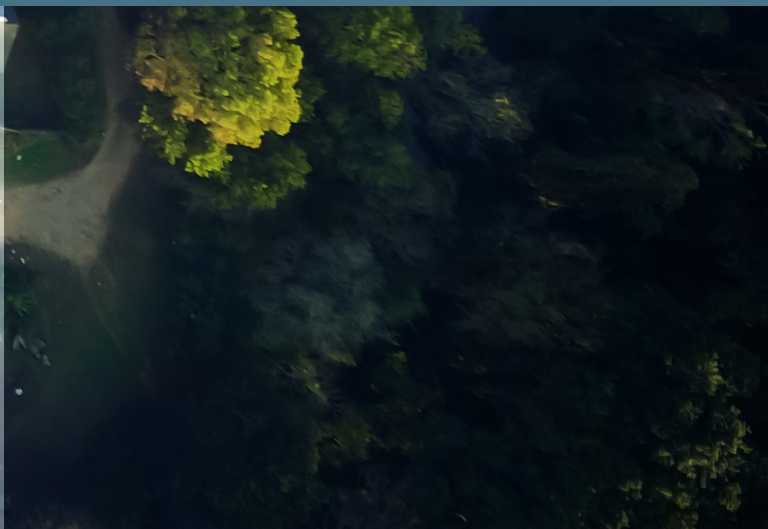


Tackling Vacancy and Abandonment: Strategies and Impacts after the Great Recession



This article is excerpted from *Tackling Vacancy and Abandonment: Strategies and Impacts after the Great Recession*, a new edited volume from the **Center for Community Progress** and the **Federal Reserve Banks of Atlanta and Cleveland**.

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Next Steps

Frank S. Alexander

Each step taken is an experience of learning, of change, and of growth. We learn through all of our senses and through our minds. We change as we learn from mistakes and encounter new things. We grow as we learn and as we change. Each step taken is always relational to the context, to the human community, to the physical environment. Vacant, abandoned, and deteriorated properties are not new phenomena in human existence, but the steps taken in the last generation have been new and different steps. With each of these steps, great strides have been made in learning, in change, and in growth.

Three dominant themes permeate all of the work with vacant, abandoned, and deteriorated properties. The first is that of the underlying systems—most importantly, the legal systems—that both facilitate the ease of abandonment and yet hold the keys to strategic solutions. The second is the enduring racism and economic inequality that are the outward and visible signs of our dominant American heritage. The third is that our approach to property conditions mirrors the human condition of vulnerability, brokenness, and ambivalence. For all three of these themes, the year of COVID-19 has been an exclamation point.

This volume is a story of steps taken over the past generation to understand why vacant, abandoned, and deteriorated properties exist in our neighborhoods and communities, why they are tolerated, the harm they impose, and new tools and approaches that can be used to transform vacant spaces into vibrant places. Each chapter offers an analysis of a specific part of this challenge, dives deeply into the details of policy reforms, and points toward these three dominant themes. Each chapter also offers hope of transformation in our systems, in our biases and tolerance for inequality, and in our relationships with land. What has been learned allows us to grow and to change and to anticipate the next steps to be taken.

These three themes of our legal and cultural systems, of racism and inequality, and of human vulnerability,

tell the stories of our struggles together. In the words of Blaise Pascal, “Justice and power must be brought together so that whatever is just may be powerful, and whatever is powerful may be just.”

Lessons from the Steps Taken

The systemic breaks

Vacant, abandoned, and deteriorated properties exist in part because existing legal systems tolerate them and contribute to them. Law and legal systems in all of their various forms reflect at times the worst of the human condition, yet also hold the highest aspirations of humanity. Legal systems may be broken because they no longer work, as in the instances of property tax enforcement and code enforcement. Legal systems may also be broken because they work too well in serving dominant castes, as in the case of slavery, Jim Crow laws, mortgage redlining, and the denial of women’s rights. They are broken because they are based in the worst forms of human behavior and broken because times change. Legal systems also embody the very best aspects of human nature in the rule of law and in aspirations for equality and justice under law. To paraphrase Reinhold Niebuhr, the human capacity for justice makes democracy possible; the human capacity for injustice makes democracy necessary.

Property taxes and property tax enforcement are a microcosm of such a legal system. Property taxes provide

the largest single source of general and discretionary funding to local governments across the country. Authorized at the state level and administered at the local level, property tax enforcement is simultaneously one of the most complex and one of the most reviled systems. It is largely grounded in 19th and early 20th century formulations that minimize notice to interested parties, create categories of preferred uses of property for taxation, and elevate market values over community and cultural values. It has been used as a primary tool to destroy Black ownership of property and to support economic segregation.

In the context of vacant, abandoned, and deteriorated properties we learned that property tax laws are often part of the problem, as they may specify that property tax enforcement cannot be completed for four to seven years from the initial date of delinquency. When owners have elected to abandon property—and nonpayment of taxes is the first and best warning sign of potential abandonment—the property deteriorates rapidly over these years. The title problems stemming from many years of delinquency are multiplied by the policy of selling tax liens to private speculative investors.

We have learned, however, that property tax enforcement laws also contain a key element for a strategic solution for abandoned properties. In all jurisdictions, property taxes are a senior lien on the property and have “super-priority” status over all other liens and encumbrances. When property tax enforcement laws are reformed to encompass a shorter time period for enforcement against abandoned property, with proceedings conducted in compliance with contemporary constitutional requirements of due process, the properties can be returned to new uses with new owners consistent with local priorities.

A second example of lessons learned from steps taken over the past generation is land banks and land banking. The origins of the term “land bank” can be traced to the mid-18th century and attempts by Deacon Adams (the father of Samuel Adams) to create a “land bank” as an early equivalent to mortgage banking. The term later emerged in the Great Depression when Congress created a system of federal land banks for the purpose of providing long-term agricultural loans. The contemporary form of land banks is what emerged as steps were taken in the last generation to confront the challenges of vacant, abandoned, tax delinquent, and foreclosed properties. Land banks are special-purpose governmental entities that focus on the conversion of these properties into new, productive uses.

It is in this context that the Center for Community Progress was created in 2010 as a national nonprofit

entity focused on systemic reforms to permit vacant, abandoned, and deteriorated properties to be converted from community liabilities into community assets. With technical assistance provided by Community Progress, at least 15 states have enacted land bank–enabling legislation, and local land banks have been created in over 200 municipalities.

Enduring racism and economic inequality

Property is identity, power, and control; property is that which defines relationships between persons with respect to a thing. Property is inherently relational. Each parcel of real property exists in relationship to adjoining properties, with the use and activities of the property imposing both positive and negative externalities on other properties in ever-increasing concentric circles. Just as no person is an island unto herself, no parcel of land exists entirely in isolation.

Vacant, abandoned, and deteriorated properties are disproportionately located in low- to moderate-income neighborhoods and communities of color. This is, in part, a direct consequence of hundreds of years of racism, both *de jure* and *de facto*. In the latter half of the 20th century, this racism was embodied in the redlining practices of federal mortgage programs, in the targeted displacement resulting from urban renewal and interstate highway construction, in the concentration of high-density underfunded public housing projects, and in the injustices of environmental racism.

Because each parcel of property exists in relationship to adjoining parcels, each parcel confers positive or negative externalities throughout the community. Vacant, deteriorated, and abandoned properties impose significant negative externalities on adjoining properties, on the neighborhood, and on the community at large. One of the key lessons learned from the steps taken over the past generation has been to quantify the costs of neglect. They are found in lost property tax revenues, in declining values of adjacent properties, in mounting police and fire calls, in declining public safety, and in the unraveling of community cohesion. These costs are borne disproportionately by low-income communities and communities of color.

As various organizations and entities have quantified, measured, and mapped these costs and these properties, the case has been made to the community at large that all are harmed by not taking affirmative steps to change the conditions of these properties. It is no longer acceptable to allow individuals and corporations simply to consume their lands and buildings and then leave them behind as harms to be endured by others. At its core, the message of the steps taken thus far and the

lessons learned is that vacant, abandoned, and deteriorated properties are the litter of a consumption society. It is time we stop littering.

A second lesson learned derives from the increasing range of economic inequality in our country and the inadequate constraints on a market system. When the costs of property ownership are imposed on the community at large, the existing legal system has offered few options. It is all too easy for a single-asset limited liability corporation to walk away, both legally and financially, from a deteriorating investment. Far too often, housing and building code enforcement systems have relied on criminal sanctions that have no effect on property owned by a corporation but yet are used to charge an individual, who is likely to own only a fractional interest in an inherited property, with a crime. Criminal enforcement of housing and building codes is rarely equitable, efficient, or effective. Civil code enforcement may be effective at the level of minor property nuisances and can certainly be effective at the levels of new construction and rehabilitation as embodied in the various forms of the international codes. Code enforcement was not designed, however, to deal with true abandonment.

The steps taken in recent years include systemic reforms to the enforcement of housing and building code violations, with a shift away from reliance on criminal sanction, or even attempting to seek personal liability. They have been replaced with judicial in rem proceedings or the simpler step of adding code violations to the annual property tax bill.

A third lesson saturated in the theme of racism and economic inequality is that the goal of safe, decent, and affordable housing for all Americans is not going to be accomplished by allowing structures to deteriorate over time, ultimately demolishing them, and then hoping that new homes will be built that can provide lasting affordability and homeownership. Many (but certainly not all) of the communities confronted with inventories of vacant, abandoned, and deteriorated properties are also confronted with a growing need for affordable housing. In these communities the steps taken have involved creative new alliances between the abandoned property inventory acquired by land banks and community development corporations, community housing development organizations, and community land trusts to use the property for lasting affordable housing. This is but one of the many forms of turning vacant spaces into vibrant places.

Property and the human condition

The human condition is, at its essence, vulnerability. We have the capacity for hopes and dreams, for joy and celebration, for creativity and service. We have the capacity

to be in community, to serve one another in community, and to lean on the shoulders of others. We also have the tendency to place ourselves at the center of the universe and view all other persons and things as subservient. Alone among all living species, we have the capacity to engage in random acts of violence.

The vulnerability of the human condition is manifest in humanity's ambivalence toward property and the environment. The American ethos is dominated by a myopic anthropocentric world view in which concepts of environmental stewardship, dignity, and integrity are marginalized at best. Far too often the prevailing ethic is that property, land, and the entire ecosystem is to be dominated, used, and consumed by humanity. We use and abuse the physical world for our own purposes, either ignorant of or not caring about the negative consequences to the environment, to ourselves, and to future generations. We lose sight of the fact that humanity is but part of the environment, existing in community with the environment in the deepest sense of community.

Every parcel of vacant, abandoned, and deteriorated property is a quintessential example of the human condition and property conditions. It is a symbol of our tendency to use it, abuse it, and discard it.

One of the lessons learned in the steps taken over the last generation is that this does not have to be the dominant theme. Just as each individual exists in relationship to other persons, each parcel of property exists in relationship to others. The costs can be tabulated, and the evidence is now clear that both the short-term and the long-term costs of neglect can be outweighed by the benefits of holding each person, each owner, accountable for the costs imposed on the community and the environment.

Another lesson learned is that each parcel of vacant, abandoned, and deteriorated property is and can be an asset. It can become an asset to a neighborhood in the form of a community park or community garden. It can become an asset to a family seeking lasting affordable housing. It can become an asset to the ecological environment in the form of protected open spaces, wetlands, and marshes.

Next Steps to Be Taken

As we anticipate the steps to be taken in the next generation, we can only see through the glass darkly and anticipate as best we can. What we do know is that things will continue to change and that the lessons learned, and the tools created from the steps taken in the last generation, will be essential. Perhaps more importantly, what we have learned is that climate change is now

upon us and vulnerable communities will be the ones that lose the most.

Climate change

We are already witnessing and experiencing the early signs of dramatic environmental climate change. The rise of coastal sea levels has already produced regular daylight street flooding, and major storm damage is an annual, if not monthly, event rather than a once in a decade possibility. It is not just the rise of sea levels, but storm surge and the fact that inland coastal water tables are rising even faster than sea levels, with inland flooding occurring miles from the coast. It is the severity of droughts and wildfires, of tornadoes, and of environmental contamination.

We know that the next generation will experience the largest sudden migration in human history. Over 140 million people in the world are now living on land that will be below the high tide line by midcentury (World Bank). Over 300 million people in the world will experience severe flooding events annually (World Bank). Over 13 million Americans will migrate from the coast in the coming decades, with 6 million from Florida alone if sea levels rise six feet (Hauer). Over 300,000 homes and commercial properties are at risk of chronic disruptive flooding—flooding that occurs 26 times per year—in the next 25 years (Union of Concerned Scientists). Roughly 40 percent of all Americans reside in coastal counties, and an additional 41 million are at risk from flooding rivers (Owens).

As a result of these climate changes, we are also likely to witness the largest sudden increase in American history of inventories of vacant, abandoned, and deteriorated properties. We know empirically that hundreds of thousands of parcels of property in coastal areas will simply become uninhabitable and no longer suitable for any form of residential or commercial development. None of the existing legal and policy systems have begun to anticipate the ownership, maintenance, and use of these properties. The devastating hurricanes of the past two decades have left countless parcels of land with concrete slabs, or footings, or collapsed structures, with all owners and mortgagees disclaiming any interest or responsibility. A next step will challenge us to determine who is going to pick up these pieces and return them to vibrant places.

Vulnerable communities

It is not just the abandoned coastal structure. It is the individual, the families, the neighborhood, the community, with which we must be concerned. In major metropolitan areas and along high-income coastal communities, billions of dollars are being devoted to

storm resiliency and hazard mitigation planning. The impacts of global warming and sea level rise fall disproportionately on the poor and vulnerable (UN IPCC). However, those communities that are exposed to deeper vulnerabilities as a product of generations of racism and economic inequality are now doubly vulnerable (Federal Reserve Bank of San Francisco).

One of the key lessons learned over the past generation in dealing with vacant, abandoned, and deteriorated properties is the vital importance of listening to those who have the most at stake. It is flawed and misguided paternalism to think that we as policymakers and policy advocates know best how to solve the challenges. The construction in the latter half of the 20th century of large-scale high-density public housing projects with inadequate design and insufficient resources is the story of fractured dreams created not by residents but by those looking in from the outside. The voices of the residents of the neighborhoods containing vacant, abandoned, and deteriorated properties are the most important voices; they need to be heard, and they need to be at the table for any discussions of strategies, tactics, and visions. We must not seek to do things to individuals and neighborhoods or even for individuals and neighborhoods. We must seek to do things with individuals and neighborhoods.

A central case of this double vulnerability is those rural communities that are beginning to experience the impacts of climate change. These are found throughout our coastal areas but also along the Great Lakes and the drought-stricken Midwest. From a property ownership perspective, these residents may hold only a fractional interest in an inherited property, or a naked ground lease for a mobile home, or a short-term lease on substandard housing. Existing legal and policy systems create tremendous barriers for these individuals and families to access flood and storm insurance or forms of disaster relief. For high-income families and communities, the properties are commonly second homes. For socially and economically vulnerable communities, residents have no other place to go.

For vulnerable communities there are two specific topics that are, at this point in time, rarely on the radar screen of any policy advocates seeking to anticipate the challenges of the next generation. One such topic is wastewater management, or septic systems. Precious little is known about such systems in terms of adequacy and efficiency, yet the public health consequences are immense, as even today some counties in this country have the largest incidence of hookworm in the world as a result of failed septic systems (Flowers). Rural communities rely heavily on on-site wastewater management,

but we have precious little empirical knowledge of the location, status, or quality of such systems. Far too often there are no public records of the installation of septic systems, no legal requirements for periodic inspections, and woefully inadequate data on system failure (Tipping Points). As inland water table levels rise, exacerbated by sea level rise and storm surges, these septic systems will quickly fail, and the property will simply become no longer habitable.

The second topic is that for many vulnerable rural communities, the current residents and families have been there for many generations, and a key cultural point of cohesion lies in the faith communities. A key part of the faith community is the cemetery that holds the graves and grave markers of generations of ancestors, family history, and community culture. These cemeteries are grounding the community. As we think about social and economic vulnerability combined with climate change vulnerability, we must begin exploring how to protect and preserve, and relocate if necessary, these central points of community and culture. With rare exceptions for graves and cemeteries with national “ownership” or national historic designation, there is very little law or policy on the simple question of who has the authority to relocate a grave. Its current location does make a difference, whether it is on private land, in a cemetery of a faith community, or in a public cemetery. But the range of persons with a legal interest, or multigenerational cultural interest, in a grave gives depth and breadth to the meaning of “heirs” that we have not yet begun to unpack. In similar fashion, a small community group in San Juan, Puerto Rico, CasaTaft 169, proclaimed *Todos Somos Herederos* (We are all heirs) as the symbol of their collective work to rebuild an abandoned structure destroyed by Hurricane Maria in 2017 into a new community center (CasaTaft). As we begin to confront the impact of climate change, sea level rise, and inland flooding on vulnerable communities, the existing graves and cemeteries are a powerful symbol that we are all heirs.

It is about property, but not just property. It is about housing, but not just housing. It is about life together in a community and as a community. It is about all of us as broken, fragile individuals, with histories of racism and inequalities, learning to be in community together and in harmony with a changing environment. From the steps taken in the last generation, many lessons have been learned about legal and policy systems. Systems have been redesigned and reformed. New tools have been created and new programs and alliances have emerged. The steps taken in all of this growth and change are but a foundation for the next steps to be taken.

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About the 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.

About the Federal Reserve System

The Federal Reserve System (the Fed) is made up of 12 Reserve Banks that, together with the Board of Governors in Washington, DC, serves as the central bank of the United States. As the US central bank, the Federal Reserve conducts monetary policy, promotes financial stability, provides payment services to financial institutions, supervises banks, and promotes community and economic development.

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The Federal Reserve Bank of Atlanta sits in the Federal Reserve's Sixth District and covers all of Georgia, Florida, and Alabama and portions of Louisiana, Mississippi, and Tennessee. The Atlanta Fed's Community and Economic Development Department supports the Federal Reserve's mandate of stable prices and maximum employment by working to improve the economic mobility and resilience of people and places for a healthy economy. To do this, we conduct research and create data tools to uncover the barriers to and opportunities for improved economic mobility as well as to make the data easily accessible for community and organization planning and decision-making. We engage stakeholders to help organizations and communities understand relevant issues and undertake cross-sector solutions. And we track and elevate issues facing the lower-income resident of the Southeast.

About the Federal Reserve Bank of Cleveland

The Federal Reserve Bank of Cleveland, the Federal Reserve's Fourth District, covers all of Ohio, western Pennsylvania, eastern Kentucky, and the northern panhandle of West Virginia. The Cleveland Fed's community development team promotes the economic resilience and mobility of low- and moderate-income people and communities throughout the Fourth District. We conduct research and engage with stakeholders on issues affecting access to credit, quality jobs, education, small business, and housing with the goal of increasing economic opportunity and helping people and communities thrive.



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