

TO: Derek Crossman, *Community Development Specialist, City of Utica, NY*

FROM: Tarik Abdelazim, *Director of National Technical Assistance, Center for Community Progress*

DATE: September 30, 2020

RE: Preliminary Assessment of Vacancy and Abandonment Challenges in Utica: Observations and Recommendations

Executive Summary

The Center for Community Progress (Community Progress)¹ has been retained by the City of Utica, New York (“City”), to carry out a preliminary assessment of the City’s policies, programs, tools, and operations in place to address vacant, abandoned, and deteriorated properties (“problem properties”).² This technical assistance is being funded by the City’s Zombie Grant, through LISC’s Zombie and Vacant Property Remediation and Prevention Initiative,³ and is meant to complement some of the key deliverables and goals of the grant award, including improved parcel data management and sharing practices as well as more equitable, effective, and efficient approaches to housing and building code enforcement.

Pursuant to the above goals of this preliminary assessment, the engagement involved two days of virtual interviews of City officials, staff, and community stakeholders. The interviews took place on August 6 and 7, 2020, and were conducted by Tarik Abdelazim, Acting Director of National Technical Assistance from Community Progress.⁴

This memorandum offers preliminary observations of current conditions and challenges, as well as recommendations that the City and its partners might consider as they move forward with their efforts to more effectively address the negative impacts of problem

¹ 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. More information is available at www.communityprogress.net.

² For purposes of this memo, the term “problem properties” will be used to collectively refer to any vacant, abandoned, or deteriorating residential property that exhibits signs of distress, including but not limited to recurring violations of housing and building code; tax delinquency; prolonged vacancy; lack of utility services; or criminal activity. Typically, this term is limited to *unoccupied* properties, but given the findings and observations of this assessment, in which rental properties present a significant challenge for the city of Utica, “problem properties” in this memo will be inclusive of occupied substandard, deteriorating rental units unless stated otherwise.

³ To read more about the Zombie Grant Program and award recipients, see the [NY OAG's January 16, 2019 press release](#).

⁴ To view a full list of those who participated in the series of virtual interviews, please see Appendix A.

properties, which should be understood as a key part of an equitable approach to neighborhood stabilization and revitalization. These observations and recommendations are informed by the series of virtual interviews, as well as the following:

- A preliminary review of recently completed and ongoing initiatives in the City, an online scan of relevant news and documents (such as budgets, end of year reports, and GIS maps), and multiple phone conversations with the City’s designated liaison for this engagement.
- A preliminary review of state and local law and policy pertaining to housing and building code enforcement and delinquent property tax enforcement systems, two key systems related to vacancy and abandonment.
- Community Progress’ expertise in the systems of vacancy and abandonment—including data management, housing and building code enforcement, delinquent property tax enforcement, and land banking—and extensive knowledge of in-state and national best practices and creative interventions to minimize the negative impacts of problem properties.

Based on the research and discussions with a broad set of Utica stakeholders, Community Progress identified the following key takeaways:

1. **The City could become a model for the state and nation were it to apply its patient, collaborative approach to economic development, as well as its commitment to inclusion, to equitable neighborhood development.** Over the last ten years, Utica leaders have been very active in setting and driving a bold economic development agenda through the Mohawk Valley Regional Economic Development Council. Because of this sustained effort, Utica is on the verge of re-imagining itself, with not just one but multiple catalytic and transformative economic development projects underway that promise an *unprecedented* wave of local investment. Over the last three decades, Utica has also been the most successful small city in New York in welcoming and embracing waves of refugees and new immigrants, and creating an inclusive community that not just celebrates but attracts diversity. Utica needs to tackle the challenges presented by problem properties with the same commitment it has shown in the areas above: (1) patiently cultivating cross-sector collaborations designed and implemented through recurring meetings; and (2) with a strong focus on inclusion and equity, both as foundational principles and desired outcomes.
2. **A limited commitment to investing in the management, sharing, integration, and analysis of parcel data across City departments deprives the City a foundational component of a comprehensive approach to dealing with problem properties.** This is a common challenge among municipalities, whether small or large or financially-constrained or well-resourced—governments operate in silos, and some departments may not even understand how the parcel data it collects and maintains could be of incredible value to an inter-departmental, collaborative approach. Utica should consider building off recent and current activities planned under its Zombie Grant award, and use the new GIS and Building Blocks software platform as vehicles to foster and sustain recurring meetings of key departmental leaders focused on improving parcel data management practices. This

work can then drive and shape more impactful decision-making not only within City government, but also of cross-section collaborations and community-led initiatives.

3. **The City's key challenge is less with vacant and abandoned properties (which include structures and lots) and more with occupied substandard rental properties.** While this assessment was intended to focus broadly on vacant, abandoned, and deteriorated properties, it became clear that the greatest challenge is with the latter category, namely substandard rental housing. The City should recognize that improving its approach to housing in general, particularly for those most vulnerable, is a critical element of achieving inclusive and equitable neighborhood development.
4. **Code enforcement, as a key preventative system, is not working effectively.** Two different residential inspection programs administered to varying degrees by both the Fire Marshall's Office and the Buildings and Code Department are generating less than optimal outcomes, some of which is complicated by a lack of effective and efficient data management systems and practices. Additionally, enforcement against problematic owners is limited almost exclusively to punitive measures and shaped by a high aversion to risk and liability. While enforcement is challenging, particularly against LLCs and out-of-state owners, more and more communities are rethinking how to shift code enforcement from a reactive approach to a strategic and proactive approach that relies on a suite of services, tools, policies, and regulations to achieve better outcomes.
5. **The City's approach to the collection and enforcement of property taxes is effective, efficient, and as much as state law allows, equitable.** The City benefits from a well-run property tax enforcement program that needs little reform. Delinquencies are handled consistently, in a timely manner, and unlike in many other communities, the City's approach is not contributing to or exacerbating the challenges presented by vacancy and abandonment.
6. **The disposition of tax foreclosed properties is being handled well, but if the goal of disposition is to advance inclusive and equitable neighborhood development, there are opportunities for minor reforms and more creative partnerships and programming.** The City of Utica, through a partnership with the Utica Urban Renewal Authority (URA), has successfully developed a better approach to the disposition of tax foreclosed properties than relying on the speculative auction, which often produces unpredictable and potentially harmful outcomes in the long-term. However, if looking at URA's approach through the lens of equity (including racial equity), there is room for improvement. Making some minor programmatic adjustments and partnering with the Greater Mohawk Valley Land Bank could open the door to some pilot projects that more intentionally address unmet housing needs and could set the stage for long-term, catalytic investments in specific neighborhoods within the city.
7. **The Community Development Block Grant (CDBG), a \$2million+ annual federal entitlement grant received by Utica from U.S. Housing and Urban Development Department (HUD), is being underutilized in addressing urgent housing needs.** CDBG is, broadly defined, an anti-poverty and neighborhood revitalization federal program. Nevertheless, a historical review of Utica's annual

CDBG budgets revealed that the City routinely uses little to none of its CDBG grant on housing programs and activities, which City officials affirmed and acknowledged. While Utica, like other communities that receive annual CDBG awards, has eligible needs well beyond the available resources, this may be an opportune time to re-allocate future CDBG dollars in a strategic and coordinated manner with some of the other recommendations included herein that will accelerate work toward equitable neighborhood development.

The first section of this memo will provide some general information about the city of Utica as it relates to this engagement, offer up some key principles that inform best practices in the field, and explain the first takeaway listed above as an overarching framework for the City to consider how it moves forward with a more impactful approach to the challenges presented by vacant, abandoned, and deteriorated properties. The second section will discuss in more detail each of the remaining six key takeaways listed above, including some recommendations for City leaders to consider with their partners. The third section will offer some concluding remarks. A list of stakeholders interviewed are included as Appendix A.

The observations and recommendations that follow are provided for consideration by City leadership and are based on our experience working in similar communities across the nation and within New York. None of the information contained in this memorandum should be construed as legal advice, and all policy observations are subject to the review and guidance of local legal counsel.

I. Background and Context

Utica is the principal city in Oneida County in upstate New York, part of a region termed the Mohawk Valley. Not unlike most upstate “legacy cities” that had a strong industrial base following the second World War, Utica’s population declined significantly over the last 50+ years. From 1940 to 1960, the population was at its peak, remaining steady at about 100,000 residents. However, the 2019 population is estimated at 60,000, according to the US Census Bureau, representing a 40% decline from its high mark.

The population of the City has also become significantly more diverse. In 1970, the population was 94% white. According to 2017 ACS data, the share of non-Hispanic White residents dropped to about 57% of the population, and all other groups increased significantly, including Black or African American (15%), Asian (12%), and Hispanic (10%). Part of this trend can be explained by the “white flight” phenomenon that saw many white households relocating to the suburbs in the 1970s and 1980s. However, these numbers also reflect Utica’s longstanding commitment to not only celebrate diversity, but actively attract and embrace refugee populations and new immigrants—work that has earned the city national recognition. Currently, about 20% of city residents identify as “foreign born,”⁵

⁵ PolicyMap, City of Utica Community Profile Report, ACS 2017.

about 15% of all students in the Utica School District are refugees,⁶ and there are more than 40 languages spoken in the community.

Poverty has steadily increased over the decades, another characteristic shared by most urban centers across upstate New York and far too many cities across the country. Disaggregating poverty rates by race reveals that about 20% of white residents are below the poverty line, while that number jumps to 40-50% within each of the other major racial demographic groups (Black, Asian, Hispanic), all of which are significantly higher than the national average for these respective groups (including whites).

Finally, the city has an aging housing stock, with decades of deferred maintenance and many rental units presenting health and safety risks, from mold and lead to outdated electrical systems. Almost 80% of the City's housing stock was built before 1978 (when bans on lead paint for residential use were implemented). According to the City's 2015 Community Needs Assessment,⁷ these harmful rental units disproportionately impact people of color; up to 95% of the housing units in the city's disinvested neighborhoods with the highest concentration of minorities were built before 1978 and where maintenance needs are often most acute.

The above trends, which are common in many urban centers (particularly "legacy cities"), conspire to present real challenges for any community seeking to create an equitable, effective, and efficient approach to problem properties. For example, poverty is typically concentrated—and not by accident—in the neighborhoods with the weakest housing markets, lowest homeownership rates, and the largest inventory of substandard rental housing. The underlying economics of such neighborhoods are a very real barrier to achieving safe, healthy, and affordable rental housing for all, as the repair costs to bring a substandard property fully up to code (and free of health hazards such as mold and lead) may far exceed what a landlord might ever recover from the property, either by renting or by selling. These are real economic factors that even well-designed code enforcement laws can't solve, but they should shape and inform the design of a comprehensive code enforcement system that aligns well with other tools and policies meant to address problem properties and the systemic disinvestment of certain neighborhoods. To further complicate matters, if a suite of policies coupled with some catalytic projects *do* help to invigorate the underlying economics and market conditions of a neighborhood that had been ignored for decades, the risk of gentrification and displacement to those most vulnerable is high, unless forward-thinking and proactive policies and programs were established *before* the market shift to preserve affordable housing and truly achieve inclusive neighborhoods through equitable development.

There are no simple answers or silver bullets to the challenges imposed by problem properties and disinvested neighborhoods, particularly given these are the outcomes of entrenched systems that, over decades, shaped our communities with unjust and racist laws, policies and decisions, from all levels of government and by many actors in the private and nonprofit sectors. However, there is a strong body of knowledge and practice that offers models and insights for those communities meaningfully committed to

⁶ As stated in this local media article, <https://www.uticaod.com/article/20140309/News/140309402>.

⁷ For the full document, see <http://www.cityofutica.com/Assets/RTG/CNA/PDF/CNA%20One%20File.pdf>.

addressing problem properties through the lens of racial and economic justice and toward equitable and inclusive outcomes. Some of the key elements of a comprehensive approach to problem properties include the following:

1. **Strong political leadership, committed to systemic reform**, which is a patient and deliberative process that offers no short-cuts.
2. A culture in City Hall that **embraces and encourages active communication, collaboration, and risk-taking**, and a culture that extends out into the community in the form of inclusive engagement and innovative partnerships.
3. A robust, coordinated, and resourced (staffed) parcel data ecosystem, including enterprise-wide data management systems, a **strong commitment to data sharing, integration, and analysis**, and **data-driven decision-making**.
4. A **strategic approach to code enforcement** that seeks to be **preventative, supportive, and proactive**, instead of punitive and reactive, and is mindful of the underlying housing market conditions that can differ significantly across neighborhoods in the city.
5. An **equitable approach to delinquent property tax enforcement that includes hardship provisions for vulnerable property owners, but is also effective and efficient** so that (i) delinquent properties don't linger for years, (ii) the foreclosure process yields marketable/insurable title, and (iii) tax-foreclosed properties are disposed of transparently, predictably, and to responsible new owners whose proposed uses are consistent with community needs and priorities. Linking a land bank to the tax foreclosure process, as an alternative to tax lien sales or the speculative auction, is often the optimal way to handle temporary stewardship and disposition decisions in this manner.

No community is doing all the above exceptionally well, however, more and more are tailoring this framework to local conditions and needs and generating success. The above elements get at systemic causes of problem properties, and thus represent a bold shift from the status quo. They require a sustained and courageous commitment to accurately identify the problem, build consensus on a long-term vision, and to then redesign policies, restructure departments, reallocate resources, and reimagine community partnerships.

This is exactly the patient but visionary approach Mayor Palmieri, his team, city leaders, and regional partners brought to economic development over the last ten years, which in just the last couple of years has resulted in almost unimaginable wins and staggering levels of private and public investment toward a shared vision, including but not limited to:

- The state's billion dollar investment in Nano Utica, a nanotechnology campus and hub in Marcy, a suburb of Utica
- A \$485 million dollar investment by Mohawk Valley Health Systems to build a massive health campus just on the edge of downtown
- The 2019 \$10 million award through the state's Downtown Revitalization Initiative to support ongoing downtown transformation, which has already

activated a number of vacant properties into market-rate and luxury rental housing

- The much-discussed Harbor Point Project, approximately \$10 million, which is moving quickly to completion and sparking significant private interest in activating this long dormant waterfront asset
- The U District, a \$17 million dollar County-led initiative that aims to connect the above investments and includes the multi-sports and recreational facility Nexus Center
- The opening of the Irish Cultural Center, a \$2.5 million dollar project, in a long-time vacant property
- The planned \$12 million dollar housing project with ArtSpace, a national nonprofit consulting firm that constructs affordable housing for artists, that will result in 35-45 units of live/work units for artists

Five years ago, many local folks said this was all just a vision and expressed skepticism in achieving these goals. It took hundreds (if not thousands) of hours of meetings to build trust, define roles, achieve consensus on key strategic priorities among stakeholders across sectors and at all levels of government, coordinate investments, and align strengths, but that patience and perseverance eventually resulted in the achievements mentioned above.

The same approach needs to be applied to problem property challenges and reversing decades of systemic disinvestment in certain neighborhoods.

It takes patient deliberations in identifying the problem, respectful and inclusive exchanges to build trust and share a common vision, slow and detailed conversations about process, a team commitment to troubleshoot pain points and implement procedural efficiencies, and a supportive culture to take risks and explore opportunities to collaborate to leverage impact.

As certain areas of Utica are starting to see catalytic economic development projects that represent an unprecedented wave of investment, this proposed approach is meant to ensure other areas are treated with the same level of focus, proactive and preventative care, and bold forward-thinking experimentation—not *for* these residents, but *in partnership* with them, and with those neighborhood groups and nonprofits that deliver essential services and support to this population.

Ultimately, if the same patience and principles that were used to plan and deliver significant economic development progress are applied by Mayor Palmieri, his team, and community partners to the broad goal of equitable neighborhood development, Utica could become a model not only for the state, but for the entire nation.

The next section discusses the six other key takeaways mentioned above, and groups them into five areas of focus that could be prioritized by such a local effort.

II. Breaking from the Status Quo: Five Areas for Focus

Focus Area #1. Parcel Data Management Systems and Practices

Relevant Key Takeaways:

- *A limited commitment to investing in the management, sharing, integration, and analysis of parcel data across City departments deprives the City a foundational component of a comprehensive approach to dealing with problem properties.*
- *The City's key challenge is less with vacant and abandoned properties (which include structures and lots) and more with occupied substandard rental properties.*

Observations and Analysis

Every effective and comprehensive approach to problem properties relies heavily on a robust ecosystem of data management systems and a rich culture of sharing, integrating, mapping, and analyzing parcel data. Parcel data can help a community better understand the problems, reveal policy and programmatic gaps, and uncover operational inefficiencies. Excellent data management systems and practices can also help identify broader trends, measure impact of interventions, and guide where limited investments could be targeted for greatest impact. Most importantly, a local government that values and resources this work can eventually transition from a reactive to proactive approach, and minimize the harm imposed by problem properties on people and the places they call home.

Utica is a community with 21,600 tax parcels (about 19,900 of them are taxable), according to the City Assessor. How many are vacant? How many properties are tax delinquent, or have had water service shut-off, or are condemned, or are at some point in the mortgage foreclosure process? Which properties are registered with DFS as “zombies,” or tagged by Lead Free MV as exhibiting lead hazards, or marked by the Fire Department as structurally questionable through its AWARE program? Which properties are housing low-income individuals or families receiving housing assistance from Oneida County DSS, or tenants using a Section 8 Housing Choice Voucher program? Which rental units are operating with valid occupancy permits?

Alone, none of these datasets can offer a compelling and accurate picture of what might be happening with both the property and the neighborhood at large. Tracking these parcel data points together, however, can provide a much richer profile of property distress and neighborhood distress, allowing for both proactive and collaborative interventions that can protect vulnerable populations from harm.

Community Progress delivered a memo to the City on 5/19/20 requesting many of the datasets listed above, as well as complementary and relevant information. Many of the datasets were made available in a timely manner, and responses came from URA, Buildings

and Code, Assessor, Finance, Fire, Community Development, Police, and the Mohawk Valley Water Authority.

The City reported an estimate of about 500 vacant properties (including both vacant structures and vacant lots) in Utica, more than half of which (280) are owned by either the City or URA. Also included in this count of 500 are the 41 “zombie properties” that have been officially registered by banks with the NYS Department of Financial Services.

Drilling deeper into the data to create subsets of vacant properties, and knowing their location, will help the City design targeted interventions. If nothing is done, these properties may eventually end up in tax foreclosures, beyond repair, or a potential site for fire, such as the Charlestown Mall.⁸

An active history of demolition seems partly why the count of vacant properties is not that high in Utica. According to City officials, a massive demolition blitz in the 1990s carried out by the City’s in-house demolition crew and supported heavily by the National Guard cleared more than 200 blighted and dilapidated structures. Since then, the City’s in-house demolition team has allowed the City to stay on top of demolition needs, and to do it more cost-effectively than other municipalities. City officials reported there is no backlog of vacant or abandoned properties slated for demolition, which is a positive sign.

The above suggests that a key problem for the city of Utica is not extensive vacancy, but rather substandard occupied housing, particularly multi-unit rental properties.

This finding also suggests that it may be helpful to frame the City’s reform efforts as less an approach to *vacancy*, and more as a commitment to *equitable neighborhood development*, in which effectively and efficiently tackling problem properties plays a critical and primary role. Moreover, this finding emphasizes the need for the City to focus on policy, programmatic, and operational reforms within two areas: (1) housing and building code enforcement, the primary tool available to local governments to prevent deterioration and ensure safe, healthy housing for all; and (2) the disposition of tax foreclosed properties, a pipeline of usually distressed properties that could be tapped to *specifically* and *routinely* advance a more intentional commitment to equitable neighborhood development. And improving data management practices will serve as a foundational step for all decision-making going forward.

A few additional observations about the current state of IT/IM systems and capacities are worth mentioning:

1. It seems as though most of those interviewed, including both city staff and community partners, use the term “zombie property” as a catch-all to describe any vacant property. This usage not only is inconsistent with NYS law and the field of practice, but also makes it difficult to assign the appropriate intervention, tool, or strategy for each problem property.

⁸ The Charleston Mall, one of the city’s most notorious and challenging problem property but primarily located in adjacent municipalities, was devastated by a massive fire on August 27 that required the assistance of multiple fire companies and generated significant air pollution for days.

2. IPS, the software platform used by Fire Marshall's Office and Code Office for the City's two inspection programs (more information in next takeaway), is clunky, complicates data sharing between the two departments, and causes operational inefficiencies for all involved. Also, data housed by this software program was not easily extracted for purposes of this engagement.
3. The Police Department was unable to report out the "top ten problem properties" (properties with the most police calls in a single year) because of the limitations of its software program, and stated that such a list could only be generated by an exhaustive search of each individual parcel record.
4. The IT Department has lost capacity over the years, as reported by multiple senior City officials. This has limited the Department's ability to be proactive and strategic in thinking through long-term enterprise solutions. Due to this loss of capacity, the Department understandably seems to be in a more reactive position, responding to siloed requests made by Department heads and approaching data sharing and integration with caution.
5. Data on tax delinquencies and URA sales was comprehensive, informative, and provided in a timely manner.
6. The Mohawk Valley Water Authority (MVWA) reported it shuts-off services to about 250 properties within the city every year, but most of these accounts are restored shortly or immediately thereafter. MVWA officials also reported they could generate a quarterly list of all accounts where water has been shut-off for six months or more, a helpful indicator of vacancy and potential abandonment. MVWA also expressed concern about their policy that allows water accounts to be in a tenant's name, and that this can be exploited by both parties when landlord-tenant dynamics become problematic.

The parcel data limitations and challenges mentioned above are **very common** for municipalities, even for those better resourced than Utica. None of the above is meant to cast blame or point fingers. In fact, the City has been creative the last few years in trying to improve its approach to parcel data management, an effort carried out primarily through the two Zombie Grant awards received through LISC's initiative.

Through its first award, the City implemented a GIS platform, and retained a GIS consultant to support the IT Department's effort in rolling out this new tool. The City also launched a very user-friendly, resourceful, and creative website on zombie properties.⁹ Currently, the City is implementing its second zombie grant award, which includes retaining Tolemi, a software vendor, to implement their popular Building Blocks program, a powerful and user-friendly data integration and analytical tool used by more than two dozen communities in NY and nearly 100 nationally.

⁹ For more information, see <https://www.uticzombies.com/>.

Recommendations:

1. The work of collecting and integrating parcel data for better analysis and decision-making must not be the sole responsibility of one staff person. This activity needs to be institutionalized, which can only happen if it's prioritized and communicated to all staff by Mayor Palmieri—and sustained as a priority. This work needn't involve costly new software, or even dramatic reforms to existing systems. For starters Utica should consider creating a multi-departmental team (perhaps termed the Utica Property Data and Analysis Team, "UP DAT") that meets regularly (no less than twice a month) to identify available datasets, explore opportunities for integration, and carry out richer data analysis. The launch of Building Blocks by Tolemi, currently underway, presents an opportune moment. The implementation of this software platform should be used as a vehicle to convene UP DAT to not only optimize implementation but also help build a shared understanding of the value of parcel data integration and how Building Blocks could be used to inform decisions across a wide range of activities and departments. Ideally, UP DAT would include representatives from the following:
 - a. Mayor's Office
 - b. IT Department
 - c. Urban and Economic Development Department
 - d. Assessor's Office
 - e. Finance Department
 - f. Fire Marshall's Office
 - g. Building and Code Department
 - h. Mohawk Valley Water Authority
 - i. City's GIS Consultant
2. As UP DAT gains a deeper understanding of the value of parcel data in shaping the City's approach to problem properties, and equitable development more broadly, team members should begin to explore reforms to data collection practices "upstream" (for example, how data is initially collected during inspections or which data fields URA uses to tracks sales) that will optimize the integration and analysis efforts "downstream" (for example, enabling more queries in Building Blocks that will support better decision-making).
3. UP DAT may want to triage the 200 vacant properties that are not zombies or publicly owned, and better understand which properties exhibit other "indicators of distress," and begin to discuss appropriate interventions for some of the worst properties. It appears most are commercial properties and residential vacant lots, but developing better property profiles will help the City prioritize investments and develop proactive strategies.
4. Once UP DAT has completed some of the initial work above, it may consider reporting out to the Mayor's Department Head meeting once a month, and facilitate brainstorming on specific properties or challenges. For instance, UP DAT could help guide where to target the Mayor's very successful "Quality of Life Sweeps," which weather permitting, occur every Wednesday from about Noon to 3pm with almost ten other departmental heads and senior staff. While the "sweeps" are a visible and effective way to address a variety of neighborhood problems, UP DAT is an

incredibly important group that, less visibly, can operationalize and optimize a similar commitment to inter-departmental collaboration. Together, these complementary efforts can yield far greater impact.

5. Within one year of implementing and using Building Blocks, the City ought to consider making some, if not all, of the data layers public, similar to Rochester, NY. Following the state's historic repeal this summer of Civil Law Section 50-a, which for nearly 50 years shielded police disciplinary records from public view, Mayor Palmieri has shown incredible leadership in being the first chief executive in New York to commit to placing all relevant police personnel records online for public review. Opening the 'public portal' of Building Blocks would be consistent with the Mayor's impressive commitment to transparency.
6. The MVWA may want to consider a policy change that requires all water accounts to be in the name of the property owner. First, it removes the authority from the relationship between the provider (landlord) and customer (tenant), which can be problematic at times. Second, it gives solid standing to any unpaid water bill that is eventually rolled to the owner's tax bill.

Focus Area #2. Housing Building and Code Enforcement

Relevant Key Takeaway

- *Code enforcement, as a key preventative system, is not working effectively.*

Observations and Analysis

Housing and building code enforcement is a critical tool to ensure safe and healthy housing for all, *and* prevent vacancy and abandonment. Moreover, given that some of the vacancy data points above suggest a manageable portfolio of vacant and abandoned properties (and taking into account the effectiveness of the City's enforcement approach to delinquent property taxes, which will be discussed in the next section), it seems one of Utica's greatest challenges with residential problem properties is with substandard rental properties.

To its credit, the City has been laser-focused on this problem, and has designed some promising solutions. But based on this assessment, it seems the City has been challenged with *implementing* these solutions equitably, effectively, and efficiently.

The City implements two rental inspection regimes/programs: 1203 inspections ("1203 Program") as mandated by New York State of all jurisdictions pursuant to Fire Maintenance and Safety Code, and the Rental Occupancy Permit Program ("ROP Program"), which is a residential rental registration and inspection program pursuant to local ordinance.

The state-mandated 1203 Program applies to residential properties with 3 units or more and commercial properties, which according to City officials, is about 1,650 properties in Utica. Often called "triennial inspections" because they are supposed to occur at least once every three years, 1203 inspections monitor public or common areas of multi-unit residential buildings. A Fire Marshall in Utica indicated that the 1203 Program does indeed allow for inspections of all residential units within a subject property.

On the other hand, the ROP Program was established by local ordinance in the mid-2000s after a string of fires in multi-unit residential properties, some of which involved fatalities. The proactive inspection program includes all residential rental units, including two-family properties whether owner-occupied or not, and single-family homes used as rentals. Successful inspections result in the issuance of a valid rental occupancy permit that is valid for 30 months.

A review of the local law and the city website indicate that the administration of the ROP Program is to be carried out by the Fire Marshall's Office. Interviews of local officials suggested that the administration of both of these programs is somewhat unclear, and both Fire officials and Housing Code officials claimed responsibility for implementing. At the same time, both acknowledged that delineation of duties for these two inspection programs is unclear and currently under discussion. Complicating matters is that the software program (IPS) used by both departments to implement the two complementary but different inspection programs is clunky with limited functionality and, according to multiple city staff, comes with unreliable customer service. Those interviewed explained that data captured by one group is difficult to access by the other group, but it wasn't clear if this was due to software limitations or users who are not fully trained on the software or users who are not given clear, uniform guidance on how to capture, track, and extract data.

City officials reported that the NYS Comptroller's Office carried out an audit of the 1203 Program in a select handful of cities in 2018,¹⁰ which included Utica, and that the audit's findings might also be contributing to confusion over which department should be responsible for which inspections. A review of the audit report revealed a program that was not being implemented effectively, and some of the key findings included in that report bear significance for this engagement, such as: (1) the local ROP Program expanded significantly the universe of properties to be inspected (from 1,650 multi-unit dwellings subject to triennial inspections to more than 6,000 residential properties subject to ROP inspections), and that the Fire Marshall's Office was unlikely to be able to meet both program requirements with existing capacity; (2) the triennial inspections suffered because of the duties placed on the Fire Marshall's Office by the local ROP Program; and (3) data collection and management practices were inconsistent, resulted in inaccuracies, and caused operational inefficiencies.

Taken together, the audit painted a troubling picture. In its response to the audit, City officials humbly and admirably acknowledged and took responsibility for the implementation deficiencies.

Looking beyond these two inspection programs, the City's Housing Code Enforcement Officers also have active partnerships with two local agencies, Oneida County Department of Social Services (DSS) and the City's Section 8 Program, that contribute public dollars to cover a portion of the monthly rent for select income-eligible households.

¹⁰ For the formal report on the audits of multiple programs, see <https://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/lgsa-audit-swr-2018-Multiple-Dwelling-global.pdf>. For a copy of the letter to Utica City officials that explains the audit findings specific to Utica, see <https://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/lgsa-audit-swr-2018-Multiple-Dwelling-utica-city.pdf>.

The City used to have a formal partnership with Oneida County DSS in which any rental unit housing a DSS client (and receiving some public subsidy to support that housing), would need to be inspected by City code officials within 30 days of occupancy to ensure it complied with all property maintenance codes, including health and safety provisions. At some point, and City officials interviewed were unclear of the exact date or reason, the required inspections were dropped. Tenants could still ask for an inspection, but based on research and our national experience, voluntary inspections simply don't generate the positive impact needed, particularly in weak housing markets with an abundance of substandard rental units.

There is a New York state law called the Spiegel Act,¹¹ which allows County DSS agencies to withhold housing assistance payments from landlords if the rental unit is cited by local housing code enforcement officers for health and safety violations that present significant risks to the tenant(s). Some local officials stated they were unaware of the law, which is more common than one might expect from local and county officials across the state. With that being said, there are a few areas across the state where the local code enforcement office is leveraging the Spiegel Act and working closely with their respective County DSS agency to great effect, namely in Rochester (Monroe County), Elmira (Chemung County), and Binghamton (Broome County).

The Housing Code Office explained that it works closely with the Section 8 Housing Choice Voucher Program, another program that delivers public tax dollars into the local private rental market. This is one of the nation's most important programs to help low-income households afford rental housing, in that it ensures an income-eligible household pays no more than 30% of their monthly income on rent, with the voucher covering the remainder of the rent (unfortunately, it is grossly underfunded, in that only 1 out of 5 households eligible for a Section 8 voucher actually receive one). City officials said the Code Department routinely works with the Section 8 Program to gain compliance from owners, which was somewhat puzzling for two reasons.

First, there are two Section 8 Programs administered in the City of Utica, one by the City and one by the Utica Municipal Housing Authority, and it wasn't clear if both programs cooperate with the City. *Second, the best run Section 8 Programs in the country typically don't need local code enforcement officers to gain code compliance.* HUD regulations require Section 8 Programs to conduct Housing Quality Standards (HQS) inspections at the start of a rental agreement and annually, if the tenant remains. If violations exist, the HQS Inspector can order a freeze to monthly payments until the violations are corrected. Note, the HQS framework is the bare minimum of standards, but HUD does allow a PHA to "adopt" local property maintenance and safety code provisions if desired, so long as they follow the HUD guidelines for updating their Administrative Plan. Thus, the best-run Section 8 Program, in coordination with the City, can serve as a "mini" code enforcement office that can help ensure safe and healthy housing for a certain subset of rentals. And it can often do this far more effectively, because it can immediately disrupt the monthly rental revenue stream

¹¹ An FAQ on the Spiegel Act, provided by the National Center for Healthy Housing, includes links to additional resources used by multiple jurisdictions across the state, including the three referenced above, and can be found here: <https://nchh.org/resource-library/Spiegel%20Act%20Frequently%20Asked%20Questions.pdf>.

until compliance is achieved, instead of using the courts to bring a civil or criminal action against an LLC or out-of-state owner (or both).

Finally, using the courts for enforcement was described by multiple interviewees as extremely challenging, ineffective, inefficient, and not worth the effort (an assessment with which Community Progress agrees and sees as standard across the field). The City still takes some of the worst violators to court, such as the owner of the troubled Olbiston apartment building, but it may take months if not years for a favorable outcome, and all the while tenants continue to suffer in substandard conditions and the owner continues to collect rent. Also, condemnation is used as a last resort, but it seemed less because the legal tool is effective and more because the City does not want the liability tied to forced relocation of vulnerable residents. For example, the City has condemned first individual units and then entire floors of the five-story Olbiston apartments, but stops short of condemning the building—even though it is poorly managed and presents multiple code violations—because too many residents will be displaced and made possibly homeless.

Recommendations:

1. There is an urgent need to thoughtfully review how the two existing inspection programs are being implemented, particularly since deteriorating rental properties seem to be a major challenge in the city. Combined, these rental inspection programs cover every rental unit in the City, and represent the City's best efforts to prevent the "slow march to demolition" and protect the health and safety of all residents, particularly the most vulnerable.
2. The Mayor should consider assigning his Chief of Staff to lead a small team, the Rental Inspection Program Review and Implementation Team (RIP RIT), to focus on this key operational and organizational challenge, and to present an implementation plan in 100 days.
 - a. RIP RIT should include the IT Director and the Zombie Grant award coordinator to ensure that discussions about IPS and data collection and management are informed by and aligned with activities of UP DAT.
3. One option could be to emulate the approach by the City of Minneapolis, in which Fire Inspectors are dedicated to inspection of all multi-unit buildings of four units or more, and the Housing Inspectors inspect all buildings of 3 or less. What makes their delegation effective and efficient is that they spent the time to develop, to the greatest extent possible, consistent and uniform inspection protocol across both divisions. Data is not only collected uniformly, but managed uniformly, allowing for real-time analysis of any subset of properties regardless of which division was responsible for inspections. In Utica, this would mean the Fire Marshall's Office handles all multi-unit buildings of 3 units or more, and Housing Code officers handle only those inspections of single family and two-family properties subject to the ROP Program. As the City explores this option, it may want to explore possible amendments to the City's ROP Program, such as:
 - a. Extending the term of a valid rental occupancy permit to 36 months so it lines up with the triennial inspections, a recommendation included in the audit completed by the NYS Comptroller's Office

- b. Exempting multi-unit dwellings from the ROP if the owner can certify compliance with the 1203 Program, so long as the interiors of some rental units were included in the inspection; or, another approach would be to automatically issue a valid ROP for multi-unit dwellings that pass the 1203 inspections, again, so long as the interiors of some rental units were included.
4. Regardless of which department is responsible for which inspections, there is a need to assess and properly fund the capacity needed for implementing these critical inspections. COVID-19 has constrained municipal finances and the lack of action by the federal government to date has created a great deal of uncertainty for local leaders, likely making a general fund appropriation difficult. As an alternative, the City could tap its Community Development Block Grant award to boost staff capacity for rental inspections, an eligible activity. It is very common for municipalities to use CDBG funds to cover a portion of the program delivery costs (including staff) to enforce housing and building code (see Focus Area #5 for more information about the City's use of CDBG funds), particularly when such inspections would benefit and protect the tenants that are most vulnerable.
5. The City may want to explore a deeper partnership with the two Section 8 HCV Programs operating in the City, such that eventually, HQS inspectors could be relied upon to certify the rental units that are housing Section 8 voucher holders. Such a partnership basically leverages the Section 8 inspectors to carry out inspections on a subset of rental units that the City needn't duplicate, which the City of Rochester has shown to be an effective way to optimize local enforcement resources.
6. The City may want to further explore the benefits of creating an administrative board for housing and building code enforcement, modeled after Rochester, NY, which would provide an alternative to criminal and civil enforcement through the courts. This would require authorization from the state, via legislation, a power that, in recent years, has been extended to Syracuse, Buffalo, Yonkers (and possibly Elmira).¹² The administrative board allows for a more flexible, supportive approach when dealing with owners that may want to do the right thing but lack the resources. For irresponsible owners that seek to game the system, the administrative process can also speedily result in fines, similar to parking tickets, that can be added to tax bills, and enforced similar to unpaid taxes. For many code cases, it is a better alternative to judicial enforcement, and allows the City to be more supportive than punitive when the ability to comply is less about negligence and more about physical limitations of owner, language barriers, poverty, or other legitimate matters. For resourced owners that are gaming the system or causing significant harm, the City Law Department could still utilize the judicial process, and likely even have more time to do so as more code violations are redirected through the administrative process.
7. Revoking a rental occupancy permit and shutting down a multi-unit building or condemning an entire property will disrupt the lives of tenants, but it will also protect them from health and safety risks and against exploitation by a greedy landlord. Given deteriorating rental properties is a major challenge and reforms to

¹² To learn more about the launch of Syracuse's Administrative Board in April 2019, see <https://www.syracuse.com/news/2019/04/after-2-years-syracuses-new-blight-fighting-agency-is-officially-up-and-running.html>.

the inspection programs will ultimately identify more deteriorated rental units, the City should accept that displacement will be a necessary outcome *in some instances and **plan accordingly***. The City should proactively brainstorm with local partners what a **just and well-resourced relocation program** would look like—and then foster the partnerships and find the money necessary to implement it. The City can look to Hudson, NY, where a partnership between the Galvan Foundation, the City of Hudson, and Columbia County Department of Social Services proved very successful.¹³ The Foundation purchased and rehabbed a vacant, 25-room motel, which now serves as emergency housing for County DSS referrals. Thanks to an innovative funding model, a portion of the DSS emergency housing payment is returned to DSS to fund case workers and supportive services to the transitional tenants.

Focus Area #3. Delinquent Property Tax Enforcement

Relevant Key Takeaway

- *The City's approach to the collection and enforcement of property taxes is effective, efficient, and as much as state law allows, equitable.*

Observations and Analysis

Tax delinquency is one of the most important and reliable indicators of distress, which can lead to vacancy and possibly abandonment. Notwithstanding process, it is important for the *design* of property tax systems to reflect a commitment to fairness and equity, which might include the availability of exemptions for certain classes of individuals and vulnerable homeowners, circuit-breaker systems that peg taxes to household income, timely and recurring revaluations, and availability of tax bills and city notices in multiple languages. Once a payment is missed, there is still an opportunity to include equitable policy solutions, such as offering clear and simple payment plans, limiting fees and interest for homeowners with income-eligible exemptions, and ensuring property owners have access to either foreclosure prevention services or legal counsel.

In other words, **equitable** elements need to be engineered into the property tax system upstream (before delinquency), because once a property becomes delinquent for more than a year, it is important to have an **effective** and **efficient** enforcement system that culminates in the transfer of the problem property to a new, responsible owner in a timely manner, say within three years (or even sooner if the property is causing significant harm to neighbors and the neighborhood).

Local approaches to property tax collection and enforcement are usually governed by state law, and these legal systems are vastly different across the country. Many of the property tax enforcement laws are antiquated, and by their own design, end up being inequitable, ineffective, and inefficient, such as those systems in Florida and in Illinois that *require* local governments to sell the tax lien (or tax debt) to private investors. These less than optimal systems allow problem properties to linger for years, attracting vandalism and crime,

¹³ To learn more about The Galvan Motel, see: http://www.galvanfoundation.org/social_program.php?Galvan%20Motel.

draining local tax dollars through police, code, and fire service calls, harming the equity of nearby property owners, and possibly even discouraging new investments on the block from other individuals or entities.

Fortunately, New York State has a relatively effective and efficient real property tax law that local foreclosing government units (FGUs) can follow (or “opt-out” and design their own under home rule authority). Most FGUs follow the state’s Tax Enforcement Program (RPTL, Article 11), which prescribes the enforcement of delinquent property taxes through an *in rem* judicial foreclosure process, an approach that Community Progress considers optimal). As far as equitable, the state limits what’s possible, but the City does utilize standard practices. It recognizes the typical homestead exemptions, such as STAR, and those for certain classes of individuals, like veterans and seniors. The City also adopted a Local Law, as permitted by Article 11 Section 1184, to offer payment plans for those who are behind at least one year on their taxes. According to Finance staff, there are about 50-60 property owners currently in payment plans.

The City Finance Department benefits from veteran staff that are very knowledgeable about this process, some of whom during a virtual interview described in detail a program that is run competently and efficiently (see observation in Appendix B for more detail). For purposes of this section, it’s important to note that the City bills, collects, and enforces property taxes for the school district. Similarly, the City bills and collects property taxes for the County, *however*, accounts that become delinquent are transferred to the County for enforcement, which was estimated between 2,000 to 3,000 a year out of 20,000 accounts.

Any unpaid bills stemming from other city agencies or actions are also rolled to the tax bill and enforced like delinquent taxes, as allowed by NYS Law. These may include unpaid water bills, nuisance alarms, and abatement actions carried out by the Parks Department (mowing high grass, boarding-up windows or doors at vacant properties, or removing trash and debris) when a property owner fails to remedy the respective violation, as directed by a City Housing Code Officer.

For a City tax bill that was issued in March 2020, 50% is due upon April 30, 25% is due in August, and the remaining 25% is due January 31, 2021. Suppose an owner walked away from the property and ceased paying property taxes, including the above installments stemming from the March 2020 City tax bill. According to the City’s process, the City would complete the foreclosure process and take title to the property by approximately October of 2022. Compared with many systems across the nation, this is an efficient and timely process.

Prior to the actual judgement of foreclosure, the City reviews the list carefully and may request any property with real or perceived environmental contamination be withdrawn, so as not to come into title and assume liability for the clean-up. Based on tax delinquency data, it appears that there are only a few environmental properties that are accruing debt and in need of an intervention strategy.

Throughout the process, and up until the day the deed is transferred, the City of Utica will accept payment in full from the owner and cancel the foreclosure. Given a highly diverse

community and many residents who may not be proficient in English, this is a reasonable accommodation. According to Finance staff, all property owners now have 30 days *after* the deed is transferred to the City to repossess their home (and nullify the foreclosure judgement). In the current batch of foreclosures, City Finance staff reported there were about 20 property owners that took advantage of this ‘reverse foreclosure’ provision, a strikingly high number of individuals that suggests the need to investigate the causes and reasons for so many folks waiting until the end of the redemption period to pay off the tax lien(s).

Once the post-foreclosure redemption period expires, the deeds are transferred to the City in bulk, and this portfolio of properties is placed in the hands of the URA, which has the responsibility to prepare the properties for disposition, which will be done through either a competitive application process or the speculative auction. The disposition process will be discussed in more detail in the next section.

One important note to make here is that the City writes-off approximately \$300,000 a year in unpaid tax liens that are extinguished by the judicial foreclosure process. The City is also out whatever amount it paid to the school district that was never collected. Despite this, the City does not ask URA for any of the sales proceeds that are generated by the disposition process.

Finally, based on data provided by the Finance Department, the number of foreclosures has been somewhat steady over the years, following a steep climb upwards after the 2008 Great Recession. Community Progress also received a database (spreadsheet) of all properties with at least one bill delinquent, which after some data sorting and analysis, revealed the following:

1. There are 1,184 properties with at least one tax bill delinquent, and the total amount owed is \$2,095,988. Much of this outstanding property tax debt will be repaid by property owners before the City completes the foreclosure process, or even initiates the foreclosure process.
2. Two properties accounted for about \$546,100 in taxes owed: the Charlestown Mall (\$463,000) and the Adirondack Manor Home (\$83,100).
3. There are only five properties in the entire city that have been delinquent for more than three years, indicating an efficient process that is working well and generating no backlog of delinquencies. Many communities can often have hundreds or thousands of properties that are delinquent five years or more, what Community Progress terms a “shadow inventory” of some of the most distressed properties cycling through the process again and again. Based on the data provided, no such inventory exists in Utica.
4. In many communities, it is not uncommon for residents to blame “out of town” property owners for causing most of the problems. While that may be the case in some communities, it doesn’t seem as prevalent in Utica based on tax delinquency data. Of the 1,184 delinquent properties on the list, 908 of them have mailing addresses within the city of Utica, accounting for more than \$1.6 million of the approximately \$2.1 million owed.

5. The data sorting exercise also allowed for the aggregation of bills across all the properties registered to the same name, revealing which individual owners have the most tax bills outstanding. It wouldn't be surprising if these few individuals were the same local landlords that regularly cause code enforcement headaches, but this simple exercise might also signal to the City a particular owner whose entire portfolio may be at risk of distress or abandonment, which could allow for proactive outreach and intervention.

Recommendations

The recommendations for this section are minimal, largely because both the law and how it's implemented reflect an equitable (to the extent possible under the law), effective, and efficient approach. Still, the City may consider:

1. Incorporating one Finance staff and this tax data into the recommended parcel data working group, UP DAT, as tax delinquency offers a strong predictor of distress and likely vacancy.
2. Paying to have some of the standard tax bills printed in other languages, and allowing households to request a particular language for all future mailings. The Finance Department uses a software platform called MUNIS, a product of Tyler Technologies. Perhaps Tyler Technologies has already developed a simple solution in MUNIS allowing for this feature, and the appropriate City staff should reach out to the vendor to explore options.
3. Exploring the use of "temporary incident of ownership," which allows FGUs in New York to investigate environmental contamination of properties subject to tax foreclosure before taking title. For example, Broome County Planning Department has utilized this provision effectively over the years, and carried out Phase I and even Phase II studies prior to (or without ever) completing a tax foreclosure. The Suffolk County Land Bank, originally created with an exclusive focus on brownfields, has also used this provision to carry out Phase I and Phase II studies and was both successful and imaginative, piloting an agreement between, Suffolk County, the Suffolk County Land Bank, NYS Department of Environmental Conservation (DEC), and Office of the State Comptroller to support brownfield remediation.¹⁴ City leaders may want to explore this option, and carry out a test pilot on one parcel subject to tax foreclosure to better understand the process, particularly given URA seems focused on addressing some of these larger, vacant industrial and commercial sites with perceived (or real) environmental liabilities.

¹⁴ The DEC announced in January 2020 that the model pioneered in Suffolk County in 2016 is being replicated in Onondaga County with similar partners, including the Syracuse Land Bank, to address more than 130 brownfield sites. For the agency's official media release, see: <https://www.dec.ny.gov/press/119443.html>.

Focus Area #4. Disposition of Tax Foreclosure Properties: Competitive Bids, Auctions, and Land Bank

Relevant Key Takeaway

- *The disposition of tax foreclosed properties is being handled well, but if the goal of disposition is to advance inclusive neighborhoods and equitable outcomes, there are opportunities for minor reforms and more creative partnerships and programming.*

Up until the passage of the 2011 New York Land Bank Act, most FGUs that used the judicial *in rem* foreclosures for nonpayment of property taxes relied on the speculative auction, in which foreclosed properties are sold to the highest bidder. This process has more negatives than positives. It is unpredictable, in that there is no certainty as to whom will win the bid and what they intend to do with the property. It is inequitable, in that it often excludes those without access to cash. And it can be harmful, in that the tax auction often attracts less than responsible actors (speculators, slumlords, absentee owners, etc), including some of the same property owners that might be causing problems elsewhere in the community.

The City of Utica is one of the few municipalities that developed a more thoughtful and deliberate approach to the disposition of tax foreclosed properties than the traditional speculative auction (although it still relies on the auction for a few properties annually, which is explained below).

As described in the previous section, after foreclosed properties come under public ownership, the City relies on the Utica Urban Renewal Agency (URA) to handle disposition. For properties within the URA boundaries (a map of which is included in Figure 1), which City officials reported is typically about 90% of tax foreclosed properties, the URA utilizes a competitive application process. For those properties located outside the URA boundaries, the URA administers a standard speculative auction once a year.

For those properties subject to the competitive application process, a URA staff member surveys all properties and cleans them out. About 10% of the foreclosed properties are occupied, and URA starts the eviction process and tries to collect rent. Photos and descriptions of the properties are listed on the agency's Facebook page and on the agency's website for at least 30 days before the URA meets to review purchase applications. The URA Board meets

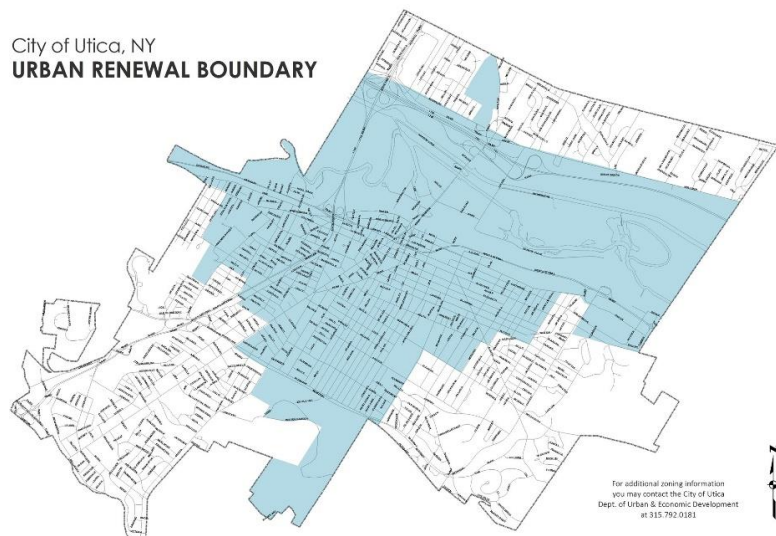


Figure 1. A map of the URA boundary in the City of Utica.

twice a month to provide timely responses to incoming purchase applications.

Community Progress offers the following observations of the current competitive application process:

1. URA's Disposition Policy does not clearly identify preferred outcomes or uses that could help create a more objective and fair process. Lacking this, the board's decisions may always be subject to perception and questionable and/or unfounded allegations (political favoritism, nepotism, etc.).
2. URA's purchase application is sufficient, but does not suggest if and why a certain purchaser may be viewed more favorably than another, other than a 'track record' of purchasing properties from the URA and not having a history of code violations and tax delinquencies.
3. URA sales are subject to restrictive public authority laws as promulgated by NYS, which may limit the agency's ability to state preferences or prioritize one applicant over another.¹⁵
4. One design problem with entrusting disposition decisions to the URA is that it will always be entirely within the control of the sitting mayor by virtue of board appointments. This is not to suggest that the current decisions of URA are politically-driven. It is simply pointing out a design weakness that invests near total control in any mayor, and excludes diversity of voices and genuine community participation.
5. URA has partnered with nonprofits to support affordable housing, such as the recent sale to Rescue Mission in support of the Small Homes Project, but the current competitive application process and speculative auction may be limiting the opportunities for these types of collaborative, creative partnerships that could better serve the community's housing needs.

The URA's services provided to the City are not free, as mentioned in the prior section. City taxpayers underwrite this work *at a minimum* of \$300,000 a year from (based on the amount of back taxes that are written-off through the foreclosure process). Moreover, the URA is not obligated to share any sales proceeds back to the City, though nobody could point to when or how that decision was decided, and if it was actually memorialized in a contractual agreement or was just administrative policy that became the "status quo." Pursuant to an inter-municipal agreement between Oneida County and URA, 1/3 of all proceeds from the sale of foreclosed properties goes to the County. URA keeps the rest.

Note, Utica deserves applause for recognizing the importance to fund this work. Far too many municipalities do not resource the important service of maintaining and disposing of tax foreclosed properties. Other communities may have been quick to launch a land bank, happy to shift the burden to another public entity but wrongly assuming the land bank would magically find a way to fund this work. The most successful communities

¹⁵ These restrictive disposition practices that apply to all public authorities also initially applied to all NY Land Banks. However, NY Land Banks successfully advocated for legislative reform in 2015 that removed land banks from public authority disposition regulations; these regulations ran counter to the goal of creating nimble, community development entities with flexible disposition policies defined by local needs.

are those that recognize the importance of funding the tools and operations to steward back to productive reuse this annual portfolio of tax foreclosed properties, and Utica should be commended for resourcing this effort.

Still, it is worth evaluating the outcomes, not just by the number of properties sold or the amount of sales revenue generated, but to whom and to what ends. Did the disposition decisions advance a goal of creating inclusive neighborhoods and equitable development? Did they expand affordable housing choices or help address the significant housing needs identified in the City's own assessments and HUD reports? Did the disposition support workforce development or training goals, or a local MWBE contractor? One challenge that Community Progress has been issuing to the land bank field of practice is applicable to URA: **Are you playing a *transactional* role or a *transformational* role?**

It is also worth discussing this public investment in terms of URA's financial assets, and whether the URA should have full discretion over all sales proceeds to advance other agency priorities, like economic development. As reported by the City, the URA's sales proceeds have been impressive. In 2019/2020, the agency reported the sale of 59 properties, disposing of all residential and business commercial properties, for \$970,050. In 2018/2019, the agency reported that it sold 86 tax foreclosed properties for \$611,951. Additionally, it appears the URA's financial position is strong, with about \$850,000 in unrestricted cash assets, according to its 2018/2019 ABO report (audit) and confirmed by City officials. To be clear, the sales proceeds shouldn't go back to the City's general fund to plug a budget gap caused by, for example, COVID-19. But perhaps a portion could be dedicated to advance the recommendations in this report, or fulfill a need currently being unmet that might help with the broader goal of equitable neighborhood development.

Finally, while the City relies on URA for the disposition of tax foreclosed properties, it is also one of the six founding members (all FGUs) that, through an inter-municipal agreement, formed the creation of the Greater Mohawk Valley Land Bank (GMVLB) in 2016.¹⁶ To date, the URA has not transferred a property to the GMVLB, which may be owing to the competitive application process, the auction, and/or the restrictions imposed on public authorities by NYS law. Regardless of the reason, land banks have proven incredibly impactful across the state and the nation in advancing more deliberate, predictable outcomes that are part of a patient, long-term vision of equitable neighborhood development. In Utica, the GMVLB could be a partner that provides patient stewardship and gradual land assemblage in support of more catalytic projects. It could also bring in additional resources and partners in support of equitable outcomes, expanding access and opportunity to a wider pool of residents that the 30-day application window and selection criteria might unintentionally disadvantage.

Recommendations:

1. While the City explained the sales are "as is" to avoid potential liability, the URA might consider allowing Housing Code Officers to carry out inspections of tax foreclosed properties before they are marketed for sale consistent with healthy housing goals, which appear to have broad and deep community support. The

¹⁶ The only true regional land bank in NY, the GMVLB, now includes membership from the following FGUs: City of Utica, City of Rome, and the Counties of Oneida, Montgomery, Otsego, and Schoharie.

inspection reports could be included online so potential owners know about and are held accountable to bring the property into compliance. These pre-sale inspections might also include lead testing, so that the process slowly eliminates lead hazards and increases the number of rental units (where rental is the proposed use) that meet high healthy standards, protecting children and vulnerable tenants.

2. Alternatively, local leaders might consider exploring with the MV Lead Free Coalition and the funding agencies that provided the Lead Removal Grant a pilot project that allows these funds to be used to remove lead hazards within tax foreclosed properties before they are sold, ensuring healthier units and making the properties more marketable to responsible owners, including local affordable housing agencies. It is understood that the funds, which are usually tied to detected elevated blood levels of lead among children, may not allow such a pilot collaboration, but may still be worth exploring given it could set a national model for slowly removing all lead hazards in properties that come under temporary public ownership through the tax foreclosure process.
3. The URA might consider improving the application process by minor but thoughtful adjustments to the application process to be better positioned to support equitable, inclusive development consistent with neighborhood-based priorities, such as:
 - a. Including a question if homebuyer applicants completed a first-time homebuyer class by a HUD certified counseling agency, and scoring higher those applicants that did.
 - b. Including a question for applicants that propose using the property as a rental if the applicant has other rental properties, and if so, whether those units have valid rental occupancy permits. For those that do and are compliant with the City's ROP Program, again scoring the application higher.
 - c. Including a provision that automatically increases by 25% the bid in applications submitted by legacy residents who can demonstrate their tenure and commitment to the community/neighborhood for a minimum of the past 10 consecutive years.¹⁷
4. Consider a policy to carve out 25% of the sales proceeds every year to allocate to an "Equitable Neighborhood Recovery Fund." These funds are far more flexible than CDBG or other grant dollars, and could support a number of creative interventions and activities such as:
 - a. Implementing the reforms included in this memorandum, namely (i) the proactive build-out of a **just** and **well-resourced** relocation program, recognizing that improved inspection programs will *inevitably* result, in limited instances, in the condemnation of rental properties and the involuntary displacement and emergency relocation of vulnerable tenants; and (ii) the translation of key public documents, like tax bills and URA purchase applications, into the top three non-English languages spoken in the City

¹⁷ For example, if a Legacy Resident, which would need to be properly defined in URA's Disposition Policy, were to submit an application offering \$30,000 for Property X, the URA would automatically **increase** the bid by 25% to \$37,500 before it reviewed and selected the winning applicant for Property X.

- b. Training new, local developers or MWBE contractors from the neighborhoods the URA serves in order to build a community pipeline of potential buyers and contractors
 - c. Offering minor repair grants to vulnerable property owners to help remedy code violations, which demonstrates to the community the importance of investments to help prevent and/or reverse the deterioration of property
 - d. Providing the “match” for grant applications submitted by nonprofit organizations seeking funds to help with the reuse or activation of publicly owned vacant properties, such as the production of affordable housing or community-driven projects like microparks or urban gardens
5. The URA should consider utilizing the GMVLB to help expand partnership opportunities in support of a long-term, intentional commitment to equitable neighborhood development. Given the number of tax foreclosed properties outside the URA district is minimal (less than ten a year), the URA might consider transferring some or all of these to the GMVLB for \$1 a year in lieu of utilizing the speculative auction. While these properties may be more marketable due to their location, they may also be the best candidates to direct toward income-eligible buyers or affordable housing agencies in an effort to support inclusive neighborhoods with housing choices for residents at all income-levels.
- a. Another benefit of this approach is that it opens up multiple public and philanthropic funding streams to support the reuse of foreclosed properties that the current competitive application process and speculative auction make difficult to unlock. For example, Utica Neighborhood Housing Services (UNHS), one of the best in the state in its field of work, offers multiple grants to income-eligible homebuyers for purchase *and* purchase and rehab. By utilizing the GMVLB to serve as a temporary steward in holding and maintaining tax foreclosed properties, the City, GMVLB, UNHS, and other partners like The Center, can explore and design pilot programs that help to build a pipeline of nontraditional buyers that deserve the chance and welcome the opportunity to build equity and generational wealth.
6. The URA is encouraged to rethink, with support and input from City leadership and the community, how it measures success. Lifting up sales proceeds, or a strict cost-benefit financial analysis, is fair but limiting. For instance, in its 2017/2018 Operations and Accomplishments report,¹⁸ the URA touts that selling cheaply dozens of properties originally slated for demolition by the City saved more than a \$1 million in demolition costs, and preserved more than \$1 million of taxable land value. But who had *access* to these opportunities? How did the eventual reuse meet a community need, or advance a neighborhood vision? Equitable outcomes will almost always require intentional programs, clear policies, and public investment. Rethinking metrics, informed by a more intentional commitment to equitable neighborhood development, will allow the agency and its partners to better measure success in the years to come.

¹⁸ To see the full document, see <http://cityofutica.com/Assets/Departments/Urban-Renewal-Agency/PDF-Documents/2018/URA%20Accomplishments%202017%20-%202018.pdf>.

Focus Area #5. City Investments to Support Revitalization of Disinvested Neighborhoods

Relevant Key Takeaway

- *The Community Development Block Grant (CDBG), a \$2million+ annual federal entitlement grant received by Utica from U.S. Housing and Urban Development Department (HUD), is being underutilized in addressing urgent housing needs.*

Observations and Analysis

As is standard with these assessments, Community Progress conducted a preliminary review of the City's past, current, and projected uses of its CDBG funds, and some findings are important enough to merit attention.¹⁹

Most entitlement communities include in their annual CDBG budgets commitments to a number of housing activities, such as expanding code enforcement capacity (or to implement vacant property registration or rental registration programs), helping first time homebuyers with closing costs, providing rental repair programs, carrying out demolitions, providing mini-grants to community-led, beautification projects on vacant lots, or funding youth summer jobs programs linked to urban gardening initiatives on vacant lots.

Utica has not been committing CDBG funds to housing activities for some time, relying exclusively on its smaller HOME entitlement grant (about \$650,000 a year) to support repair grants for low-income homeowners or the production of new affordable housing.²⁰ This doesn't mean that there aren't legitimate and reasonable investments being made. The purpose of this brief section is to highlight a potential source of funding to support a deeper and more coordinated approach to problem properties and equitable neighborhood development.

This analysis and the City's own assessments make the case for reforms and additional investments. For example, the City's 2020-2024 Consolidated Plan, which is a 5-Year Plan required by HUD of all communities that receive these entitlement grants, does an excellent job identifying significant local housing challenges, including a staggering shortfall of quality, affordable housing for extremely low- and low-income households within the jurisdiction. In the Plan, the City also explains that with "the advent of Nano-Utica and the increase in high paying tech jobs coming to the area, it is projected that median rental costs will substantially increase and therefore units will become increasingly less affordable," (p. 65) raising the risks of gentrification, particularly in census tracts around the downtown,

¹⁹ CDBG is an annual entitlement grant from U.S. HUD that seeks to assist low-income individuals and households and support neighborhood stabilization and revitalization efforts in a city's most distressed U.S. census tracts, with a focus on housing. More than 1,200 cities, including Utica, receive direct grants every year. The funding is very flexible, and this program is widely touted by mayors of all political stripes as one of the most successful and impactful federal-local programs of the last fifty years.

²⁰ To be clear, most entitlement communities that commit CDBG funds to support housing goals and equitable neighborhood development *also* spend their entire HOME grant on housing activities. What's unique in Utica is that it *only* uses the smaller HOME grant to fund housing activities. And since the housing needs are so well articulated in the CDBG Consolidated Plan, and explained as significant, then it seems reasonable to expect at least *some* CDBG funds be allocated accordingly.

which also happens to be the neighborhoods with the highest concentration of Black cost-burdened households.

The budget allocations for the first year (2020/2021) of this 5-Year Plan do not seem strategically aligned to these identified housing challenges. The more than \$2.2 million in CDBG funds for this first year will primarily be committed to the following:

- \$800,000 for street repairs/reconstruction
- \$300,000 for brownfield remediation
- \$225,000 for commercial façade program in and around MVHS campus
- \$150,000 for economic development/small business revolving loan fund
- \$685,000 for administration, planning, management, including the staff to deliver programs
- \$0 for housing

It is important to point out that City voters approved a referendum in 2016 significantly increasing expenditures on street repairs from \$2 million to \$5 million annually, which was explained initially in the City's 2018/2019 Annual Action Plan.²¹ This has definitely put pressure on local officials to find ample funding. However, given the primary program objectives of CDBG, as well as the immediate housing challenges identified and so powerfully articulated in the City's Consolidated Plan, it may be prudent for the City to consider allocating more CDBG funds to support low-income residents in need of affordable housing, and to meet mandated funding levels for street repairs through other funding sources, such as municipal bonding or other infrastructure and transportation grants.

Recommendations:

1. The City is encouraged to minimize the reliance on CDBG funds to meet locally mandated funding levels on street repairs, and might consider instituting an internal policy that no more than \$500,000 can be allocated annually to eligible street reconstruction projects.
2. Responsible landlords will play an essential role in the provision of safe, quality housing for all in every jurisdiction, but too often political officials focus exclusively on homeownership. It should be a both/and approach, and CDBG awards provide a recurring source of funding to support responsible landlords in making housing repairs. Consider designing and funding through CDBG a landlord repair grant program, eligible only for those with a valid rental occupancy permit so it serves as an incentive to boost compliance.
3. Consider using CDBG funds to pilot a summer youth program where participants would help conduct parcel surveys in the most disinvested neighborhoods, in support of and coordination with UP DAT. Participants should be youth from the neighborhoods most impacted by problem properties and disinvestment, and UP DAT could rely on Tolemi's parcel survey module that supports community-driven parcel surveys and feeds that data into Building Blocks.

²¹ To read the full document, see http://www.cityofutica.com/Assets/Departments/Urban-and-Economic-Development/PDF-Documents/Annual%20Action%20Plan_2018.pdf.

4. Overall, develop all future CDBG budgets with a clear understanding that implementing a more effective and efficient approach to problem properties is a critical element toward achieving inclusive and equitable neighborhood development.

III. Conclusion

Like most cities in upstate New York, Utica has a nexus of challenges that, at times, may seem intractable and difficult to overcome: a massive loss of people and jobs over the last five decades; increasing levels of poverty and a racialized wealth gap that mirror national trends; and an aging housing inventory saddled with decades of deferred maintenance and health hazards. However, unlike most other cities in upstate New York, Utica is on the cusp of an unprecedented wave of private and public investment in support of a bold economic development agenda that will transform downtown Utica, some adjacent neighborhoods, and the harbor. For the last thirty years, Utica has also attracted and welcomed generations of refugees and immigrants from far corners around the world, and embraces this ethnic diversity as a unique asset that enriches the community.

As it explores ways to build a more equitable, effective, and efficient approach to vacant, abandoned, and deteriorated properties, Utica already has an approach and foundational principles to draw upon. The thoughtful, patient, collaborative approach to economic development over the last ten years, and Utica's longstanding commitment to inclusion, offer a powerful framework to use in a similarly bold approach to equitable neighborhood development. Community Progress hopes that the observations and recommendations provided in this memorandum help shape and guide the City's work ahead. We remain committed to serve as a thought partner as local officials, City staff, community stakeholders, and resident leaders find common purpose in not just tackling problem properties, but in building equitable, inclusive neighborhoods for all those who call Utica home.

Appendix A. List of Stakeholders Interviewed

Robert Palmieri, *Mayor, City of Utica*
Brian Thomas, *Commissioner of Urban and Economic Development, City of Utica*
Marques Phillips, *Commissioner of Building and Codes, City of Utica*
Scott Ingersoll, *Fire Chief, City of Utica*
Dave Short, *Commissioner of DPW/Parks & Rec, City of Utica*
Frank Mutolo, *IT Director, City of Utica*
Christopher Tuttle, *Assessor, City of Utica*
Merima Smajic, *Assistant Corporation Counsel, City of Utica*
Raymond Centolella, *Chief Fire Marshall, City of Utica*
Derek Crossman, *Community Development Specialist, City of Utica*
Cathy Mack, *Rental Occupancy Permit Administrator, City of Utica*
Diana Koury, *Deputy Comptroller of Administration, City of Utica*
Brian McCluskey, *Senior Accountant, City of Utica*
Chris Pastorelli, *Director of Section 8 Program, City of Utica*
Gene Allen, *URA Marketing Director, City of Utica*
Verne LaClair, *GIS Consultant to City of Utica*
Jim Mack, *Director of IT, Mohawk Valley Water Authority*
Danielle Smith, *Executive Director, UNHS*
Kristen Graves, *Homeownership Center Manager, UNHS*
Christine Lennon, *Program Coordinator, UNHS*
Caroline Williams, *Lead-Free Mohawk Valley Program Manager, UNHS*
Nancy Zappone, *Lead-Free Mohawk Valley Program Coordinator, UNHS*
Tolga Morawski, *Executive Director, Greater Mohawk Valley Land Bank*
Dzevad Racic, *Director Resettlement, The Center*
Samantha Lee, *Case Manager, The Center*