of housing and building code liens and minimum housing repair orders in Section III of this report, including appropriate citations to state statutes and or local ordinances as needed.

The responses came back in a timely manner, and were more substantive than what most other communities share back. A sampling of parcel data points provided by City and County officials are listed in Table 3. While some departments provided raw numbers, others provided spreadsheets that included a number of different data points, including dates, zoning and land use data, and assessment data. Some spreadsheets even included the parcel identification number (PIN), which the County and City use as a “universal identifier” to join and map various datasets. A couple of departments were able to resend spreadsheets with the PIN added, while others acknowledged that PINs would need to be added manually, a limitation in either collection practices or the department’s software platform that the City’s IT Department can likely help overcome moving forward.

DATA REQUEST	RESPONSE
Number of taxable parcels in Winston-Salem	91,081
Number of properties that are tax delinquent two years	1,689
Number of properties that are tax delinquent five years or more	950
Total taxes owed by properties delinquent five years or more	\$850,030
Number of accounts that have had no water service for six months or more	4,317
Number of residential accounts with no water service for six months or more	3,594
Number of residential accounts shut off in 2018, 2017, or 2016 and still inactive	1,127
Number of residential properties that have been deemed unsafe and condemned	988
Number of unpaid code liens (mowings)	7,037
Dollar amount of unpaid code liens (mowings)	\$2,464,464
Dollar amount paid to contractors to abate nuisance (high grass), 2018	\$114,225
Number of properties in the chronic violators program, 2019	497
Number of unpaid code liens (removal of trash + debris)	1,989
Dollar amount of unpaid code liens (removal of trash and debris)	\$641,317
Dollar amount paid to contractors to abate nuisance (trash + debris), 2018	\$17,595
# of demolitions completed in the last 5 years with general funds	40
Number of unpaid demolition liens	260
Dollar amount of unpaid demolition liens	\$1,643,964

TABLE 3: A sampling of data requests made by the Technical Assistance Team to various City and County representatives in advance of the site visit, and their respective responses. Many of the data points did not include other parcel indicators, such as use (residential, commercial, or industrial) or whether the parcel had a structure or was an unimproved vacant lot, which limited the Technical Assistance Team’s ability to fully understand the nature and extent of VAD properties in Winston-Salem.

This preliminary exercise, on-site interviews, and the follow-up research into the City’s data collection and management practices revealed three key findings:

1. A comprehensive and shared understanding of VAD properties is lacking. While the staff are to be commended for their responsiveness and support during the preliminary data collection phase, it became clear from both the initial exchanges with local stakeholders and the follow-up interviews conducted during the site visit that all parties are not with the same degree of understanding when it comes to the nature, extent and geographic density of vacancy and abandonment in Winston-Salem.

This finding is not to be misunderstood. To be clear, very few communities that request assistance from Community Progress have a solid understanding of their inventory of VAD properties. What’s promising, and to be celebrated locally, is that most of the relevant parcel data is available and, even better, being managed in a way that allows for efficient integration, mapping, and analysis.

2. Data management and mapping expertise within the City’s IT Department and at MapForyth are an untapped resource. The various datasets provided to the Technical Assistance Team raised a number of questions, particularly whether or not some of these indicators of vacancy and abandonment might be joined by the PIN—or the Master Address Repository (MAR), which is a similar universal geocoded data point—and then mapped to offer greater insights about the nature, extent, and geographical density of VAD properties in Winston-Salem. Just as important was to identify and understand the missing data that, if obtained and made available, could help inform policy decisions or appropriate interventions and strategies. For example:
 - a. There are 1,127 **residential** properties that had their water service shut off in 2016, 2017, or 2018 and whose accounts remain inactive. What is the nature of this inventory? How many have structures, and of those, what is the status or condition of the structure? How many of these properties exhibit other signs of abandonment, such as tax delinquency or condemnation orders?
 - b. There are 950 properties that are tax delinquent five years or more. There are also 497 properties identified by the Code Department in 2019 as “chronic violators,”¹⁷ all of which receive mowings about twice a month from local contractors hired by the City and paid with local tax dollars. What is the overlap between these two inventories? Are the sanitation liens, like the property taxes, also being ignored by the owner? And does a better understanding of this inventory, saddled with hundreds of thousands of dollars in public liens, open up thoughtful conversations between the City and County about responsible and needed reforms to collection and enforcement policies and practices?
 - c. How many of these tax delinquent properties are in areas where gentrification is a concern, or on a block where a number of TURN investments are being made? Which ones are in locally-determined Strategic Land Banking Areas,¹⁸ ideal candidates for acquisition and reuse as lasting affordable housing to meet some of the goals identified in the City’s 2018 Housing Study?

¹⁷ Discussed in more detail in the next section (Housing and Building Code Enforcement Systems and Practices), a property owner is deemed a chronic violator the first time they are cited for a violation that they had been cited for three times in the previous year. Noticing requirements are different for chronic violators, as is the priority of the public lien stemming from the nuisance abatement action—both of which favor the municipality.

¹⁸ Whether it’s to promote and advance inclusion at the early stages of gentrification, or assemble land for a large-scale catalytic project, or install storm mitigation features to improve resiliency, or support land-based business ventures like urban farms and solar farms, City leaders can have any number of reasons to select and identify a specific neighborhood or block as a “Strategic Land Banking Area.” The City will need to determine those areas based on its own priorities, and this term is used in this report simply to illustrate how land banking can play a critical role in an equitable, effective, and efficient approach to VAD properties.

The questions above are simply a glimpse into the thoughtful and cross-departmental conversations that can emerge as siloed parcel data is integrated, mapped, and analyzed. In the exercise above, the first set of questions are investigative in nature and simply seek to better understand the inventory—and which properties might be causing the most harm to neighbors, neighborhoods, and taxpayers. The second set of questions have a similar aim, but then pivot to a relevant policy discussion that might have gone unnoticed before. The third set of questions purposefully point to important programmatic and policy decisions that must be engaged as well, in effect highlighting that an approach to VAD properties must become more sophisticated, evolving from single interventions on individual properties to neighborhood-wide stabilization and revitalization campaigns that can help advance a community’s long-term goals of equitable development and inclusive neighborhoods.

With the above questions in mind, the Technical Assistance Team invested time to engage the City’s Chief Information Officer and GIS experts at MapForsyth during and after the site visit. Both of these agencies will need to play critical support roles in the City’s efforts to equitably and effectively address VAD properties, and the immediate goal was to see what kind of maps could be produced from the datasets gathered by local stakeholders.

After some internal manipulation of the datasets by the Technical Assistance Team and some discussions with GIS experts at MapForsyth, three different datasets with PINs were joined and mapped to highlight the costs and limitations of the status quo and the need for systemic reforms. Figure 3 is a map of the 146 residential properties and 11 commercial properties that have five years of unpaid taxes, and are saddled with *both* a demolition lien and *at least* one sanitation lien (for mowing). The residential properties (which are assumed to be vacant lots, given the presence of demolition liens) alone have liabilities of more than \$950,000 in demo and sanitation liens and almost \$140,000 in back taxes.

This basic mapping exercise not only helps better define the nature, extent, and geographical density of a harmful subset of VAD properties, but it also raises important questions about the current policies and practices of local housing and building code enforcement and delinquent property tax enforcement. Moreover, it compels a more thoughtful conversation about programmatic decisions and whether some or many of these residential vacant lots could be intentionally and strategically acquired to support equitable outcomes that are consistent with neighborhood priorities and plans.

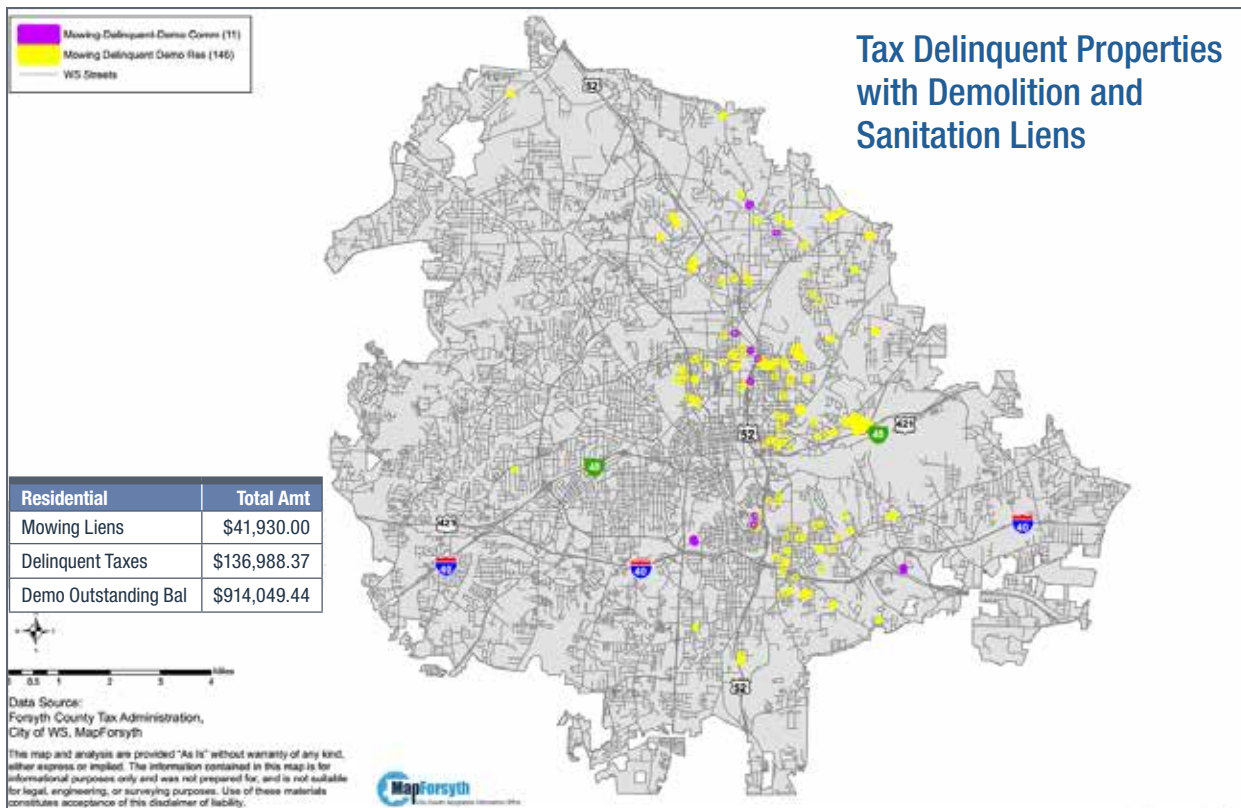


FIGURE 3: A map generated by MapForsyth indicating the location of 157 properties in Winston-Salem that exhibit three common indicators of distress that, to date, have been siloed across different departments or government agencies: (1) five years or more of tax delinquency; (2) a demolition lien; and (3) at least one sanitation lien (mowing).

- Over the last few years, there has been a growing appreciation of and deeper commitment to inter-departmental coordination. Local stakeholders acknowledged that there isn't much of an impressive history of strong coordination across departments, but that the last few years have seen a significant shift in City Hall culture. New leadership on City Council, in the City Manager's Office, and within many departments have displayed a stronger commitment to collaboration—and stakeholders provided a number of recent examples. That spirit is certainly needed. With VAD properties touching virtually every department—from legal to finance, public safety and public works—a community must start by breaking down the siloes, reforming data collection and management practices, and fostering then institutionalizing inter-departmental coordination. To that end, the City is at an opportune time to move forward with this foundational work.

C. RECOMMENDATIONS

A sustained inter-departmental effort, supported by the resources and capacity to map, integrate, and analyze data, and backed by strong political leadership, sets the stage for data-driven, market-informed decision-making—the cornerstone of an equitable, effective, and efficient approach to VAD properties.

The following are recommendations for the City and its partners to consider as it seeks to build this approach:

1. **Launch and hold accountable a permanent Vacant Properties Task Force.**
Breaking down the status quo of siloed departments, siloed data, and siloed actions is a foundational step in taking a more equitable, effective, and efficient approach to VAD properties. This Task Force ought to be led by an executive designee (i.e., an Assistant City Manager) to ensure accountability to political leadership, and include, at a minimum, representation from the following City, County, and regional departments or agencies:
 - a. City Community Development (housing, neighborhood services, and code enforcement)
 - b. City Attorney
 - c. City Fire and Police
 - d. City Water
 - e. City Finance or Budget
 - f. City-County Planning
 - g. Housing Authority of Winston-Salem
 - h. MapForsyth (regional GIS agency) and City Information Systems
 - i. County Tax Administration
 - j. County Housing and Community Development

The Task Force should consider meeting at least twice a month initially, and possibly move to monthly as the work progresses. After the inevitable and possibly challenging dynamics between local departments and public agencies are resolved and aligned to a common purpose, the Task Force is strongly encouraged to invite strategic community partners and diverse neighborhood representatives to the table.

2. **Notify the public of this effort, and that it represents a multi-year and sustained commitment.** While it may make sense to wait briefly before inviting community and nonprofit representatives to serve on the Task Force, there is no convincing reason to delay communicating this effort to the community. Some communities have done an exceptional job keeping the public informed of its efforts to tackle VAD properties, knowing that all residents deserve that level of transparency and many stakeholders, including residents, might become more meaningfully involved with the work. The City should strongly consider creating a dedicated page on the City's website that will serve as a one-stop shop for this Task Force's work. So long as the Task Force is meeting, it seems reasonable to expect that the City also provide the public with accurate, timely, and accessible reporting of the Task Force's activities (and successes and challenges).

3. **Publicly express a commitment to address VAD Properties with equity as a foundational principle and a desired outcome.** Many local residents that are disproportionately impacted by the current inventory of VAD properties likely retain some knowledge—or have actual lived experience—of the history of “fighting blight” in Winston-Salem or elsewhere. Therefore, it is important to understand that any work undertaken today by local leadership under this banner might be met with a good deal of mistrust—and justifiably so. Be open and public about the goals of this work—as well as the successes and challenges—so residents can see that transparency and accountability, along with equity, are values deeply embedded in this work.
4. **Continue to access, integrate, map, and analyze various datasets to better understand the nature, extent, and location of the inventory.** While the individual data points offered some insights, including what seems to be an inventory of highly distressed abandoned properties that is causing economic, social, and fiscal harm (to be discussed later in this report), it would be invariably more helpful to also know location, use, type, whether a structure is present, and if so, the condition. While a lot of spreadsheets were provided, not all of them were geocoded with either the PIN or MAR (which would have made them mappable and allowed for more meaningful analysis) or joined with standard real property data (which would have provided more detail about the *nature* of the inventory). Representatives from the City’s IT Department impressed the Technical Assistance Team, so there is a strong sense that many of these deficiencies can be identified and discussed during Task Force meetings, and quickly addressed with focused technical support by local IT and GIS experts.
5. **Brainstorm and pursue investigative or mapping projects within the first six months of the Task Force.** The value and impact of a compelling map cannot be overstated, particularly as departments are challenged to rethink their work as part of a coordinated approach to achieving long-term goals, like equitable and inclusive neighborhoods. Below are two possible exercises for the Task Force to consider:
 - a. Map the heavily tax delinquent vacant lots, chronic violators, and outstanding demo liens to understand the overlap and assess whether any of these introduce strategic assemblage or redevelopment opportunities. Better understanding the neighborhood markets will also open the door for more strategic interventions. For example, a buildable vacant lot in a strong or stable neighborhood could be moved through the tax foreclosure process, cleared of all liens, acquired by the City, and transferred to a responsible developer to build long-term affordable housing in support of a vision of inclusive neighborhoods. A vacant lot in a disinvested neighborhood could also be moved through the tax foreclosure process, acquired by the City, and transferred to a responsible adjacent

homeowner in support of equitable outcomes, or used as a site for a publicly-funded, community-driven beautification project that enhances neighborhood health and safety.¹⁹

- b. As reported by the City, there are 988 residential properties that have been condemned or deemed unsafe and identified for demolition. It was also reported that 36 demolition orders were issued in 2018. Deeper analysis of this combined group of deteriorated properties is required in order to assist the City in determining which properties, if abandoned by the owner, should be prioritized for demolition. The potential threat to public health and safety ought to be the primary criteria, but ranking should also take into account the location, extent of tax delinquency (a strong marker for abandonment), potential to coordinate with other neighborhood investments, and potential for productive reuse.

6. **Explore the Value of and Need for an Analysis of Neighborhood Housing Markets.**

The above recommendations focus exclusively on parcel data, but a better understanding of neighborhood housing market data can also significantly influence the strategies and interventions pursued by the City and its partners.²⁰ For example, when a private property owner ignores a repair order issued by the City, the City can choose to either carry out the repairs itself or, wait for at least six months before pursuing a taxpayer funded demolition. Knowing the strength of the neighborhood housing market—and which way it’s trending—could play a large role in determining *how* to invest public dollars. This needn’t be a costly endeavor, as more and more communities are using a number of publicly-available data to categorize neighborhoods, from severely distressed to strong.²¹ For example, the City of High Point, NC, partnered with the Center for Housing and Community Studies at UNC Greensboro to conduct a neighborhood market analysis, and then decided that updates to the study could likely be completed with internal resources.²² Another example is in Youngstown, OH, in which a nonprofit carried out a citywide analysis of all neighborhoods based on guidance provided by Community Progress Senior Fellow Alan Mallach.²³

¹⁹ These examples are not meant to suggest that disinvested neighborhoods do not deserve quality affordable housing. To be clear, *all* neighborhoods deserve quality, affordable housing choices and place-based investments, but micro housing markets may influence the most strategic pathway to that ultimate goal. These examples simply point out that *interim* uses of single lots, other than infill housing, can still add value to either homeowners or the neighborhood at large, setting the stage for future investments, both public and private, that will achieve equitable outcomes.

²⁰ Conducting a neighborhood market analysis was beyond the scope of this engagement.

²¹ Some recent efforts to identify the housing market strength of neighborhoods citywide end up creating a composite score based on a number of variables, such as vacancy rate; mortgage ratio (the ratio of home purchase mortgages to total home sales); sales ratio (the ratio of annual single family sales to the total single family inventory); median sales price; homeownership rate; change in homeownership rate; poverty; population loss; and tax delinquency. The composite scores can be grouped into four to six different neighborhood types (or typologies), from strong to very weak, and this citywide market analysis can help guide policy decisions, allocation of resources, programmatic development, and other neighborhood strategies, since different markets require different interventions.

²² See <https://chcs.uncg.edu/high-point-market-segmentation-study/>.

²³ See <https://www.yndc.org/planning/market-analysis>.

III. Housing and Building Code Enforcement Systems and Practices: Moving from Reactive to Strategic and Proactive

A. OVERVIEW

Housing and building code enforcement is a key preventative system that will play a critical role in how a community can equitably, effectively, and efficiently address VAD properties. Based on work across the country with municipalities small and large, Community Progress sees many code enforcement programs that are under-resourced, reactive, and unaware of the unintended consequences of applying enforcement practices equally across all housing markets and all owners. In order to build a more equitable, effective, and efficient approach to VAD properties, local officials and partners need to thoughtfully transition from this traditional form of code enforcement to strategic code enforcement, the key features of which are listed in Figure 4.

As a community shifts to strategic code enforcement, it must also have a clear understanding of the state statutory framework, since state law will shape and influence what a municipality can or cannot pursue. North Carolina is a Dillon Rule state, which means that local governments are generally constrained by state law and can only pursue what state legislators expressly grant them authority to do.²⁴ For example,

FIGURE 4:
Key Features of Strategic Code Enforcement

- **Targeted** allocation of **limited** resources to achieve **maximum** impact
- **Proactive, data-driven** interventions **tailored** to neighborhood market conditions
- **A suite** of programs, laws, and tools **flexible to accommodate and protect** vulnerable property owners who want to comply
- **Coordination** across silos, **aligned with other key systems** of vacancy and abandonment
- **Cross-sector** partnerships, investing in the **health and safety** of people and places
- Enforcement officers with **excellent interpersonal and problem-solving skills**
- **Expanded and sustained capacity**

²⁴ A local government in a Dillon's Rule state possesses only the authority that has been expressly granted by law or may be necessarily implied by a legislative or constitutional grant of authority. Alternatively, in a home rule state, local governments are assumed to possess the right of self-governance over local affairs so long as the activities are not in conflict with general laws enacted by the state. See C. Tyler Mulligan, *The Power of Local Government to Address Problem-Property Issues* in *Vacant and Problem Properties: A Guide to Legal Strategies and Remedies* 3-4 (Mallach, Bacher, & Williams, eds., American Bar Association, 2019).

in 2016, state officials passed pre-emptive legislation that severely curtailed a local government's ability to conduct proactive inspections of residential rental property in order to ensure all tenants have safe, quality, and healthy housing.²⁵

State legislation will also determine how well a community can build code enforcement practices and policies around an approach Community Progress has termed, “Fix it Up, Pay it Up, Give it Up.” This approach is based on a premise that property owners have a responsibility to not threaten nor harm the health, safety, and equity of neighbors and neighborhoods. It also recognizes that some owners, due to limited means or life-changing events, may want to fulfill that responsibility but are challenged to do so because of financial or physical ability, or in some cases, language barriers. A housing and building code enforcement program that is equitable, effective, and efficient must accommodate vulnerable property owners while still fostering a local culture and shared ethic of responsibility and responsiveness among all property owners.

To help explain this “Fix it Up, Pay it Up, Give it Up” approach, it is helpful to provide an example. Suppose a vacant property is reported or proactively identified for displaying nuisances—such as high grass, broken windows, or excessive trash and debris. Consistent with local housing and building code enforcement policy, the local government ought to quickly cite the violation and request that the owner “Fix it Up.”²⁶ If the owner purposefully neglects the request and fails to correct the nuisance, the local government ought to deploy public resources in a timely manner to abate the nuisance and then bill the owner for the work. The bill should reflect the full costs of the abatement action, including administrative costs, labor, and equipment use. The bill should be sent to the owner with the request to “Pay it Up,” since local taxpayers should not be on the hook for owners with financial means who look to internalize the benefits of ownership (for example, speculation or rental revenue) but externalize the costs of ownership (routine property maintenance). If the owner ignores the bill, then the local government ought to lien the property for the abatement costs, and, if state law permits, roll the code lien to the property tax bill and use the property tax foreclosure system as an enforcement method if the lien goes unpaid. In the end, if the owner was capable and willfully ignored the municipality's requests to “Fix it Up” or “Pay it Up,” then on behalf of local taxpayers, local officials ought to compel the irresponsible property owner to “Give it Up.” It does this by foreclosing on the code lien, similar to a tax enforcement proceeding, and either acquiring the property directly to steward to a new and responsible owner, or auctioning off the property to the highest bidder (though this option introduces a degree of uncertainty about both the owner and the intended use of the property).

There are a few important points to make about the above approach.

1. The desired goal is always compliance, and every element of a strategic code enforcement system must be thoughtfully designed and implemented to reflect this preferred outcome.

²⁵ Session Law 2016-122 further restricted local government power to conduct residential inspection, permitting, and registration programs beyond the limitations originally enacted by the North Carolina General Assembly in 2011 with Session Law 2011-281. See C. Tyler Mulligan, *Residential Rental Property Inspections, Permits, and Registration: Changes for 2017*, COMMUNITY AND ECONOMIC DEVELOPMENT BULLETIN No. 9 (School of Government, UNC-Chapel Hill, 2017), <https://www.sog.unc.edu/publications/bulletins/residential-rental-property-inspections-permits-and-registration-changes-2017>.

²⁶ Some code enforcement programs, before sending any official citation letter, have seen success by simply notifying the owner of the violation with an informal and courteous letter requesting that it be addressed within a certain period of time.

2. This approach *must* include equitable considerations, especially if it will be applied to occupied properties. Hardship programs need to be in place to provide vulnerable property owners with the resources needed to correct code violations or nuisances, or tenants the support needed in the event of relocation. For these reasons, we strongly encourage local governments to apply this approach exclusively to vacant properties, and to be very mindful of equitable considerations.
3. This enforcement approach shifts away from a judicial action against the person (*in persona*), whether that's criminal or civil, and relies instead on an administrative action against the property (*in rem*). This tends to be far more efficient and cost-effective, and if part of a coordinated and comprehensive approach, should result in one of three options:
 - a. Timely compliance by the owner;
 - b. Full reimbursement to the municipality for the local tax dollars used to carry out nuisance abatement actions on a privately-owned VAD property; or
 - c. The option for the municipality to acquire the VAD property through a public lien foreclosure action, and to oversee in a predictable and transparent manner, the transfer of the property to a new and responsible owner in support of community priorities and goals.
4. This approach reflects the importance of integrating the two preventative legal and policy systems—housing and building code enforcement and property tax enforcement—and building consensus across departments and different public agencies on shared goals and a strategic long-term vision.

B. FINDINGS

The City has the benefit of a professional and experienced workforce in the code enforcement division, and veteran and creative leadership in the City Attorney's Office. Through interviews with senior leadership in both departments, it was clear that the City has been willing to experiment with pilot innovations to address changing neighborhood conditions, or the unique priorities of new Councilmembers. The City Attorney's Office has been the driving force behind this work for a couple of decades, and often turned to the state for local enabling legislation to address the City's unique needs. For example, the state's Minimum Housing Ordinance (MHO) requires a local government to wait a full year prior to taking further action on a dwelling that has been vacated and closed (in response to a City-issued "repair or vacate and close" order).²⁷ The City Attorney's Office sought and obtained a Local Act to reduce this waiting period to six months, enabling faster City action on vacant closed dwellings.²⁸ The City Attorney's Office has also proven willing to take extra steps to improve compliance by owners. For example, when an owner fails to comply with an order

²⁷ G.S. 160A-443(5a).

²⁸ Session Law 2004-98.

to remove or demolish a dwelling that presents an unsafe situation for tenants,²⁹ the City Attorney's Office will take the extra, optional step of pursuing a judicial order before proceeding to demolish the structure.³⁰ This extra step, as reported by the City Attorney's Office, has proven to improve owner compliance, which ultimately protects tenants, preserves the housing stock, and avoids demolition costs that the City would have to incur and likely not recoup.

While the code department has the benefit of professional and knowledgeable leaders and competent staff, the enforcement program is run like most other traditional programs. Resources are distributed equally across political wards instead of strategically deployed to focused neighborhoods where impact could be maximized. The program is reactive instead of proactive. Enforcement is seen as a tool to apply uniformly again and again against individual properties instead of a suite of tools, thoughtfully deployed, as part of a broader and coordinated campaign to stabilize and revitalize neighborhoods over the long-term. Innovations are driven by emergent political priorities and tend to be specific to the urgent problem at hand instead of driven by an inter-departmental desire for systemic reform with an eye on sustained work and a long-term strategic vision.

For purposes of this report, three key findings from the assessment of the local code enforcement program bear further discussion: (1) that the City has achieved impressive results with a focused and funded multi-year campaign to tackle a significant backlog of MHO cases; (2) that the City's ongoing approach to repair or vacate and close orders may be *contributing* to the local inventory of VAD properties; and (3) that the City needs to critically review its approach to abating nuisances on privately-owned properties.

The point of calling attention to the first item is to emphasize the positive impact of questioning the status quo, analyzing the issue, and then sufficiently resourcing the solution. As for the second and third key findings, the point is not to call into question the minutiae of operational procedures and daily decisions, which in general are handled professionally, but rather to illuminate how activities in these two areas can become more strategic and to illustrate the need to rethink code enforcement as part of an inter-departmental, coordinated, and long-term neighborhood revitalization strategy that centers equity and inclusion.

1. Tackling a Backlog with Data, Competence, and Resources.

Following the years after the Great Recession (2008-2009), it appears former City staff that oversaw the MHO cases allowed hundreds of cases to pile up without any aggressive enforcement actions. It turns out this practice wasn't uncommon across the country, as some local officials chose to lighten enforcement of housing and building code or even delinquent property taxes in the face of a wave of homeowners that were suddenly struggling to stay afloat or solvent. The local results of this temporary pause, however, weren't surprising: the cases kept piling up. Toward the end of 2016, the Chair of the City Council's Community Development Housing General Government

²⁹ Such minimum housing code orders are issued pursuant to G.S. 160A-443(3)(b).

³⁰ Pursuit of a judicial order is authorized by G.S. 160A-446(g).

(CDHGG) Committee requested that the backlog of 629 MHO cases be brought before the Committee for review. The status quo was deemed unacceptable, and City officials agreed that it was time to make a renewed push to address the backlog.

Thanks to a combination of new leadership in the Department of Community Development and in the City Manager’s Office, as well as a City Council that dedicated resources to the effort, the results have been impressive. As of October 2019, of those 629 properties subject to MHO orders, 464 of them have been repaired (74%), 68 have been demolished, and the remaining balance are in various stages of repair by new owners or other enforcement actions (see Figure 5).

The good work has been evident in not just the backlog, but also with the current cases. Currently, there are 310 MHO cases that could qualify for CDHGG review. Of that number, 131 have 5 or fewer violations. The remaining balance includes properties that are in compliance, under repair, or in some other stage of enforcement action.

The results are not only impressive, but also instructive. City Council questioned the status quo, reached consensus on a clear goal, resourced the initiative sufficiently, and then had competent staff track and report out the results on a regular basis. This is a model for what’s possible.

2. Repair or Vacate and Close Orders.

In North Carolina, the state’s MHO spells out clearly the process by which local housing and building code enforcement agencies can issue orders to owners to address minor to significant structural deficiencies that render a unit unfit for human habitation.

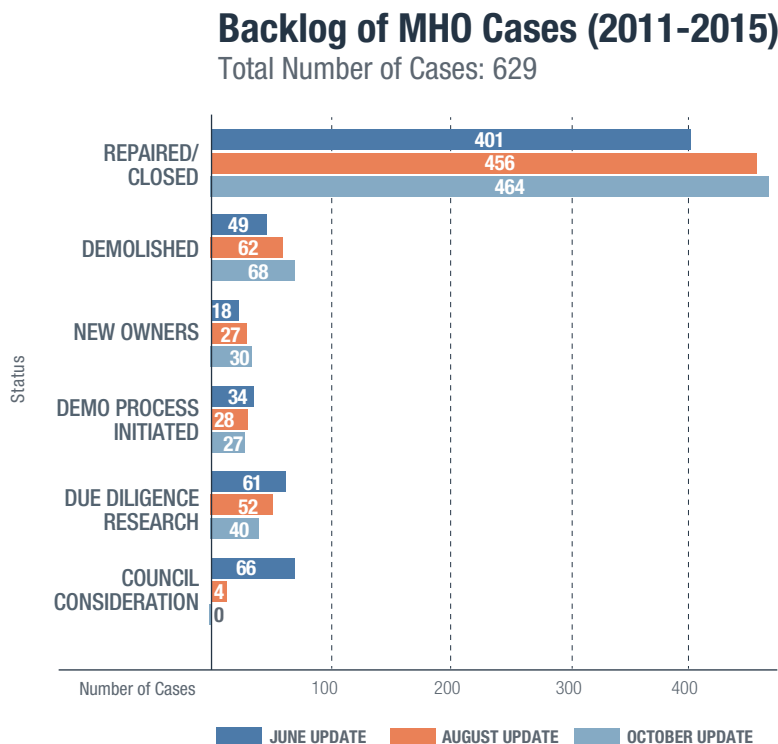


FIGURE 5: Summary of outcomes of the backlog of MHO cases, as reported by the City. The Community Development Department reports progress to City Council every other month, and this bar graph illustrates the status of all cases as of June 2019, August 2019, and October 2019. If an owner fails to make any effort to achieve compliance *and* if the property is dilapidated and structurally unsound, the City staff will present the case to Council for consideration as a publicly-funded demolition. If approved, the staff carry out their due diligence and research, and then initiate the demolition process. *Source: Winston-Salem, Department of Community Development, Oct 2019*

As was the case when Community Progress conducted an assessment for the City of High Point, NC, back in 2016, the Technical Assistance Team found that language in the City of Winston-Salem's MHO is outdated. Under current City practice, if a dwelling is cited for violations under the minimum housing code, orders are issued that grant the owner the option to "repair" or "vacate and close." It seems many owners simply choose the latter, which effectively ends the City's ability to pursue additional enforcement options for a period of time.³¹ Largely in response to this issue, state law was revised in 2009 to take the "vacate and close" option away from owners and place the decision in the City's hands.³² That is, state law now authorizes local governments to order owners cited under the minimum housing code to "repair, alter, or improve" *only*.³³ State law also allows the City to order simultaneously a *temporary* order to vacate and close "only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm."

Thus, state law gives the City essentially the same powers as its current practice, while offering the City additional flexibility because the City decides whether to "vacate and close" a dwelling. Perhaps more important, the improved state law affords the City two key advantages in strategically important areas. First, by issuing a repair *only* order, the owner cannot vacate and close, thereby allowing the City to proceed with effectuating the repair without further delay.³⁴ And following with the 'Fix it Up, Pay it Up, Give it Up' approach described above, the City's cost to repair the dwelling becomes a high priority lien on the property, and the City can move to foreclosure if the owner fails to pay the lien.³⁵

Foreclosure could be preferable when dealing with a repeat offender owner (who makes only the minimum repairs and then allows the vacant property to slide back into disrepair) or an irresponsible and/or absentee owner whose vacant property is the source

³¹ The delay is caused because an owner's action to "vacate and close" is an act of compliance that ends enforcement action against the owner. The City may not take further action until the owner has been determined to have "abandoned the intent and purpose to repair." State statutes typically require a one year wait period before making that determination, but Winston-Salem sought and received a local act that reduced the wait period to six months. After the wait period, a closed dwelling may be subject to "abandonment of intent to repair" procedures outlined in G.S. 160A-443(5b), which result in a new order for the owner to repair or demolish within 90 days.

³² Session Law 2009-279; The specific change to the statute is described in a blog post, C. Tyler Mulligan, *Boasted Local Government Authority under Minimum Housing Codes*, COATES' CANONS: NC LOCAL GOVERNMENT LAW, FEBRUARY 16, 2010, <https://canons.sog.unc.edu/boosted-local-government-authority-under-minimum-housing-codes/>.

³³ G.S. 160A-443(3)(a). For an explanation of repair orders, see MULLIGAN & MA, HOUSING CODES FOR REPAIR AND MAINTENANCE: USING THE GENERAL POLICE POWER AND MINIMUM HOUSING STATUTES TO PREVENT DWELLING DETERIORATION 35-38 (2011), <https://www.sog.unc.edu/publications/books/housing-codes-repair-and-maintenance-using-general-police-power-and-minimum-housing-statutes-prevent-0>.

³⁴ City Council must order the public officer to effectuate the repair. G.S. 160A-443(4). For the actual repair work, the City could perform the work with City staff or select a contractor to complete the repairs.

³⁵ The cost of repairs "shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment." G.S. 160A-443(6)(a). Further, "the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment." G.S. 160A-443(6)(b).

of crime and disorder problems.³⁶ Foreclosure may also give the City an opportunity to acquire the vacant property in pursuit of its affordable housing or land banking strategy in key areas of the City.³⁷

3. From Vacate and Close to Demolition.

A portion of these MHO cases, if completely ignored by the owner, may proceed to City-funded demolitions.³⁸ As explained by City leaders, if an owner chooses to vacate and close a structure instead of repair it, the property can remain vacated and closed for at least six months. At the end of the six-month period, the structure is scheduled to be reviewed by City Council, where the Council decides to demolish or to extend the timeframe if the owner requests within reason. Local officials reported that over the last five years (2014 – 2018) about 175 demolition orders were brought to City Council for approval.³⁹ However, it was not clear from the data provided which were part of the effort to triage the backlog (as described above), which were separate MHO cases that were initially issued demolition orders, or which were more recent repair or vacate and close orders that were ignored and then revisited by the City as demolition candidates, pursuant to the abandonment of intent to repair process.

Either way, charting an aggressive and direct path to demolition is not cheap. Revenue reported 260 demolition liens outstanding, totaling \$1,643,964. While demolition will absolutely need to be part of a comprehensive approach to VAD properties and is an important tactic to stabilize neighborhoods, the City may not want, as standard operating procedure, to order demolition simply because a repair order went unheeded.

Complicating the matter is that the last two revaluations completed by Forsyth County resulted in a decrease in assessment of 25-40% of residential properties in low-income neighborhoods.⁴⁰ Many households in these disinvested neighborhoods may already have a difficult time funding home repairs, and the decreased assessments following the standard revaluation process means any moderate to significant repairs will likely result in the property underwater. Identifying potential solutions to this challenge is beyond the scope of this project, but it must be on the radar of local officials and their partners. It seems some creative grant and/or loan programs targeted to assist vulnerable owners in disinvested neighborhoods with home repairs will need to be part of the City's overall approach to achieving equitable development and inclusive neighborhoods.

³⁶ See Appendix D for statutory authority for enacting local permit and registration programs for rental property.

³⁷ See Approach 5 in Appendix D.

³⁸ G.S. 160A-443(5a) authorizes the City to proceed to demolition after an owner has left a dwelling vacated and closed for at least one year and has "abandoned the intent and purpose to repair." This process is described in greater detail in MULLIGAN & MA, HOUSING CODES FOR REPAIR AND MAINTENANCE: USING THE GENERAL POLICE POWER AND MINIMUM HOUSING STATUTES TO PREVENT DWELLING DETERIORATION 38-39 (2011), <https://www.sog.unc.edu/publications/books/housing-codes-repair-and-maintenance-using-general-police-power-and-minimum-housing-statutes-prevent-0>. Winston-Salem has obtained special local legislation that reduces the wait period from one year to six months. Session Law 2004-98.

³⁹ Note, this reported number is not consistent with the spreadsheet of demolition liens provided by the Revenue Office, which showed 83 liens from demolitions carried out from 2014 – 2018. It might be that some of the 175 demolition orders brought to Council were not approved, or that this step prompted some owners to make the necessary repairs. It's also possible that a number of demolition liens were actually paid by the owner.

⁴⁰ Enterprise Community Partners, *Winston-Salem/Forsyth County Housing Study and Needs Assessment*, December 2018, page 42.

4. The City's Approach to Nuisance Abatement on Privately-Owned Properties. VAD properties, particularly in disinvested neighborhoods and weak housing markets, tend to place a high demand on public services, including police, fire, and code enforcement calls. For vacant properties that are abandoned, the most appropriate and responsible action is to efficiently and effectively compel the transfer to a new owner through the foreclosure process (either property tax foreclosure or code lien foreclosure) in pursuit of equitable outcomes.

Until that transfer, the City is often on the hook for routine maintenance of these privately-owned VAD properties. Whether it's boarding up broken windows, mowing high grass and weeds, addressing rodent infestation, or removing trash and debris, local tax dollars will need to be expended to abate the chronic nuisances until, under the current approach, the foreclosure process can support the transfer (hopefully predictable and deliberate) to a new owner (hopefully responsible).

Under North Carolina law, there are three primary means for local governments to implement a "Fix it Up, Pay it Up, Give it Up" approach: (i) City effectuation of repair and demolition orders ignored by the owner; (ii) public health nuisances that require summary abatement due to an immediate risk to the public; and (iii) properties that the local government can designate as 'chronic violators.'⁴¹

The City's treatment of chronic violators deserves special attention due to the amount of resources devoted to that activity. When an owner becomes a chronic violator of a nuisance ordinance, meaning the City gave notice of a nuisance violation at least three times in the previous calendar year, then upon occurrence of a violation during the current calendar year, state statute authorizes the City to provide a single notice, with the expense of all further actions becoming a high priority lien that "shall be collected as unpaid taxes."⁴² In other words, a chronic violator can be placed on a list and mowed every 2-3 weeks all summer, as needed, without any additional notice from the City, as authorized by state law.

For the last few years, as reported by local officials, the City's code enforcement staff have been planning, coordinating, and funding lawn maintenance on the properties of approximately 500 chronic violators. This inventory was reported as predominantly vacant residential properties with structures. The City batches the chronic violators by ward, and then bids them out to a number of local private contractors. Last year, the City spent \$114,225 to mow the lawns of about 500 privately-owned properties under this chronic violator program.

The City is to be commended for developing an operational plan to tend to this significant inventory of abandoned parcels, which, as reported by officials, lessened much frustration and complaints from neighbors and constituents. If entirely neglected

⁴¹ The different statutory enforcement mechanisms available for normal nuisances, chronic violators, and public health nuisances are described in Appendix D, *Approach 3: Code Enforcement on Property with No Structure*.

⁴² G.S. 160A-200.1

by the City, these nuisance sites could significantly threaten public health and safety and detract private investment in the neighborhood. However, the annual commitment to manage these chronic violators comes at significant costs. Most obvious, the program requires a substantial, annual outlay of local tax dollars—and according to the City’s Revenue Office, only about 67% of these tax dollars are typically recovered.⁴³ Revenue also reported that 7,037 gross liens from cases citywide and over many years remain outstanding, totaling \$2,464,464 in amount owed. Less obvious, but perhaps more important, the program places a significant burden on the capacity of the code enforcement division. This burden represents a hidden cost to the City that cannot easily be measured.

Beyond the calculable costs of regular maintenance and cleanup, VAD properties place other significant costs on municipalities, neighborhoods, and residents.⁴⁴ And tackling VAD properties in an equitable, effective, and efficient manner will *always* require a sustained investment of public resources. The question is how and where to invest these public dollars strategically, how investments can be targeted to yield better and more equitable outcomes, and how other systems and partners can be utilized to minimize the investments needed—public and private—to generate such outcomes. It is not by accident or coincidence that some of the recommendations listed below for this inventory will entail a better analysis of the parcel data specific to this inventory and stronger coordination with Forsyth County’s property tax enforcement system. A data-driven and comprehensive approach to VAD properties demands it.

C. RECOMMENDATIONS

Shifting from a reactive program of housing and building code enforcement to a strategic and proactive program is a key step toward building a more equitable, effective, and efficient approach to VAD properties. Resources need to be flexibly applied across a range of challenges, informed by neighborhood markets, with special accommodations for vulnerable property owners and occupants. Efforts need to be focused and coordinated, and guided by shared goals that advance a long-term vision of equitable development and vibrant, inclusive neighborhoods for all.

The following are recommendations for the City and its partners to consider as it seeks to build this approach:

1. Consider updating the local MHO to reflect state law and adjust practices to take full advantage of the new statutory authority to issue *repair only* orders, especially in strategically important areas where the City is pursuing a land banking strategy for the creation of affordable housing or for other equitable investment.⁴⁵

⁴³ However, it seems that Revenue’s collection rate is for all code liens, and it’s reasonable to assume that these chronic violators produce a much lower recovery rate.

⁴⁴ See Appendix C for findings from recent studies conducted in multiple cities quantifying the true costs of VAD properties.

⁴⁵ G.S. 160A-443(3)(a).

2. Consider ways to assess the physical conditions of the structure and the neighborhood market at the time of issuing a repair order to assist with the determination of potential and preferred outcomes. See Appendix D, which offers preliminary guidance on code enforcement approaches across a range of circumstances and market conditions, suggesting a more data-driven, decision-making approach to these MHO cases.
3. Explore repair assistance programs for vulnerable owners that are driven by a shared commitment to equitable outcomes and informed by neighborhood markets. Some conceptual ideas are provided here simply for brainstorming purposes, but a greater understanding of the underlying neighborhood housing markets and trends is needed in order to identify exactly where these programmatic investments could be focused and coordinated to achieve optimal impact:
 - a. Protecting Home Equity Grant Program, which could offer repair grants for low-income homeowners to comply with repair orders instead of seeing such properties vacated, closed, and possibly demolished by the City months later.⁴⁶ CDBG or TURN dollars could fund a pilot program. In exchange for the public investment, the City might consider providing the owner an option: either allow the City to recapture 50% of the grant at the time of resale, if the proceeds are sufficient; or restrict any future sale to an income-eligible, first-time homeowner that the City's Housing Department or a neighborhood CDC could help administer and implement.
 - b. Pay it Forward Grant Program, which could offer repair grants for non-income eligible homeowners in exchange for a commitment, similar to above, to sell the property to either a future community land trust or an income-eligible homebuyer at an affordable price.⁴⁷
 - c. Inclusive Neighborhoods Grant Program, which could offer repair grants to responsible owners of rental properties (2-3 family) in exchange for a period of affordability in one or two units, depending on the subsidy provided.⁴⁸

While this level of public investment might be met with skepticism, it's clear from findings and stated priorities in the 2018 Housing Study, the City's CDBG Annual Action Plan, recent Analyses of Impediments to Fair Housing, and feedback from local and community stakeholders, that a significant portion of residential structures are aging, in decline, and losing value. Either these structures can be left to slowly spiral into further decline, or focused and strategic investments of public dollars and partner resources, in

⁴⁶ Assisting low-income owners with repair or rehabilitation as part of a community development program is authorized pursuant to G.S. 160A-456(a)(1).

⁴⁷ Such a program could be designed under existing statutory authority. See C. Tyler Mulligan, *Local Government Support for Privately Constructed Affordable Housing*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, June 21, 2016, <https://ced.sog.unc.edu/local-government-support-for-privately-constructed-affordable-housing/> and C. Tyler Mulligan, *Conveyance of Local Government Property for Affordable Housing*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Sep. 20, 2016, <https://ced.sog.unc.edu/conveyance-of-local-government-property-for-affordable-housing/>.

⁴⁸ See C. Tyler Mulligan, *Local Government Support for Privately Constructed Affordable Housing*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, June 21, 2016, <https://ced.sog.unc.edu/local-government-support-for-privately-constructed-affordable-housing/>.

exchange for long-term community benefits and equitable outcomes, can help to reverse these trends and strengthen neighborhood markets sufficiently such that the private market again sees promise and opportunity.

4. Assess the historic use of demolition funds, and examine whether these limited funds are eliminating the most harmful, derelict structures or being utilized as a de facto solution for those owners who refuse to comply with repair or vacate and close orders. While there may be some overlap with these two groups of properties, limited demolition dollars should be used exclusively to tackle the most derelict properties that present significant safety threats and health hazards to the public (see Recommendation #5.b. in Data Section).
5. As an alternative to demolition for those properties where a repair or vacate and close order was ignored, the City might explore (as outlined in Appendix D) effectuating the repair order, and then enforcing it via the foreclosure process to either recover the full costs, or acquire and steward the property to a responsible party in support of expanding quality and lasting affordable housing choices (see Appendix D, *Approach 5: Code Enforcement on Property with Unoccupied Residential Structure That Is Repairable at Reasonable Cost – Additional Considerations in Land Bank Areas*).
6. Informed by the findings from a more complete analysis of the inventory of chronic violators (see Recommendation #5.a. in Data Section), the City ought to brainstorm some of the following options.
 - a. All chronic violator properties that have been clearly abandoned—meaning the property has been on the chronic violator list for at least two years and has multiple years of tax delinquency—should be flagged and reported to the Tax Collector’s Office to ensure that Zacchaeus Legal Services (ZLS) is moving them expeditiously through the tax foreclosure process—and if not, to better understand why.⁴⁹ The City should also build the capacity to assume ownership of all chronic violator properties that are located in Strategic Land Banking Areas, and submit bids at foreclosure to bring them under temporary public stewardship (see Appendix D, *Approach 1: Move Existing Liens to Foreclosure*, and *Approach 3: Code Enforcement on Property with No Structure*).
 - b. For chronic violator properties that have existing code liens (demolition and/or sanitation liens), are not tax delinquent, and are located in Strategic Land Banking Areas, the City should request that the County refer these properties to ZLS to enforce the unpaid code lien through a foreclosure action. Similar to the batch of properties above, the City should submit bids at foreclosure with the intent of assuming temporary ownership of them in order to steward them for strategic purposes, such as redevelopment into affordable housing (see Appendix D, *Approach 1: Move Existing Liens to Foreclosure*, and *Approach 3: Code Enforcement on Property with No Structure*).

⁴⁹ The County contracts with Zacchaeus Legal Services, an independent North Carolina professional corporation, to provide the legal services and support for all property tax foreclosure actions. This relationship and process will be discussed in more detail in the next section (Section IV) on property tax enforcement systems and practices.

The recommendations above stem from an understanding that the City can do more than just serve as a de facto property manager for privately-owned, abandoned parcels. Instead, the City can commit to acquiring such properties as part of a long-term land banking strategy that intentionally and deliberately stewards VAD properties to responsible parties and partners in support of community priorities and equitable outcomes.⁵⁰ *The reality is that the City already owns the problems associated with these properties. The City might as well own the actual property.* While the City may need to contemplate some additional minor costs, such as insurance, the City is already budgeting for significant, recurring maintenance costs. Actual ownership of the land would mean the City now has control over its future—and can steward these properties in a more deliberate and predictable manner to help ensure development is equitable and future neighborhoods in Winston-Salem are inclusive.

7. The City should examine the cost-benefit analysis of the code enforcement division managing and paying local private contractors to carry out lawn maintenance on chronic violators or shifting this responsibility to the Public Works Department with a commitment to build the internal capacity needed to carry out this routine work. This examination must not be too narrowly focused on this task alone. Recommendations above and below speak to systemic reforms that could lead to a new pipeline of VAD properties that, through the tax foreclosure process, could *intentionally* and *temporarily* end up in the City's inventory. And if the City, with its partners, pursues this more comprehensive approach to VAD properties, it must build the capacity in-house to *temporarily* acquire, maintain, and steward these properties back to productive use in support of equitable development and inclusive neighborhoods.⁵¹ This approach has been used in hundreds of communities across the country, whether through the creation of a separate legal entity designed specifically for these purposes, like a land bank (discussed in more detail in Section V of this report) or other nonprofit, or through the build-out of a municipal land banking program that is as flexible and adaptive as local and state laws allow.

⁵⁰ These options are explored in all of the approaches in Appendix D as “Additional Considerations in Land Bank Areas.”

⁵¹ See Appendix D, Approach 1: Move Existing Liens to Foreclosure, and Approach 3: Code Enforcement on Property with No Structure. For a discussion of legal authority for this strategy, see C. Tyler Mulligan, *How a North Carolina Local Government Can Operate a Land Bank for Redevelopment*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Mar. 18, 2014, <https://ced.sog.unc.edu/how-a-north-carolina-local-government-can-operate-a-land-bank-for-redevelopment/>; Chris McLaughlin, *Tax Foreclosure and Redevelopment*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Nov. 19, 2013, <https://ced.sog.unc.edu/tax-foreclosure-and-redevelopment/>.

IV. Property Tax Enforcement Systems and Practices: Building Momentum and Working Together

A. OVERVIEW

Private property owners generally have two obligations to the common good: keep up with repairs to protect the health and safety of the occupants and neighbors; and pay local property taxes to fund the essential services delivered by government. It makes sense, then, that housing and building code enforcement and property tax enforcement are the two preventative systems that play a central role in addressing VAD properties. While code enforcement plays a highly visible role in this work, the critical role property tax enforcement can play is less visible to the community, and can even go unnoticed by local officials and practitioners. Given tax delinquency is often the first and most reliable sign of financial hardship and/or abandonment, it is important for those local officials seeking a more equitable, effective, and efficient approach to vacancy and abandonment to better understand how the design and implementation of delinquent property tax enforcement can either help or hurt that effort.

Property taxes are typically the largest revenue source for local governments. For that reason, local governments have been granted incredible leverage in collecting property tax revenues. While the legal systems for property tax collection are highly variable across all states, there are some common features. Most importantly, is that all state statutes grant tax liens priority over virtually all other liens, including mortgages.

FIGURE 5: Key Features of an Optimal Tax Enforcement System

- **Fair and equitable** assessment system
- Exemptions for **vulnerable property owners**
- **Prohibition** of the sale of tax liens
- **Judicial *in rem* proceedings**
- **Constitutionally adequate notice**
- **Hardship programs in place**, such as the option to enter installment plans
- **Short time periods** between delinquency and foreclosure, or minimally, shorter time periods for certified abandoned properties
- Redemption period **before**, not after, foreclosure judgement
- **Large-volume bulk foreclosures**
- Provision for sales with no minimum bids
- **Surplus proceeds returned to owner**, if available

*The above list borrows from and builds on the insights in Frank Alexander's 2015 publication, **Land Banks and Land Banking, 2nd edition**, which is available to download for free at communityprogress.net.*

This universal design feature recognizes the importance of tax revenue to local governments, and grants these public entities with the power to collect that debt so the street lights remain on, the parks stay open, and the 911 call center remains fully staffed.

Unfortunately, few states have an optimal property tax enforcement system, the key features of which are included in Figure 5. Most of the legal systems for delinquent property tax enforcement across the country are antiquated, or so poorly designed to meet today's challenges that the collection and enforcement practices are inefficient, ineffective, and quite often inequitable. In historically disinvested neighborhoods, or neighborhoods sliding into decline with underperforming housing markets, such systems could be very problematic. If not by design, then how the system is implemented locally—driven by misguided policies or a tacit reverence for the status quo (“that’s how we’ve always done it”)—can also curtail any broader efforts to tackle a growing inventory of VAD properties. Typically, Community Progress finds that this system remains siloed off as a “financial enterprise,” and that those implementing it sense there is little connection to (or responsibility for) neighborhood stabilization efforts and VAD strategies. That is not unreasonable at all, given the primary charge of Tax Collectors is to focus on the revenue to fund all other operations. Yet the most innovative and successful efforts to address vacancy and abandonment at the local level today are often supported strongly by a Tax Collector that has come to grasp the importance of coordinating delinquent property tax enforcement with a broader and comprehensive array of strategies, policies, and programs—and that doing so can actually improve tax collections down the road.

B. FINDINGS

There are 91,081 taxable parcels in Winston-Salem. The collection and enforcement of property taxes and sanitation liens (code liens) in Winston-Salem is performed by the Forsyth County Tax Collector’s Office, pursuant to an intergovernmental agreement (IGA) and consistent with prescriptive state statutes (more details are discussed throughout this section).

The County’s collection rate for Winston-Salem’s 2018 tax bills, not including sanitation liens, is an impressive 99.2%, as reported by the Tax Collector’s Office. The County has increased the collection rate eight years in a row, and for the last four years, posted collection rates above 99%.

The County contracts with Zacchaeus Legal Services (ZLS), an independent North Carolina professional corporation, to provide the legal services and support for all property tax foreclosure actions.⁵² ZLS enforces delinquent property taxes through a mortgage-style foreclosure process, one of the options prescribed in state law (as opposed to a judicial *in rem* foreclosure process, another option permitted by state law). County officials and in-state real estate tax experts reported that, in the event of a judgement, the mortgage-style process results in marketable title, which is good. Thus, for those properties that are foreclosed upon due to unpaid property taxes and auctioned off on the steps of the local courthouse, bidders can expect an insurable title, free and clear of all the liens included in the foreclosure action.

⁵² ZLS provides property tax foreclosure legal services to more than 20 counties in the state as well as a number of towns. Forsyth County is currently negotiating a new multi-year contract with ZLS.

State law allows foreclosing governments to initiate a property tax foreclosure upon one year of delinquency. However, according to in-state tax foreclosure experts, it is standard practice in North Carolina for local or county governments to wait until a property is more than five years delinquent before initiating a tax foreclosure proceeding. For example, in High Point, property tax enforcement services are provided by Guilford County, which typically waited until the seventh or eighth year of delinquency before initiating a tax foreclosure action. For properties that are vacant, abandoned, and threatening public health and neighborhood vitality, such delays can be very problematic, costly to taxpayers, and unsettling to residents, especially those living nearby.

Forsyth County officials acknowledged during on-site interviews that in the past, there was a historic practice of waiting five to eight years, but driven largely by current leadership in the Tax Collector's Office, the process over the last five years has become consistent, uniform, and objective. According to the Tax Collector's Office, tax foreclosure actions are systematically initiated when properties are approximately 14 months delinquent, an impressive practice that bucks the state trend and positions Forsyth County as not only a potentially effective and efficient partner to Winston-Salem in addressing the negative impacts of VAD properties, but also a potential trailblazer that can define a new statewide standard.

A process that is efficient and effective must also be equitable, and the Tax Collector's Office does its best to ensure all vulnerable owners have the appropriate exemptions and that those falling behind have a chance to catch-up. Following a year of delinquency, the Tax Collector's Office will reach out to all affected property owners to settle unpaid tax bills through payment plans. According to the Tax Collector's Office, there were 1,144 delinquent property owners in term agreements (repayment plans) in 2018, with a significant majority of those for properties located in Winston-Salem. It is important and commendable that the County provides this service, because once a property is referred to ZLS, the owner is no longer able to make installment payments.⁵³

If efforts to enroll delinquent property owners into a payment plan are unsuccessful, the Tax Collector's Office initiates the administrative work that is needed before referring the property to ZLS for foreclosure. According to the Tax Collector's Office, about 400 properties are referred to ZLS each year for tax foreclosure. Therefore, any property that is at least two years delinquent is at some stage of the foreclosure action, a process managed by ZLS (with a limited number of these properties in bankruptcy). The Tax Collector's Office reported that over the last four years, the foreclosure auctions resulted in an average of only 24 finalized sales per year.

The reported data suggests an efficient and effective enforcement system, in which delinquencies are handled systematically and objectively, 99% of back taxes are paid in full, very few properties are ultimately auctioned off on the courthouse steps each year, those with structures almost always receive a reasonable bid, and the process ultimately results in marketable and clear title. At the same time, the Tax Collector's Office was open about some of the outstanding challenges with the work,

⁵³ As explained on ZLS's website, "We cannot make arrangements for you to pay the amount due on an installment basis. Once your case has been referred to us, we must move forward towards either payment of the account in full or sale of the property. You have 30 days from the date you were served with the summons and complaint to take action to protect your rights." See <https://www.zls-nc.com/forsyth-county>.

specifically how some tax delinquent properties under ZLS’s purview may languish longer than expected in the foreclosure process. Currently, 950 properties with five years or more of delinquent taxes have stalled in the process managed by ZLS, and it’s not entirely clear why.

Some of the key findings are as follows:

1. The Heavily Tax Delinquent Inventory. According to data provided by the Tax Collector’s Office, there are 1,689 parcels (1.8% of all taxable parcels in Winston-Salem) that are delinquent two years or more. Looking at properties that are heavily tax delinquent, defined for this project as five years or more, there are still 950 (only 1% of all taxable parcels in Winston-Salem). The total amount owed from these 950 properties is about \$850,000—which is lower than one might have guessed. It seems likely that many of these properties are vacant lots. Many have been delinquent for almost ten years or more. The Tax Collector’s standard practice is to refer these properties to ZLS consistently after 1.5 to 2 years of delinquency, but for a host of reasons (such as bankruptcy or heirs/land tenure issues), some are slow to make it to a final foreclosure judgement. It may also be that ZLS is wary to proceed on some of these lots, as the legal costs to move these vacant lots, probably in neighborhoods with weak housing markets, would far exceed the amount a bidder, if any, would offer at auction. While some changes to the contract with ZLS might expedite the timeframe for some of these heavily tax delinquent parcels, a more thoughtful approach to this inventory, **and an expressed commitment by the City to assume ownership and some of the legal costs**, could also result in more efficient outcomes.

The downside of the delays by ZLS to move each referred property to a foreclosure judgement is borne largely by city residents and taxpayers. These 950 properties continue to impose economic and social harms. They continue to demand ongoing public services and the outlay of local tax dollars. Moreover, it’s likely that many properties in this inventory, stuck at some point in the foreclosure action under ZLS’s management, are some of the same VAD properties identified under other “subsets” during the data gathering and analysis phase, such as:

- a. The 260 properties with unpaid demolition liens
- b. The 497 properties whose lawns are being mowed routinely by taxpayer-funded private contractors under the chronic violator program
- c. The 988 residential properties that have been declared unsafe and condemned
- d. The 1,127 residential properties that had water services shut off in 2018, 2017, or 2016 and whose accounts still remain inactive.

It seems that as both the County and the City contemplate ways to create more equitable, effective, and efficient systems and better coordinate their efforts toward common goals, significant improvements could be realized relatively quickly for neighbors and neighborhoods across Winston-Salem.

2. Heirs Properties. When asked what presents a unique but significant barrier to the equitable, effective, and efficient enforcement of delinquent property taxes, the Tax Collector's Office hardly hesitated: heirs properties. This issue came up in some form or another in most of the on-site interviews. Heirs properties is a term used for those properties where the owner has died without proper estate plans.⁵⁴ The Tax Collector's Office explained that it can take three to five years for ZLS to conduct the appropriate research, notify all heirs, and if necessary, proceed to a foreclosure judgement. Some of these properties could be distressed and in need of significant repair. Some could be marketable and livable. And whenever possible, with a strong commitment to protecting generational wealth, the equity of the home should always be passed down to any interested heir. While it's important to think about equitable, effective, and efficient ways to resolve current heirs properties, it's just as important to think about ways to *prevent* future heirs properties.
3. Sanitation Liens. As mentioned above, the County has responsibility to collect the City's sanitation liens. For many years, however, the County didn't include sanitation liens in installment agreements or foreclosure actions. That changed two years ago, again under the direction of current leadership. It is now standard practice to include sanitation liens in installment agreements, or if needed, passed along to ZLS and included in the foreclosure action, which makes for a more effective and efficient approach. It was also reported during our site visit that the City will, on occasion, accept payments for sanitation liens that have already been transferred to the County for collection. While the City is not actively pursuing payment, its decision to accept payments from property owners could lead to miscommunication and confusion between all parties.
4. Demolition Liens. The City continues to hold and enforce all demolition liens, which means such liens are not included in the County's foreclosure actions. The marketability of any property that ZLS might foreclose upon on behalf of the County could be undermined if the title is still encumbered by a demolition lien. Moreover, the City acknowledged that it makes little to no effort to actively enforce these demolition liens, which per state statute, are high priority liens.
5. Minimum Bids. North Carolina statute grants governmental units the discretion to set or submit a minimum bid for tax foreclosed properties offered at auction. Upon recommendation by the current Tax Collector, the County Legislature agreed a few years ago to institute a formal policy to no longer set a minimum bid—the first in the state to do so. This policy reform relieves the County from having to acquire the property in the event no higher bid is submitted at the auction or during the upset bid period. In effect, the County opted to 'get out of the real estate business' and saw greater benefit in taking less than what was owed if it meant the parcel would end up back on

⁵⁴ While many other counties face similar problems collecting taxes on heirs properties, some have had success by being more aggressive about listing these properties in the name of the occupants and/or self-identified heirs and using enforced collection remedies other than foreclosure (attachment and garnishment or levy and sale) against those taxpayers. See Christopher B. McLaughlin, "How to Deal with Heir Property," UNC School of Government *Local Government Law Blog*, Nov. 19, 2015, available here: <https://canons.sog.unc.edu/how-to-deal-with-heir-property/>.

the tax roll and, hopefully, in the hands of a responsible owner. It also means that in the absence of third-party bids, the property cycles back through the process, prolonging the negative impacts faced by neighbors and neighborhoods.

C. RECOMMENDATIONS

An optimal property tax enforcement system that is equitable, effective, and efficient can greatly enhance a community's ability to maximize revenue, prevent undue harm to vulnerable owners, and minimize the negative impacts of VAD properties. An equitable enforcement approach incorporates additional notices, support services, and hardship plans for vulnerable owners. An effective enforcement approach yields maximal revenue, and in the event of nonpayment, clear and marketable title that can be thoughtfully transferred to a responsible owner. An efficient enforcement approach is clear about the priority of public liens, the amounts of the liens, and the timeframes for payment, and relies on a timely, court-supervised foreclosure action. Forsyth County implements a property tax enforcement system that is close to optimal, and, thanks to reform-minded and professional leadership in the Tax Collector's Office, is well-positioned to become a highly productive and critical partner to the City as it explores and implements a more strategic and comprehensive approach to VAD properties.

The following are recommendations for the City and its partners to consider as it seeks to build this approach:

1. Further analyze heavily tax delinquent properties of five years or more. Better understand the nature of each parcel—use, structure, condition of structure, location and strength of the housing market, and whether the lot is conforming or not. Understanding these additional variables will help to determine the potential reuse of the property, needed partners to achieve the outcomes, and next steps by both the City and County. Perhaps the property is a great candidate for public land banking in support of some future catalytic redevelopment, or has reuse potential that meets open space, stormwater, or parks goals. Also, through the analysis, require ZLS to better explain the *nature of the delays* for each and every one of the 950 parcels that are heavily tax delinquent.
2. The challenges with heirs properties are one of the major reasons why ZLS experiences delays with a foreclosure action. To triage this backlog, the City might consider a cost-sharing agreement with the County to help cover the added legal and administrative costs of expediting these cases. To minimize the future pipeline of heirs properties, the City should consider funding a pilot program that offers free estate planning services for senior and low-income homeowners. A potential partner could be Wake Forest University's Elderly Law Clinic.⁵⁵ Successful marketing of the program is critical. For outreach strategies, some communities have used voter data rolls, senior services agencies, or senior homestead tax exemptions to identify senior homeowners that could

⁵⁵ See <http://elder-clinic.law.wfu.edu/>.

be marketed to with direct mailings. Other communities have tapped faith-based institutions, senior centers, and other appropriate agencies and groups to assist with the marketing efforts of new housing programs and services for seniors. In thinking about costs of this pilot program, it is important to note that **more than \$421,000 in unpaid demolition liens appear to be associated with heirs properties**, based on the data provided by the City. It could be argued that investing resources in a program that can *prevent* heirs properties may actually save local taxpayers in the long run, and more importantly, help protect the transfer of wealth across generations.

3. Another category of properties that make up the heavily tax delinquent portfolio are those that go all the way through the foreclosure process but receive no bids at auction. These properties are left in an uncertain status because the foreclosure proceedings have not ended and ownership remains in the name of the original owners. To address these, the City should consider working with the Tax Collector's Office and require ZLS to offer these properties up for auction a second time. This will require additional publication and notification efforts to all parties, and again, these costs might be shared among all parties. As part of this coordinated approach, the City should agree to submit initial bids at these additional auctions to ensure that the properties are placed under new ownership, be it the City through a land banking program or a third-party bidder. The City will likely become the owner of most of these properties, but that would be preferable to them remaining under their original, troubled ownership.
4. The City should cease the practice of accepting payments on sanitation liens that have been transferred to the County. While this might be perceived as a service to the property owner, it may inadvertently complicate collection efforts and lead to miscommunication and frustration among all parties.
5. Include *every* lien—even demolition liens—on tax bills and, if they remain unpaid, in foreclosure actions and requests for judgment. Local governments are free to include any charges they desire on their tax bills. Given the extremely high payment rate for property taxes, including other charges on the bill increases the likelihood of them being paid without the need for foreclosure.⁵⁶ If properties still make it to foreclosure, it makes no sense to jeopardize the marketability of any parcel by not including all public liens in the foreclosure complaint and judgment.
6. In order to achieve the above recommendation efficiently, revise the IGA between the City and County to include demolition liens as the responsibility of the County to collect and enforce. Also include a new provision in the IGA that requires all city liens to be included on tax bills.

⁵⁶ See Christopher B. McLaughlin, "Fighting Blight with Tax Bills," UNC School of Government *Local Government Law Blog*, May 30, 2017, available here: <https://canons.sog.unc.edu/fighting-blight-property-tax-bills/>.

7. Assign select members of the Vacant Properties Task Force to work with the Tax Collector's Office on an ongoing basis to make strategic determinations at two different points in the enforcement process: when a property is referred for foreclosure, and when a property is slated to be offered at auction. Specifically:
 - a. After about 20 months of delinquency, the Tax Collector's Office has systematically prepared and referred the property to ZLS for foreclosure. Going forward, the Tax Collector's Office can still continue its consistent and routine practice of referring delinquent properties to foreclosure, which protects the integrity of a uniform and standardized process. However, the County can discuss with the City which referral is most appropriate: refer to ZLS *or* work with the City to keep the foreclosure in-house and pursue judicial *in rem* foreclosure under a shared cost arrangement (a new option that will be memorialized in the County's renewed agreement with ZLS). The primary benefit of this latter approach is that the City can ensure the process is carried out efficiently and without delay, even for challenging properties.
 - b. Whenever a property goes up for auction, whether by ZLS or through the judicial *in rem* option discussed above, the City and County should determine in advance of the auction whether the City will set or submit a minimum bid as part of a more strategic and proactive plan to potentially acquire, maintain, and steward VAD properties back to predictable and productive use that supports a long-term strategic vision of equitable development and inclusive neighborhoods. There may be instances when the optimal goal is not to sell to an unknown bidder, but to bring the property under temporary public stewardship to ensure more predictable outcomes that support strategic revitalization efforts or equitable development goals—and using the minimum bid can make that outcome more likely.
8. Convene a temporary, small working group of City and County officials and appropriate executive staff to immediately begin discussion of the above reforms. The City needs to come to the table with a commitment to serve as an intentional partner, recognizing that additional City funds may be needed to support improvements to this key system. For instance, while the pilot program offering free estate planning services might minimize future heir properties, additional monies to support the legal costs of ZLS to more efficiently process existing heir properties that appear to be currently stalled could also prove impactful. The two governments might also consider jointly funding additional in-house staff with the experience necessary to process judicial *in rem* tax foreclosures as described above in Recommendation 7.⁵⁷

⁵⁷ For more on *in rem* foreclosures, see Christopher B. McLaughlin, "In Defense of *In Rem*," UNC School of Government *Local Government Law Blog*, Dec. 10, 2015, available here: <https://canons.sog.unc.edu/in-defense-of-in-rem/>.

V. Land Banking and Community Partners: Acquiring and Activating VAD Properties for the Public Good

One last important feature of a comprehensive approach to vacancy and abandonment is the need to build the internal capacity to temporarily acquire, maintain, steward, and dispose of VAD properties.

As mentioned at the start of this report, it is important to acknowledge that the history of government coming in to distressed neighborhoods to “acquire and remove blight” has been misguided at best and racist and traumatic at worst. That historical knowledge is still deeply embedded in some communities, particularly communities of color, and if exciting pronouncements by local officials today of new plans to address “blight” are met with caution and mistrust by residents in historically disinvested neighborhoods, then local officials need to understand and attend to that community’s concern with respect, humility, and grace.

But building the internal capacity to acquire and steward properties—on *behalf* of residents and *in partnership* with residents, particularly those most impacted by vacancy and abandonment—is a must. In fact, there is no community in the national field of practice today that claims success in tackling the negative impacts of VAD properties that does not also have, as part of its approach, a mechanism to temporarily acquire, maintain, steward, and dispose of VAD properties. After all, the reforms discussed above are *intentionally* designed to identify, unlock, and create a pipeline of VAD properties that can be directed to a public entity, and then thoughtfully and predictably returned to productive use to support the needs and priorities of neighbors and neighborhoods.

In the last ten years, land banks have become the national standard in fulfilling this role, with Community Progress playing a leading role in building this national field of practice. Land banks are nonprofit or public authorities that focus on the conversion of VAD properties to productive use. Today, there are approximately 180 land banks in operation across the country, with the overwhelming majority created pursuant to state enabling legislation (see Figure 6).⁵⁸ The special powers authorized by state-enabling legislation allow land banks to carry out the tasks of acquisition, stewardship, and disposition equitably, effectively, and efficiently. For example, most land banks

⁵⁸ Community Progress maintains a Land Bank Information HQ page on its website at www.communityprogress.net, which includes plenty of resources and information about the national movement of land banks and the growing field of practice.

have special powers to cost-effectively and easily access tax foreclosed properties, jumping ahead of speculators or unknown bidders in order to bring this troubled inventory under public stewardship to ensure more predictable, community-driven outcomes. While 15 states currently have state-enabling land bank legislation (and some are more comprehensive than others), the lessons learned from this movement can, in varying degrees, inform local efforts to emulate this work through municipal-led land banking programs.

North Carolina does not have state-enabling land bank legislation, but the City can certainly build the capacity for a land banking *program*, and find enough flexibility within state statutes to partner with developers that commit to building affordable housing, or community groups that want to transform vacant lots to neighborhood assets.⁵⁹

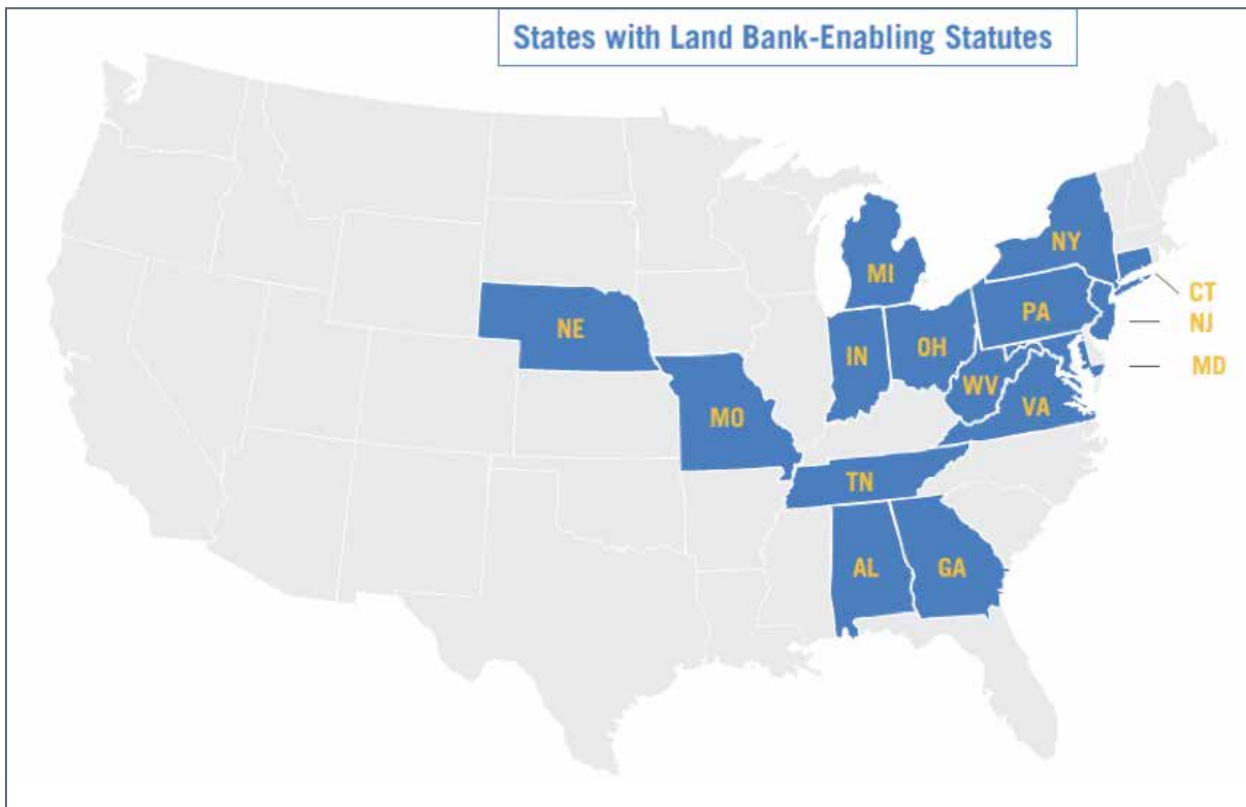


FIGURE 6: Map of states with land bank-enabling statutes, as of 2019. A map of the nearly 180 land banks and land banking programs currently active across the country can be found at the Land Bank Information HQ page at www.communityprogress.net. *Source: Progress in Community, Excellence in Diversity: A Georgia Association of Land Bank Authorities Publication, Center for Community Progress, 2019.*

⁵⁹ See Appendix D; see also C. Tyler Mulligan, *How a North Carolina Local Government Can Operate a Land Bank for Redevelopment*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Mar. 18, 2014, <https://ced.sog.unc.edu/how-a-north-carolina-local-government-can-operate-a-land-bank-for-redevelopment/>.

This would definitely be a change for the City, but largely in concept. The reality is that City staff, with the support of private contractors, are already managing a significant inventory of privately-owned properties that qualify as chronic violators. The City has also expended a significant amount of monies for the demolition of privately-owned derelict structures. The City simply needs to acknowledge what it's already doing, and carefully think through where best to institutionalize this capacity and oversight, such that it's no longer a reactive job to address private owner neglect, but a proactive response to meet community need.

As the City transitions to serve this role of temporary owner and steward of VAD properties, it must also engage neighborhood groups, nonprofits, anchor institutions, foundations, and those in the development community—all of whom will prove essential in returning this inventory to productive use in support of equitable outcomes. During the site visit, the Technical Assistance Team heard about some of the impressive affordable housing projects from local nonprofit housing developers. It was also clear from on-site interviews that the County has played a creative role in financing and supporting a number of affordable housing projects in Winston-Salem.

But community stakeholders also expressed two important points that bear repeating:

1. There is a need to build the capacity of the (limited) network of local nonprofit housing agencies. According to those interviewed, LISC (which is no longer active in Winston-Salem) used to organize a Funders Collaborative, which at the time resulted in an increase in philanthropic funding to nonprofits. However, the local LISC office is no longer active and neither is the Funders Collaborative. The City may want to think about re-engaging local foundations and banks to partner on this effort, as it represents a more systemic and comprehensive approach to the challenges of VAD properties that centers equity and inclusion.
2. The City is encouraged to think about this housing work as more than just housing work. Addressing VAD properties in an equitable, effective, and efficient manner is not really about properties. It's about people and neighborhoods. Communities all across the country are showing how VAD properties can be addressed in a manner that meets the needs of people and neighborhoods. When abandoned lots are converted to urban farms that sponsor summer youth programs. When smaller lots become urban canvasses for public artists and creative placemaking. When dilapidated structures slated for demolition are used as workforce sites for deconstruction. Or those properties pegged for rehab are used by labor unions and vocational schools to train the next generation of tradespeople. When vacant parcels are used for stormwater goals to increase resiliency, or for parklets to ensure all kids have a safe place to play. For these reasons, the City ought to approach all stages of this work with a strong commitment to engaging residents, anchor institutions, nontraditional partners, and the private and civic sectors, since some of the most creative and exciting work will have nothing to do with housing.

VI. CONCLUSION

Local governments that seek to implement a comprehensive and coordinated approach to VAD properties in order to achieve equitable outcomes must commit to a number of bold reforms and activities. The community—particularly those most impacted—ought to be regularly engaged as genuine partners to help reimagine, define, and actualize the neighborhoods of tomorrow. Data collection, management, and sharing practices must be improved across the organization. Inter-departmental coordination should be encouraged, sustained and held accountable by strong political leadership. Code enforcement programs need to shift from traditional and reactive to strategic and proactive, and emulate the “Fix it Up, Pay it Up, Give it Up” approach where possible. Property tax enforcement systems ought to be retooled to today’s challenges with a focus on equity, effectiveness, and efficiency. Public entities must build the capacity to temporarily and strategically acquire, hold, and steward VAD properties in support of community priorities. All of this work needs to be done concurrently, the systems aligned with intent, and informed by a long-term strategic and community-driven vision that has equity as a foundational principle and a desired outcome.

What may seem insurmountable at first, can soon become possible and even inevitable. Communities across this country, with fewer resources and deeper challenges than Winston-Salem, are letting go of the broken status quo, and pursuing many of the systemic reforms outlined in this report, emboldened by new knowledge and motivated by a future that promises more vibrant, healthier, and safer neighborhoods for *all* residents.

The City of Winston-Salem is positioned for similar success. There is impressive political leadership at the helm, energetic department heads who are mobilizing their teams with imagination, and capable, earnest partners both at the County and in the community. No doubt some challenges persist—and no local government can solve them all—but there is evidence to suggest that Winston-Salem has promising days ahead in its fight against VAD properties. It is up to current City leadership and its partners to ensure that equity is deeply embedded and celebrated in that promise.

Appendix A.

List of Stakeholders Interviewed

Name	Title	Organization
Tasha Logan Ford	Assistant City Manager	City of Winston-Salem
Marla Newman	Community Development Director	City of Winston-Salem
Jeff MacIntosh	Council Member, Northwest Ward	City of Winston-Salem
Angela Carmon	City Attorney	City of Winston-Salem
Sharon Richmond	Community Development Deputy Director	City of Winston-Salem
Bruce Bailiff	Code Enforcement, Senior Project Supervisor	City of Winston-Salem
Tom Kureczka	Chief Information Officer	City of Winston-Salem
Catrina Thompson	Chief of Police	City of Winston-Salem
Michael Cardwell	Police Captain	City of Winston-Salem
Johnnie Taylor	Operations Director, Public Works	City of Winston-Salem
Lynn Ruscher	Planning, Principal Planner	City of Winston-Salem
Mellin Parker	Community Development Senior Project Supervisor - Housing & Community Services	City of Winston-Salem
JoAnna Allen	Revenue, Senior Financial Analyst	City of Winston-Salem
Larissa Mathis	Revenue, Collector	City of Winston-Salem
J. Dudley Watts, Jr.	County Manager	Forsyth County
Dan Kornelis	Director of Community & Economic Development	Forsyth County
John Burgess	Tax Assessor/Collector	Forsyth County
Mike Pollack	Deputy Tax Assessor/Collector	Forsyth County
Aaron King	Planning & Development Services Director	City of Winston-Salem/Forsyth County
Margaret Bessett	Planning, Assistant Director	City of Winston-Salem/Forsyth County
Joseph Sloop	GIS Director	MapForsyth
Brian Tuttle	GIS Analyst	MapForsyth
Kevin Cheshire	Vice-President and General Counsel	Housing Authority of Winston-Salem
Paul Norby	Former Planning & Development Services Director	Winston-Salem Affordable Housing Task Force
Robert Leak	President	Easton Neighborhood Association
Carol Davis	Executive Director	S. G. Atkins Community Development Corporation
Paula McCoy	Former Executive Director - Neighbors for Better Neighborhoods	Private consultant
Mike Suggs	President	Goler Community Development Corporation
Patricia Caldwell	President	Boston-Thurmond Resident Association

Appendix B.

Summary List of Recommendations

All recommendations are collated here for convenience, but footnotes have been removed to avoid the duplication of citations.

DATA MANAGEMENT SYSTEMS AND PRACTICES

1. **Launch and hold accountable a permanent Vacant Properties Task Force.**

Breaking down the status quo of siloed departments, siloed data, and siloed actions is a foundational step in taking a more equitable, effective, and efficient approach to VAD properties. This Task Force ought to be led by an executive designee (i.e., an Assistant City Manager) to ensure accountability to political leadership, and include, at a minimum, representation from the following City, County, and regional departments or agencies:

 - a. City Community Development (housing, neighborhood services, and code enforcement)
 - b. City Attorney
 - c. City Fire and Police
 - d. City Water
 - e. City Finance or Budget
 - f. City-County Planning
 - g. Housing Authority of Winston-Salem
 - h. MapForsyth (regional GIS agency) and City Information Systems
 - i. County Tax Administration
 - j. County Housing and Community Development

The Task Force should consider meeting at least twice a month initially, and possibly move to monthly as the work progresses. After the inevitable and possibly challenging dynamics between local departments and public agencies are resolved and aligned to a common purpose, the Task Force is strongly encouraged to invite strategic community partners and diverse neighborhood representatives to the table.

2. **Notify the public of this effort, and that it represents a multi-year and sustained commitment.** While it may make sense to wait briefly before inviting community and nonprofit representatives to serve on the Task Force, there is no convincing reason to delay communicating this effort to the community. Some communities have done an exceptional job keeping the public informed of its efforts to tackle VAD properties, knowing that all residents deserve that level of transparency and many stakeholders, including residents, might become more meaningfully involved with the work. The City should strongly consider creating a dedicated page on the City’s website that will serve as a one-stop shop for this Task Force’s work. So long as the Task Force is meeting, it seems reasonable to expect that the City also provide the public with accurate, timely, and accessible reporting of the Task Force’s activities (and successes and challenges).
3. **Publicly express a commitment to address VAD Properties with equity as a foundational principle and a desired outcome.** Many local residents that are disproportionately impacted by the current inventory of VAD properties likely retain some knowledge—or have actual lived experience—of the history of “fighting blight” in Winston-Salem or elsewhere. Therefore, it is important to understand that any work undertaken today by local leadership under this banner might be met with a good deal of mistrust—and justifiably so. Be open and public about the goals of this work—as well as the successes and challenges—so residents can see that transparency and accountability, along with equity, are values deeply embedded in this work.
4. **Continue to access, integrate, map, and analyze various datasets to better understand the nature, extent, and location of the inventory.** While the individual data points offered some insights, including what seems to be an inventory of highly distressed abandoned properties that is causing economic, social, and fiscal harm (to be discussed later in this report), it would be invariably more helpful to also know location, use, type, whether a structure is present, and if so, the condition. While a lot of spreadsheets were provided, not all of them were geocoded with either the PIN or MAR (which would have made them mappable and allowed for more meaningful analysis) or joined with standard real property data (which would have provided more detail about the *nature* of the inventory). Representatives from the City’s IT Department impressed the Technical Assistance Team, so there is a strong sense that many of these deficiencies can be identified and discussed during Task Force meetings, and quickly addressed with focused technical support by local IT and GIS experts.
5. **Brainstorm and pursue investigative or mapping projects within the first six months of the Task Force.** The value and impact of a compelling map cannot be overstated, particularly as departments are challenged to rethink their work as part of a coordinated approach to achieving long-term goals, like equitable and inclusive neighborhoods. Below are two possible exercises for the Task Force to consider:
 - a. Map the heavily tax delinquent vacant lots, chronic violators, and outstanding demo liens to understand the overlap and assess whether any of these introduce strategic assemblage or redevelopment opportunities. Better understanding the

neighborhood markets will also open the door for more strategic interventions. For example, a buildable vacant lot in a strong or stable neighborhood could be moved through the tax foreclosure process, cleared of all liens, acquired by the City, and transferred to a responsible developer to build long-term affordable housing in support of a vision of inclusive neighborhoods. A vacant lot in a disinvested neighborhood could also be moved through the tax foreclosure process, acquired by the City, and transferred to a responsible adjacent homeowner in support of equitable outcomes, or used as a site for a publicly-funded, community-driven beautification project that enhances neighborhood health and safety.

- b. As reported by the City, there are 988 residential properties that have been condemned or deemed unsafe and identified for demolition. It was also reported that 36 demolition orders were issued in 2018. Deeper analysis of this combined group of deteriorated properties is required in order to assist the City in determining which properties, if abandoned by the owner, should be prioritized for demolition. The potential threat to public health and safety ought to be the primary criteria, but ranking should also take into account the location, extent of tax delinquency (a strong marker for abandonment), potential to coordinate with other neighborhood investments, and potential for productive reuse.

6. **Explore the Value of and Need for an Analysis of Neighborhood Housing Markets.**

The above recommendations focus exclusively on parcel data, but a better understanding of neighborhood housing market data can also significantly influence the strategies and interventions pursued by the City and its partners. For example, when a private property owner ignores a repair order issued by the City, the City can choose to either carry out the repairs itself or, wait for at least six months before pursuing a taxpayer funded demolition. Knowing the strength of the neighborhood housing market—and which way it's trending—could play a large role in determining *how* to invest public dollars. This needn't be a costly endeavor, as more and more communities are using a number of publicly-available data to categorize neighborhoods, from severely distressed to strong. For example, the City of High Point, NC, partnered with the Center for Housing and Community Studies at UNC Greensboro to conduct a neighborhood market analysis, and then decided that updates to the study could likely be completed with internal resources. Another example is in Youngstown, OH, in which a nonprofit carried out a citywide analysis of all neighborhoods based on guidance provided by Community Progress Senior Fellow Alan Mallach.

HOUSING AND BUILDING CODE ENFORCEMENT SYSTEMS AND PRACTICES

1. Consider updating the local MHO to reflect state law and adjust practices to take full advantage of the new statutory authority to issue *repair only* orders, especially in strategically important areas where the City is pursuing a land banking strategy for the creation of affordable housing or for other equitable investment.
2. Consider ways to assess the physical conditions of the structure and the neighborhood market at the time of issuing a repair order to assist with the determination of potential and preferred outcomes. See Appendix D, which offers preliminary guidance on code enforcement approaches across a range of circumstances and market conditions, suggesting a more data-driven, decision-making approach to these MHO cases.
3. Explore repair assistance programs for vulnerable owners that are driven by a shared commitment to equitable outcomes and informed by neighborhood markets. Some conceptual ideas are provided here simply for brainstorming purposes, but a greater understanding of the underlying neighborhood housing markets and trends is needed in order to identify exactly where these programmatic investments could be focused and coordinated to achieve optimal impact:
 - a. Protecting Home Equity Grant Program, which could offer repair grants for low-income homeowners to comply with repair orders instead of seeing such properties vacated, closed, and possibly demolished by the City months later. CDBG or TURN dollars could fund a pilot program. In exchange for the public investment, the City might consider providing the owner an option: either allow the City to recapture 50% of the grant at the time of resale, if the proceeds are sufficient; or restrict any future sale to an income-eligible, first-time homeowner that the City's Housing Department or a neighborhood CDC could help administer and implement.
 - b. Pay it Forward Grant Program, which could offer repair grants for non-income eligible homeowners in exchange for a commitment, similar to above, to sell the property to either a future community land trust or an income-eligible homebuyer at an affordable price.
 - c. Inclusive Neighborhoods Grant Program, which could offer repair grants to responsible owners of rental properties (2-3 family) in exchange for a period of affordability in one or two units, depending on the subsidy provided.

While this level of public investment might be met with skepticism, it's clear from findings and stated priorities in the 2018 Housing Study, the City's CDBG Annual Action Plan, recent Analyses of Impediments to Fair Housing, and feedback from local and community stakeholders, that a significant portion of residential structures are aging, in decline, and losing value. Either these structures can be left to slowly spiral into further decline, or focused and strategic investments of public dollars and partner

resources, in exchange for long-term community benefits and equitable outcomes, can help to reverse these trends and strengthen neighborhood markets sufficiently such that the private market again sees promise and opportunity.

4. Assess the historic use of demolition funds, and examine whether these limited funds are eliminating the most harmful, derelict structures or being utilized as a de facto solution for those owners who refuse to comply with repair or vacate and close orders. While there may be some overlap with these two groups of properties, limited demolition dollars should be used exclusively to tackle the most derelict properties that present significant safety threats and health hazards to the public (see Recommendation #5.b. in Data Section).
5. As an alternative to demolition for those properties where a repair or vacate and close order was ignored, the City might explore (as outlined in Appendix D) effectuating the repair order, and then enforcing it via the foreclosure process to either recover the full costs, or acquire and steward the property to a responsible party in support of expanding quality and lasting affordable housing choices (see Appendix D, *Approach 5: Code Enforcement on Property with Unoccupied Residential Structure That Is Repairable at Reasonable Cost – Additional Considerations in Land Bank Areas*).
6. Informed by the findings from a more complete analysis of the inventory of chronic violators (see Recommendation #5.a. in Data Section), the City ought to brainstorm some of the following options.
 - a. All chronic violator properties that have been clearly abandoned—meaning the property has been on the chronic violator list for at least two years and has multiple years of tax delinquency—should be flagged and reported to the Tax Collector’s Office to ensure that Zacchaeus Legal Services (ZLS) is moving them expeditiously through the tax foreclosure process—and if not, to better understand why. The City should also build the capacity to assume ownership of all chronic violator properties that are located in Strategic Land Banking Areas, and submit bids at foreclosure to bring them under temporary public stewardship (see Appendix D, *Approach 1: Move Existing Liens to Foreclosure*, and *Approach 3: Code Enforcement on Property with No Structure*).
 - b. For chronic violator properties that have existing code liens (demolition and/or sanitation liens), are not tax delinquent, and are located in Strategic Land Banking Areas, the City should request that the County refer these properties to ZLS to enforce the unpaid code lien through a foreclosure action. Similar to the batch of properties above, the City should submit bids at foreclosure with the intent of assuming temporary ownership of them in order to steward them for strategic purposes, such as redevelopment into affordable housing (see Appendix D, *Approach 1: Move Existing Liens to Foreclosure*, and *Approach 3: Code Enforcement on Property with No Structure*).

The recommendations above stem from an understanding that the City can do more than just serve as a de facto property manager for privately-owned, abandoned parcels. Instead, the City can commit to acquiring such properties as part of a long-term land banking strategy that intentionally and deliberately stewards VAD properties to responsible parties and partners in support of community priorities and equitable outcomes. *The reality is that the City already owns the problems associated with these properties. The City might as well own the actual property.* While the City may need to contemplate some additional minor costs, such as insurance, the City is already budgeting for significant, recurring maintenance costs. Actual ownership of the land would mean the City now has control over its future—and can steward these properties in a more deliberate and predictable manner to help ensure development is equitable and future neighborhoods in Winston-Salem are inclusive.

7. The City should examine the cost-benefit analysis of the code enforcement division managing and paying local private contractors to carry out lawn maintenance on chronic violators or shifting this responsibility to the Public Works Department with a commitment to build the internal capacity needed to carry out this routine work. This examination must not be too narrowly focused on this task alone. Recommendations above and below speak to systemic reforms that could lead to a new pipeline of VAD properties that, through the tax foreclosure process, could *intentionally* and *temporarily* end up in the City's inventory. And if the City, with its partners, pursues this more comprehensive approach to VAD properties, it must build the capacity in-house to *temporarily* acquire, maintain, and steward these properties back to productive use in support of equitable development and inclusive neighborhoods. This approach has been used in hundreds of communities across the country, whether through the creation of a separate legal entity designed specifically for these purposes, like a land bank (discussed in more detail in Section V of this report) or other nonprofit, or through the build-out of a municipal land banking program that is as flexible and adaptive as local and state laws allow.

PROPERTY TAX ENFORCEMENT SYSTEMS AND PRACTICES

1. Further analyze heavily tax delinquent properties of five years or more. Better understand the nature of each parcel—use, structure, condition of structure, location and strength of the housing market, and whether the lot is conforming or not. Understanding these additional variables will help to determine the potential reuse of the property, needed partners to achieve the outcomes, and next steps by both the City and County. Perhaps the property is a great candidate for public land banking in support of some future catalytic redevelopment, or has reuse potential that meets open space, stormwater, or parks goals. Also, through the analysis, require ZLS to better explain the *nature of the delays* for each and every one of the 950 parcels that are heavily tax delinquent.

2. The challenges with heirs properties are one of the major reasons why ZLS experiences delays with a foreclosure action. To triage this backlog, the City might consider a cost-sharing agreement with the County to help cover the added legal and administrative costs of expediting these cases. To minimize the future pipeline of heirs properties, the City should consider funding a pilot program that offers free estate planning services for senior and low-income homeowners. A potential partner could be Wake Forest University's Elderly Law Clinic. Successful marketing of the program is critical. For outreach strategies, some communities have used voter data rolls, senior services agencies, or senior homestead tax exemptions to identify senior homeowners that could be marketed to with direct mailings. Other communities have tapped faith-based institutions, senior centers, and other appropriate agencies and groups to assist with the marketing efforts of new housing programs and services for seniors. In thinking about costs of this pilot program, it is important to note that **more than \$421,000 in unpaid demolition liens appear to be associated with heirs properties**, based on the data provided by the City. It could be argued that investing resources in a program that can *prevent* heirs properties may actually save local taxpayers in the long run, and more importantly, help protect the transfer of wealth across generations.
3. Another category of properties that make up the heavily tax delinquent portfolio are those that go all the way through the foreclosure process but receive no bids at auction. These properties are left in an uncertain status because the foreclosure proceedings have not ended and ownership remains in the name of the original owners. To address these, the City should consider working with the Tax Collector's Office and require ZLS to offer these properties up for auction a second time. This will require additional publication and notification efforts to all parties, and again, these costs might be shared among all parties. As part of this coordinated approach, the City should agree to submit initial bids at these additional auctions to ensure that the properties are placed under new ownership, be it the City through a land banking program or a third-party bidder. The City will likely become the owner of most of these properties, but that would be preferable to them remaining under their original, troubled ownership.
4. The City should cease the practice of accepting payments on sanitation liens that have been transferred to the County. While this might be perceived as a service to the property owner, it may inadvertently complicate collection efforts and lead to miscommunication and frustration among all parties.
5. Include *every* lien—even demolition liens—on tax bills and, if they remain unpaid, in foreclosure actions and requests for judgment. Local governments are free to include any charges they desire on their tax bills. Given the extremely high payment rate for property taxes, including other charges on the bill increases the likelihood of them being paid without the need for foreclosure. If properties still make it to foreclosure, it makes no sense to jeopardize the marketability of any parcel by not including all public liens in the foreclosure complaint and judgment.

6. In order to achieve the above recommendation efficiently, revise the IGA between the City and County to include demolition liens as the responsibility of the County to collect and enforce. Also include a new provision in the IGA that requires all city liens to be included on tax bills.
7. Assign select members of the Vacant Properties Task Force to work with the Tax Collector's Office on an ongoing basis to make strategic determinations at two different points in the enforcement process: when a property is referred for foreclosure, and when a property is slated to be offered at auction. Specifically:
 - a. After about 20 months of delinquency, the Tax Collector's Office has systematically prepared and referred the property to ZLS for foreclosure. Going forward, the Tax Collector's Office can still continue its consistent and routine practice of referring delinquent properties to foreclosure, which protects the integrity of a uniform and standardized process. However, the County can discuss with the City which referral is most appropriate: refer to ZLS *or* work with the City to keep the foreclosure in-house and pursue judicial *in rem* foreclosure under a shared cost arrangement (a new option that will be memorialized in the County's renewed agreement with ZLS). The primary benefit of this latter approach is that the City can ensure the process is carried out efficiently and without delay, even for challenging properties.
 - b. Whenever a property goes up for auction, whether by ZLS or through the judicial *in rem* option discussed above, the City and County should determine in advance of the auction whether the City will set or submit a minimum bid as part of a more strategic and proactive plan to potentially acquire, maintain, and steward VAD properties back to predictable and productive use that supports a long-term strategic vision of equitable development and inclusive neighborhoods. There may be instances when the optimal goal is not to sell to an unknown bidder, but to bring the property under temporary public stewardship to ensure more predictable outcomes that support strategic revitalization efforts or equitable development goals—and using the minimum bid can make that outcome more likely.
8. Convene a temporary, small working group of City and County officials and appropriate executive staff to immediately begin discussion of the above reforms. The City needs to come to the table with a commitment to serve as an intentional partner, recognizing that additional City funds may be needed to support improvements to this key system. For instance, while the pilot program offering free estate planning services might minimize future heir properties, additional monies to support the legal costs of ZLS to more efficiently process existing heir properties that appear to be currently stalled could also prove impactful. The two governments might also consider jointly funding additional in-house staff with the experience necessary to process judicial *in rem* tax foreclosures as described above in Recommendation 7.

Appendix C.

Key Findings of Recent Studies of The Hidden Costs of VAD Properties

This resource guide was developed to help the City of Winston-Salem make the case to local and regional partners of the costs of vacancy and abandonment, and the benefits of taking a more proactive approach to neighborhood stabilization.

The following are recent studies of the hidden costs of VAD properties and key findings.

- *A Conservative Analysis of Costs Imposed by Vacant and Blighted Properties in Toledo, Ohio: Conducted at the Invitation of the Junction Neighborhood, Center for Community Progress, June 2016.* The study found that the costs of vacancy and blight include: (1) \$3.8 million in annual direct costs of services provided by Police, Fire and Code Enforcement, (2) \$2.71 million in annual lost tax revenue from delinquency, and (3) \$98.7 million in cumulative lost residential property value, which amounts to *another* \$2.68 million in associated annual lost tax revenues, for properties within 500 feet of vacant properties.
- *The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs, Dan Immergluck, September 2015.* The study found that: (1) annual service costs by Police, Fire and Code Enforcement Agencies amount to approximately \$3 million per year, (2) the City lost about \$2.7 million in property tax revenues due to decreased home values, and (3) the lost wealth, when looking at overall losses in home values, totaled more than \$150 million.
- *Financial Impact of Blight on the Tri-COG Communities, Delta Development Group, September 2013.* Analyzing the financial impact of blight across 41 rural communities in Alleghany County, PA, the study found that:
 - The direct cost to municipal services is \$10,720,302
 - The direct cost related to the loss of tax revenue is \$8,637,875
 - The indirect costs associated with a loss in property value are estimated at between \$218 million and \$247 million
 - The indirect costs associated with the loss of real estate taxes due to a decline in property value is estimated to be between \$8,574,723 and \$9,718,019

Appendix D. Code Enforcement Approaches

The purpose of this resource is to encourage the City and its partners to think about applying code enforcement approaches and resources differently and strategically across a range of VAD properties in different neighborhoods in support of equitable outcomes.

The resource includes FIVE APPROACHES. For each one, there are suggestions for how the City might approach enforcement generally (citywide), and additional considerations for VAD properties located in what we term, “Strategic Land Banking Areas.”

Each community needs to define their own Strategic Land Banking Areas, and as mentioned previously, understanding neighborhood markets can help in that effort. For example, it might be two compact neighborhoods that are experiencing new private investment and exhibiting early signs of gentrification, or a square mile zone around a large vacant parcel that will soon host a new neighborhood school.

It is up to the leaders in Winston-Salem, in partnership with the community, to define these Strategic Land Banking Areas with clear long-term goals and equity in mind. Yet even then, the City is encouraged to be flexible and nimble with this work, and always evaluate their actions and adjust as needed.

APPROACH 1:

Move Existing Liens to Foreclosure

CITY'S OBJECTIVE:

Payment by private owner of amounts owed to City or transfer to responsible owner

ADDITIONAL CONSIDERATION IN STRATEGIC LAND BANKING AREAS:

City gain control of property for affordable housing

City-Wide

- Foreclose on all liens with more than 2 years delinquency
 - Place all liens (tax, sanitation, demolition, nuisance) on tax bill
 - Foreclose and assert all liens (tax, sanitation, demolition, nuisance) in judgment
 - At foreclosure sale, no bid submitted by City

Additional Considerations in Strategic Land Banking Areas⁶⁰

- Consider strategic value of property and determine whether to submit a bid at foreclosure sale
- If winning bid for vacant land, choose:⁶¹
 1. Hold and maintain for future development; or
 2. Transfer to affordable housing partner with conditions to construct and maintain affordable housing⁶²
- If winning bid with residential structure, choose:
 1. Manage in City inventory for affordable housing; or
 2. Transfer to affordable housing partner⁶³

⁶⁰ FRANK S. ALEXANDER, *LAND BANKS AND LAND BANKING* (2d ed. 2015), <http://www.communityprogress.net/land-banks-and-land-banking-second-edition-pages-491.php> (fill out the form and click submit to download file); C. Tyler Mulligan, *How a North Carolina Local Government Can Operate a Land Bank for Redevelopment*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Mar. 18, 2014, <https://ced.sog.unc.edu/how-a-north-carolina-local-government-can-operate-a-land-bank-for-redevelopment/>.

⁶¹ Chris McLaughlin, *Tax Foreclosure and Redevelopment*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Nov. 19, 2013, <https://ced.sog.unc.edu/tax-foreclosure-and-redevelopment/>.

⁶² C. Tyler Mulligan, *Conveyance of Local Government Property for Affordable Housing*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, Sep. 20, 2016, <https://ced.sog.unc.edu/conveyance-of-local-government-property-for-affordable-housing/>.

⁶³ *Id.*

APPROACH 2:

Inspection and Registration Programs

CITY'S OBJECTIVE:

Identify and monitor long-term unoccupied structures

ADDITIONAL CONSIDERATION IN STRATEGIC LAND BANKING AREAS:

Inspection efforts complement Land Banking strategy

City-Wide

- Complaint-driven inspection program
- Implement vacant property registration program for long-term unoccupied structures⁶⁴

Additional Considerations in Strategic Land Banking Areas

Consider one of the following proactive approaches above and beyond a complaint-driven program:

- Low-intensity approach: Establish regular curbside/exterior inspections in Strategic Land Banking Areas and make interior inspections only when reasonable cause is obtained.⁶⁵
- High-Intensity approach: Establish targeted inspection areas “to respond to blighted or potentially blighted conditions” that “shall reflect the city’s stated neighborhood revitalization strategy.”⁶⁶ In these formally designated areas, inspectors have reasonable cause to inspect every property, subject to constitutional protections for the owner. City must *establish a plan to address the ability of low-income residential property owners to comply with minimum housing codes.*

⁶⁴ To be valid, a vacant property registration program for long-term unoccupied property must be applied to commercial and residential properties alike. Such a program is authorized by the City’s general ordinance-making power (general police power), and associated fees are permitted pursuant to G.S. 160A-424 provided it does not target rental property alone. G.S. 160A-424(c)(iii); A brief overview of a vacant property registration program is provided at page 24 in a School of Government law bulletin, C. Tyler Mulligan, *Residential Rental Property Inspections, Permits, and Registration: Changes for 2017*, COMMUNITY AND ECONOMIC DEVELOPMENT BULLETIN No. 9 (School of Government, UNC-Chapel Hill, 2017), <https://www.sog.unc.edu/publications/bulletins/residential-rental-property-inspections-permits-and-registration-changes-2017>.

⁶⁵ G.S. 160A-424(a); C. Tyler Mulligan, *Residential Rental Property Inspections, Permits, and Registration: Changes for 2017*, COMMUNITY AND ECONOMIC DEVELOPMENT BULLETIN No. 9 (School of Government, UNC-Chapel Hill, 2017) (Table 1 provides explanation of conditions amounting to reasonable cause), <https://www.sog.unc.edu/publications/bulletins/residential-rental-property-inspections-permits-and-registration-changes-2017>.

⁶⁶ G.S. 160A-424(b); C. Tyler Mulligan, *Residential Rental Property Inspections, Permits, and Registration: Changes for 2017*, COMMUNITY AND ECONOMIC DEVELOPMENT BULLETIN No. 9 (School of Government, UNC-Chapel Hill, 2017) (Procedures related to inspection efforts within designated geographic areas is described starting at page 16), <https://www.sog.unc.edu/publications/bulletins/residential-rental-property-inspections-permits-and-registration-changes-2017>.

APPROACH 3:

Code Enforcement on Property with *No Structure*

CITY'S OBJECTIVE:

Compliance by owner or transfer to responsible owner, minimize City cost

ADDITIONAL CONSIDERATION IN STRATEGIC LAND BANKING AREAS:

City gain control of property for affordable housing

City-Wide

- **Enforce normal nuisances such as the presence of trash, debris, and overgrown vegetation⁶⁷**
 - Costs of enforcement are a low priority lien⁶⁸
 - Place all normal nuisance liens on tax bill
 - Foreclosure unlikely because lien is not a high priority lien
- **Enforce recurring nuisances⁶⁹ and public health nuisances⁷⁰**
 - Costs of enforcement are a high priority lien
 - Place all liens on tax bill
 - Foreclose and assert all liens (sanitation, demolition, nuisance) in judgment
- **At foreclosure sale, no bid submitted by City**

Additional Considerations in Strategic Land Banking Areas

- **Same approach through foreclosure but consider submitting bid at foreclosure sale as described in Approach 1 on Page 59.**

⁶⁷ The city is authorized to classify certain situations as nuisances pursuant to its general police power, G.S. 160A-174. The City has classified nuisances in City of Winston-Salem Code of Ordinances Chapter 62 related to "Sanitation."

⁶⁸ G.S. 160A-175(e).

⁶⁹ When an owner becomes a chronic violator of a nuisance ordinance, meaning the city gave notice of a nuisance violation at least three times in the previous calendar year, then upon occurrence of a violation during the current calendar year, G.S. 160A-200.1 authorizes the city to provide a single notice, with the expense of further actions becoming a high priority lien that "shall be collected as unpaid taxes."

⁷⁰ G.S. 160A-193 authorizes the City to summarily abate or remedy anything that is "dangerous or prejudicial to the public health or public safety." The NC Court of Appeals, in *Monroe v. New Bern*, interprets this statute as providing authority to take summary actions only when there is an "imminent danger to the public health or safety." The costs incurred become a lien that is collected as unpaid taxes (high priority lien). In non-emergency situations, normal nuisance or recurring nuisance procedures must be followed, as applicable.

APPROACH 4:

Code Enforcement on Property with *Unoccupied* Structure that is *Unsafe* or *Too Costly to Repair*

CITY'S OBJECTIVE:

Compliance by owner or transfer to responsible owner, minimize City cost if City must act

ADDITIONAL CONSIDERATION IN STRATEGIC LAND BANKING AREAS:

City gain control of property for affordable housing

City-Wide

- For nuisances, utilize Approach 3 on Page 61.
- For unsafe building⁷¹ or building beyond repair⁷²:
 - Order demolition
 - Possible intermediate step if an owner with adequate means to comply does not comply: seek judicial order, and if still no compliance, seek contempt order⁷³
 - For projects that could appear attractive to the private market, consider whether receivership would be an appropriate tool to achieve demolition or rehab.⁷⁴
 - Last resort: City effectuates demolition order
 - Cost of effectuation is a high priority lien
 - Place all liens on tax bill
 - Foreclose and assert all liens (sanitation, demolition, nuisance) in judgment
 - At foreclosure sale, no bid submitted by City

Additional Considerations in Strategic Land Banking Areas

- Same approach through foreclosure but consider submitting bid at foreclosure sale as described in Approach 1 on Page 59.

⁷¹ G.S. 160A-424 (unsafe buildings condemned); City of Winston-Salem Code of Ordinances Sec. 10-36.1 through 36.14.

⁷² A building beyond repair is one that is "unfit for human habitation" under minimum housing statutes, G.S. 160A-441 through -450, and for which the cost of repair exceeds the reasonable cost of repair set by the City (currently 65% of the value of the dwelling pursuant to City of Winston-Salem Code of Ordinances Sec. 10-203(b)).

⁷³ According to interviews, this intermediate action is currently undertaken by the City Attorney pursuant to G.S. 160A-446(g) when a property *with tenants* has been determined to be "unfit for human habitation." It has been found to improve owner compliance rates with repair orders. Thus, it may be helpful in improving owner compliance rates with *unoccupied* structures as well, which are the focus of the report.

⁷⁴ Receivership is a new, untested tool for handling the demolition or rehab of structures with uncorrected code violations. Session Law 2018-65. For more information on receivership, see C. Tyler Mulligan, *Receivership: A New Tool for Addressing Vacant Problem Properties in North Carolina*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, June 21, 2018, <https://ced.sog.unc.edu/receivership-a-new-tool-for-addressing-vacant-problem-properties-in-north-carolina/>.

APPROACH 5:

Code Enforcement on Property with Unoccupied Residential Structure That is Repairable at Reasonable Cost

CITY'S OBJECTIVE:

Compliance by owner or transfer to responsible owner, minimize City cost

ADDITIONAL CONSIDERATION IN STRATEGIC LAND BANKING AREAS:

1. Assist low-income owners with repairs
2. City gain control of property for affordable housing

City-Wide

- For nuisances, utilize Approach 3 on Page 61.
- For unoccupied structure that can be repaired at reasonable cost:
 - Issue repair order
 - Possible intermediate step if an owner with adequate means to comply does not comply: seek judicial order, and if still no compliance, seek contempt order⁷⁵
 - For projects that could appear attractive to the private market, consider whether receivership would be an appropriate tool to achieve repair of the structure.⁷⁶
 - Last resort: City vacates and closes.
 - 6 months later, follow “abandonment of intent to repair” procedure, issue demolition order, and remove dwelling if owner has not complied⁷⁷
 - Costs of effectuation are a high priority lien
 - Place all liens on tax bill
 - Foreclose and assert all liens (sanitation, demolition, nuisance) in judgment
 - At foreclosure sale, no bid submitted by City

⁷⁵ See explanation of this intermediate step in Approach 4 on Page 62.

⁷⁶ Session Law 2018-65; C. Tyler Mulligan, *Receivership: A New Tool for Addressing Vacant Problem Properties in North Carolina*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, June 21, 2018, <https://ced.sog.unc.edu/receivership-a-new-tool-for-addressing-vacant-problem-properties-in-north-carolina/>.

⁷⁷ The “abandonment of intent to repair” procedure is the only means of escalating enforcement action on a dwelling that has been vacated and closed. Typically, such action is delayed until a one-year wait period has lapsed as required by G.S. 160A-443(5b). However, Winston-Salem obtained a local act that reduces the statute’s one-year wait period to six months, thereby allowing the City to move more quickly to demolish a structure that has been closed, even if that property can be repaired at a reasonable cost. In interviews, the City Attorney stated that the program was successful at achieving owner compliance in most cases. See also Mulligan & Ma, *Housing Codes for Repair and Maintenance: Using the General Police Power and Minimum Housing Statutes to Prevent Dwelling Deterioration* 38 (2011), <https://www.sog.unc.edu/publications/books/housing-codes-repair-and-maintenance-using-general-police-power-and-minimum-housing-statutes-prevent-0>.

APPROACH 5: *CONTINUED*

Additional Considerations in Strategic Land Banking Areas

- For nuisances, utilize Approach 3 on Page 61.
- For unoccupied structure that can be repaired at reasonable cost:
 - a. Issue repair order
 - b. For responsible low-income owners, offer repair assistance⁷⁸:
 - i. Rehabilitation loans in exchange for preserving affordable housing
 - ii. Consider offering TURN assistance
 - c. For other owners who fail to comply: *City effectuates repair*
 - i. Costs of enforcement are a high priority lien⁷⁹
 - ii. Place all such liens on tax bill
 - iii. Foreclose and assert all liens (including sanitation, demolition, etc.) in judgment
- Consider submitting bid at foreclosure sale as described in Approach 1 on page 59.

⁷⁸ Authority to assist low-income owners with repairs is derived from G.S. 160A-456. See also C. Tyler Mulligan, *Local Government Support for Privately Constructed Affordable Housing*, COMMUNITY & ECONOMIC DEVELOPMENT IN NORTH CAROLINA AND BEYOND, June 21, 2016, <https://ced.sog.unc.edu/local-government-support-for-privately-constructed-affordable-housing/>.

⁷⁹ G.S. 160A-443(6).



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