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# Abating Neighborhood Blight with Collaborative Policy Networks—Where Have we Been? Where are we Going?

Kermit J. Lind

*Cleveland-Marshall College of Law, Cleveland State University, kermitlind@gmail.com*

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# Abating Neighborhood Blight with Collaborative Policy Networks—Where Have we Been? Where are we Going?

KERMIT LIND\* AND JOE SCHILLING\*\*

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Blight is a term with multiple meanings and a complex legal and policy history in the United States.<sup>1</sup> Currently, blight and its community costs are frequently associated with vacant and often foreclosed homes, defective and abandoned buildings, litter, vacant lots, and graffiti. As a legal and policy term, blight has roots in the common law definitions of public nuisance.<sup>2</sup> Researchers and scholars in other disciplines have cited blighted neighborhoods as both a cause and symptom of larger socio-economic problems such as poverty, crime, poor public health, educational deficits, and other personal or systemic distress.

Traditionally neighborhood blight has long been considered a city problem, especially in Rust Belt cities such as Detroit, Cleveland, Flint, and Youngstown. These older, industrial “legacy cities” have become property abandonment’s poster children as the result of global waves of socio-economic calamity: first, the deindustrialization of the 1970s and 1980s, and more recently, the mortgage meltdown and Great Recession. Today, blight’s geography knows no boundaries as its impacts can be felt in first tier suburban cities, rural towns, and even in the fast growing Sun Belt regions from Phoenix and Las Vegas in the West to Atlanta, New Orleans, and Memphis in the South.

For the past twenty-five years, local government officials and community-based organizations have launched numerous initiatives to combat blighted properties. Cities such as New Orleans, Detroit, Philadelphia, Baltimore, and Cleveland have been at the forefront of innovation, adapting traditional legal tools and experimenting with new policy and planning strategies to address neighborhood blight. Several of these cities formed local coalitions of lawyers, local officials, community developers, and university professors to fix out-of-date and ineffective policies and programs to reclaim vacant properties. Emerging from these local collabora-

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\* Clinical Professor Emeritus, Cleveland State University.

\*\* Senior Researcher, Urban Institute.

1. See Vacant Properties Research Network, *Charting the Multiple Meanings of Blight—A National Literature Review on Addressing the Community Impacts from Blighted Properties*, KEEP AMERICA BEAUTIFUL (May 20, 2015), [https://www.kab.org/sites/default/files/Charting\\_the\\_Multiple\\_Meanings\\_of\\_Blight\\_Executive\\_Summary\\_FINAL.pdf](https://www.kab.org/sites/default/files/Charting_the_Multiple_Meanings_of_Blight_Executive_Summary_FINAL.pdf).

2. Kermit J. Lind, *Can Public Nuisance Law Protect Your Neighborhood from Big Banks?*, 44 SUFFOLK U. L. REV. 89, 117–18 (2011).

tions and experiments is a national network of practitioners, policymakers, and researchers—often supported by national and regional foundations—who have developed a common language, shared strategies, and stretched legal and policy boundaries. These coalitions of early adopters helped facilitate the development and transfer of innovative laws, policies, plans, and programs that can more systematically prevent, abate, and reclaim vacant and blighted properties.

This Article traces the evolution of these local and national networks and the seeds of a blight policy movement through the experiences of two of its pioneering members: Clinical Professor Emeritus Kermit Lind and Senior Researcher Joe Schilling. Lind and Schilling will offer insights on the movement's legal and policy foundations while reflecting on the challenges that lie ahead for lawyers and policymakers.

Part I defines the legal and policy parameters of neighborhood blight by examining its origins and linkages with public nuisance principles and eminent domain as well as blight's social and cultural dimensions.

Part II outlines the characteristics, members, and elements of a vacant property policy movement from 1990 to 2015. Lind and Schilling describe their collaborations in Cleveland and other cities in helping local practitioners and leaders revise and reform their vacant property policies with a special focus on local government code enforcement programs. They outline a new model—strategic code enforcement—that communities will need to adopt and deploy in light of dramatic shifts in real estate markets, the globalization and securitization of the mortgage industry, and dwindling public resources. Lind and Schilling will offer critical legal and policy lessons from the second wave of vacant properties and neighborhood decline caused by the Mortgage Foreclosure Crisis and Great Recession that still reverberates throughout communities today.

Part III concludes with further reflections about the vacant property policy movement and how its local and national networks can help communities build greater legal and policy capacity as well as facilitate the sharing and development of innovative strategies through collaborative working groups and coordinating councils. Using recent developments in Memphis with the introduction of the nation's first Neighborhood Blight Elimination Charter, Lind and Schilling stress the pivotal roles that community devel-

opment intermediaries, law schools, and nonprofit lawyers must play in developing and sustaining these local problem-solving networks.

### I. WHAT IS THE LEGAL AND POLICY CONTEXT OF NEIGHBORHOOD BLIGHT?

Blight is often associated with a particular property or building, but perhaps its most pernicious impacts occur when it accumulates multiple vacant and abandoned properties in the same place; thus, the neighborhood scale of human habitat—the immovable land and occupied structures—becomes the critical intervention point. These defined habitats have unique characteristics derived from their location and their inhabitants over time. This neighborhood focus is important because millions of people living in neighborhoods, both urban and suburban, are in a battle against blight for the survival of their neighborhood and their health, safety, security, and property values. Interventions for survival must be implemented at the neighborhood level, on a neighborhood scale, and with neighborhood participation in order to be successful. Moving neighborhoods is not an option. Maintaining them is a possibility that depends on policies and programs that operate at the appropriate neighborhood scale.

A discussion of neighborhood blight must first recognize the inherent difficulties in the definition and uses of the term “blight.” It is a term encumbered with a history of associations that have diffused and diminished its clarity. Indeed, its attachment to terms like economic, social, crime, health, architecture, and aesthetics push its dimensions to diverse fields of study. Even the use of blight by scholars and practicing professionals in housing, neighborhood, community and urban redevelopment has contributed to confusion about what it means.<sup>3</sup>

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3. A study conducted by the Vacant Property Research Network (“VPRN”), provides a thorough review of academic and policy literature on the subject of urban blight. *Charting the Multiple Meanings of Blight*, *supra* note 1. A large majority of the 300+ articles and reports were written after 2000. *Id.* This study was led by co-author Schilling.

A. *The Legal Roots of Blight in Public Nuisance Doctrine*

The term “nuisance” has technical legal meaning that is not the same as its popular meaning. The popular use of the word connotes an annoyance, inconvenience, irritation or offensiveness, like unwanted telephone robocalls.<sup>4</sup> Its technical legal meaning for use in law and public policy is more complex and consequential. The legal doctrine of public nuisance is still not completely settled law and continues to be shaped in the battles over a large range of environmental and product liability issues.

The Restatement (Second) of Torts is perhaps the most convenient guide to current public nuisance law. Nuisance first entered the Restatement of Torts in 1979 and included, for the first time, a discussion of public nuisance doctrine.<sup>5</sup> The venerable torts scholar, Dean William L. Prosser, chaired the committee that drafted the Restatement (Second) of Torts’ chapter on nuisance.<sup>6</sup> Prosser said a public nuisance was always a crime and sometimes might be a tort.<sup>7</sup> The common law action of private nuisance emerged from ancient root as the tort we recognize today.

According to Prosser, the term nuisance was also used in connection with a different type of action, one involving an interference with the property rights of the Crown.<sup>8</sup> As such, those interferences—typically obstruction of the king’s highway—were

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4. U.S. Senator Charles Schumer from New York has fought this nuisance unsuccessfully for several years. Dana Sauchelli & Emily Saul, *Chuck Schumer is Sick of Robocalls*, NEW YORK POST (Mar. 6, 2015 6:05 PM), <http://nypost.com/2016/03/06/chuck-schumer-is-sick-of-robo-calls/>. Their use in electoral politics makes relief a remote possibility.

5. RESTATEMENT (SECOND) OF TORTS § 821A reporter’s note (AM. LAW INST. 1979); Kermit J. Lind, *Can Public Nuisance Law Protect Your Neighborhood*, 89 SUFFOLK U. L. REV. 90, 114–22 (2011) (discussing in detail the history of the doctrine of public nuisance law and its expression in the Restatement (Second) of Torts).

6. See Craig Joyce, *Keepers of the Flame: Prosser and Keeton on the Law of Torts (Fifth Edition) and the Prosser Legacy*, 39 VAND. L. REV. 851 (1986) (discussing Prosser’s invaluable contributions to the Restatement); John W. Wade, *William L. Prosser: Some Impressions and Recollections*, 60 CALIF. L. REV. 1255 (1972) (recounting Prosser’s unwavering devotion to the law of torts).

7. William L. Prosser, *Private Action for Public Nuisance*, 52 VA. L. REV. 997, 997 (1966).

8. Lind, *supra* note 5, 114–17.

deemed crimes and were exclusively prosecuted by the king's officers.<sup>9</sup> Interference with the rights common to all royal subjects came to be regarded as a type of nuisance that could result in criminal sanctions.<sup>10</sup> Activities such as disruption of public markets, emission of noxious smoke or foul odors, diversion of water for a mill, unlicensed plays, and keeping diseased animals were treated as nuisance offenses against these public rights.<sup>11</sup> In these instances, the interference with the public right was so clearly unreasonable that it was often codified as a crime by statute or ordinance.<sup>12</sup>

This, according to Prosser, led to diverse and confusing use of the same term for two entirely different legal matters.<sup>13</sup> The confusion of the principles of private tort and public nuisance theory continues to the present. Since the early 1970s, plaintiffs have used public nuisance law in attempts to abate and obtain compensation for the harm attributed to the private manufacture and distribution of lead paint, poisons and toxins, guns, and climate-changing activities.<sup>14</sup> Municipalities and community groups are using public nuisance law to rein in the predatory practices of financial institutions that are alleged to be the cause of massive blight, abandonment, and devastation to local tax bases.<sup>15</sup> The decisions in these cases over the past several decades have not produced a clear and consistent doctrine. Today the law of nuisance, especially the law of public nuisance, remains unsettled.

Nevertheless, public nuisance law plays a crucial role in the deployment of municipal police power both in the making and the enforcing of laws that protect public health, safety, welfare, security and property rights.<sup>16</sup> Where legislative bodies identify conduct or conditions that need to be prevented or abated, they legislate to ban them and authorize police to enforce those regulations and

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9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.* at 115–18.

14. *Id.* at 118.

15. *Id.* at 128.

16. Stephen R. Miller, *Community Rights and the Municipal Police Power*, 55 SANTA CLARA L. REV. 675 (2015) (exploring the nature of police power and its application by communities to defend against predatory business practices of invasive corporations).

assign penalties for noncompliance or remedies.<sup>17</sup> The civil remedies for public nuisance can include a court-ordered abatement of nuisances by or at the expense of those owning a legal interest in the property.<sup>18</sup> Owners who refuse or fail to comply with nuisance remedial orders are most likely to lose their property through liens—either property tax foreclosure or creditor foreclosure on unpaid liens and a sale of property to satisfy those debts.<sup>19</sup>

Civil nuisance remedies to abate nuisance conditions are now becoming a standard tool for housing and neighborhood environmental code enforcement in many local jurisdictions.<sup>20</sup> While it is very effective in dealing with individual properties, the use of civil nuisance abatement against individual owners of large numbers of derelict properties is difficult and expensive.<sup>21</sup> Enforcement of housing and neighborhood codes against abuses by global corporations and other absentee property owners remains a serious problem, especially in neighborhoods of average or depressed housing demand.<sup>22</sup>

As a legal matter, then, public nuisances are clearly a form of blight; a form of blight that may be acted upon by both civil and criminal sanctions. Hitching nuisance and blight together in local

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17. See Joseph Schilling, *Code Enforcement and Community Stabilization: The Forgotten First Responders to Vacant and Foreclosed Homes*, 2 ALB. GOV'T L. REV. 101 (2009) (dealing thoroughly with code enforcement issues).

18. Co-author Lind's practice included litigation of numerous civil nuisance abatement cases using Ohio Revised Code Section 3767.41 and foreclosure on receivers' judgment liens to pay for abatement costs. See Lind, *supra* note 5. Practice aids for attorneys published by the Urban Development Law Clinic at Cleveland State University in support of this type of litigation may be found at <https://sites.google.com/site/cmudlc1/Home/public-nuisance-abatement-and-receivership-a-guide-to-ohio-revised-code-3767-41>.

19. It should be noted that the involuntary loss of property ownership described here is not a taking in violation of constitutional requirements for just compensation. The loss of title arises from the collection of a debt secured by a lien against the real property for legally authorized expenses to abate nuisance conditions. There is no condemnation for expropriation. See Steven J. Eagle, *Does Blight Really Justify Condemnation?* 39 URB. LAW. 833, 858 (2007).

20. ALAN MALLACH, BRINGING BUILDINGS BACK 150 (Rutgers Univ. Press ed., 2d ed. 2010) (providing model provisions based on the author's study of many state statutes and participation in drafting some).

21. Lind, *supra* note 5, at 129.

22. See generally *id.* at 122–37 (exploring civil nuisance remedies in greater depth and detail).



and state property maintenance codes has the advantage of expanding remedial options to include police power not only to punish owners but also to abate nuisance conditions when owners do not. At the neighborhood level, the statutory designation of specific harmful conditions as public nuisances in public policy is critical for policing seriously harmful blight. Making abatement of nuisance conditions a preparation for redevelopment or reuse of land may incidentally provide an alternative to the eminent domain taking process.<sup>23</sup>

### *B. Definition and History of Blight*

The term blight was appropriated from the field of plant pathology by urban reformers in the early twentieth century to describe the increasing urban disorder associated with crowded, poor, working class neighborhoods. At the turn of the century, many rapidly industrializing cities had woefully inadequate municipal regulation or social services to cope with unhealthy and many times dangerous living and working conditions brought on by rapid urbanization. Blight was used by real estate development and financing enterprises and by governments at all levels to identify and segregate people whose mere presence was deemed a blight on neighborhoods intended to be reserved for white people.<sup>24</sup> Seeing people as blight has been at the root of residential, neighborhood and school segregation by custom and law for much of this country's existence. Using blight in discriminatory urban renewal and suburban development infused it deep in our societal institutions and habits.<sup>25</sup> Blight was a dominant term in describing the urban

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23. The debate over the role of housing and building maintenance code enforcement in eminent domain proceedings is beyond the scope of this Article. It is, however, clear that the use of the term "blight" interchangeably with the term "nuisance" is a source of some confusion.

24. See Florence Wagman Roisman, *Intentional Racial Discrimination and Segregation by the Federal Government as a Principal Cause of Concentrated Poverty: A Response to Schill and Wachter*, 143 U. PENN. L. REV. 1351, 1369 (1995) (critiquing strongly federal housing policies that concentrate poverty and blight).

25. While this Article was being written, the national conversation about racism and white supremacy's role is at new levels of intensity. If any evidence of this is to be noted, one needs only to read the publications and speeches of Ta-Nehisi Coates and the responses to his call to consider reparations. See, e.g., Ta-Nehisi Coates, *The Case For Reparations: An Intellectual Autopsy*,

slums which justified urban renewal campaigns that replaced whole neighborhoods of poor people with new economic development.<sup>26</sup>

Blight still plays a big role in the vocabulary of public policy and statutory law. Evidence of this is provided in the exhaustive survey of the meaning of blight found in statutory and case law by Hudson Hayes Luce published in 2000.<sup>27</sup> Luce poses twelve categories of blighting criteria: (1) Structural Defects; (2) Health Hazards; (3) Faulty or Obsolescent Planning; (4) Taxation Issues; (5) Lack of Necessary Amenities, and Utilities; (6) Condition of Title; (7) Character of Neighborhood; (8) Blighted Open Areas; (9) Declared Disaster Areas; (10) Uneconomical Use of Land; (11) Vacancies; and (12) Physical and Geological Factors.<sup>28</sup> He found that language common to all the statutes surveyed include phrases such as: “constitutes an economic and social liability,” “conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime,” and “detrimental (or a menace) to the public safety, welfare, or morals.”<sup>29</sup> Here we can see blighting criteria in a legal and public policy context applied to factors not apparent to casual observation: namely, invisible health hazards, bad planning, taxation, and condition of title.

The VPRN’s 2015 national literature review undertaken for the national nonprofit, Keep America Beautiful, sheds some additional light on the current use of the term.<sup>30</sup> Intending to aid in the national campaign to support neighborhood beautification, the study logs recent literature on economic, social, environmental,

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ATLANTIC (May 22, 2014), <http://www.theatlantic.com/business/archive/2014/05/the-case-for-reparations-an-intellectual-autopsy/371125/>.

26. See *Charting the Multiple Meanings of Blight*, *supra* note 1, at 10–11.

27. Hudson Hayes Luce, *The Meaning of Blight: A Survey of Statutory and Case Law*, 35 REAL PROP., PROB. & TR. J. 289 (2000) (reviewing the statutory definitions of blight in the fifty United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands). First, common characteristics of blight as defined by these statutes are grouped into categories, and standards of evidence for finding blight are examined. *Id.* Next, standards of review for the various jurisdictions are analyzed. Finally, case law on each of the enumerated categories of blight is analyzed. *Id.*

28. *Id.* at 395–96.

29. *Id.* at 403.

30. *Charting the Multiple Meanings of Blight*, *supra* note 1.

and legal dimensions of blight.<sup>31</sup> It illustrates how a multiplicity of uses of the term resists a clear and certain definition.<sup>32</sup> That prompts some people to remember what former United States Supreme Court Justice Potter Stewart said in his concurring opinion in a famous case about pornography, “I could never succeed in intelligibly [defining it]. *But I know it when I see it.*”<sup>33</sup>

*C. A Culture that Perpetuates Blight, Property  
Abandonment, and Neighborhood Decline*

The blight now threatening to become a chronic crisis across much of the American urban landscape thrives on a culture of neglect and abandonment. Since the days when Manifest Destiny justified our nation’s inherent right to expand westward, the American experience expresses a compulsion to advance from the present into something new. While this compulsion can result in valuable gain, such a persistent drive to move forward instead of sustaining what is already built can have serious consequences: threats to individual security, social status, or economic advancement. This expansionist tendency is demonstrated in the development and population of suburban neighborhoods with homeowners seeking to realize the American Dream through newer, bigger houses and lawns.<sup>34</sup> That surging sprawl leaves a destructive impact on the neighborhoods abandoned by their most prosperous and energetic residents.<sup>35</sup> Owners planning to move are more like-

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31. *Id.*

32. *Id.* at 2.

33. *Jacobellis v. Ohio*, 378 U.S. 184, 196 (Stewart, J. concurring) (emphasis added). Incidentally, the case was about a film being shown at a theater in the Coventry Village neighborhood of Cleveland Heights, Ohio. One of the co-authors once lived across the street but did not see the movie.

34. See RICHARD DRINNON, *FACING WEST: THE METAPHYSICS OF INDIAN-HATING AND EMPIRE-BUILDING* (Univ. of Okla. Press, 1997) and ANDERS STEPHANSON, *MANIFEST DESTINY: AMERICAN EXPANSION AND THE EMPIRE OF RIGHT* (Hill & Wang 1995), for examples of the literature on the ideology and history of American expansionism. See ANDRES DUANY, ELIZABETH PLATER-ZYBERK AND JEFF SPECK, *SUBURBAN NATION: THE RISE OF SPRAWL AND THE DECLINE OF THE AMERICAN DREAM* (North Point Press 2000), for a powerful critique of sprawling expansion from urban to suburban lifestyles.

35. See generally JOHN KROMER, *FIXING BROKEN CITIES. THE IMPLEMENTATION OF URBAN DEVELOPMENT STRATEGIES*, (Routledge 2010) (providing experience-based guidance on restoring abandoned places in cities);

ly to defer or lower maintenance of present structures.<sup>36</sup> The huge investment in sprawling development of housing and infrastructure—such as schools, roads, water systems, sewers, and, commercial amenities—diverts material and human resources away from previously established places.<sup>37</sup>

The cultural priority of building up and moving out diminishes the priority and the value of maintaining and improving existing homes and communities. Neighborhoods once cared for religiously become neglected as the attraction for the new, bigger, and better housing opportunities are promoted.<sup>38</sup> As housing trickles down from people with abundant economic power and social status to those of lesser economic and social status, the means and the standards of neighborhood and housing maintenance eroded.<sup>39</sup> This erosion is exacerbated by the ethnic and racial discrimination

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ALAN MALLACH, *BRINGING BUILDINGS BACK: FROM ABANDONED PROPERTIES TO COMMUNITY ASSETS: A GUIDEBOOK FOR POLICYMAKERS AND PRACTITIONERS 1–9* (2d ed., National Housing Institute 2010) (providing an excellent description of abandonment at the neighborhood level). The authors must acknowledge that Mallach and Kromer are colleagues with whom we have worked and talked regularly and often over the past two decades. Their publications express much of what has been shared among us.

36. MALLACH, *supra* note 35, at 1; *see also* Kermit J. Lind, *Collateral Matters: Housing Code Compliance in the Mortgage Crisis*, 32 N. ILL. U. L. REV. 445, 446–49, 454–55 (2012) (describing neglect and abandonment in the context of the mortgage crisis).

37. ALAN MALLACH, *FACING THE URBAN CHALLENGE: THE FEDERAL GOVERNMENT AND AMERICA'S OLDER DISTRESSED CITIES* (2010), [http://www.brookings.edu/~media/research/files/papers/2010/5/18-shrinking-cities-mallach/0518\\_shrinking\\_cities\\_mallach.pdf](http://www.brookings.edu/~media/research/files/papers/2010/5/18-shrinking-cities-mallach/0518_shrinking_cities_mallach.pdf) (describing loss of urban populations and neighborhood structures with recommendations for federal policies to deal with the situation).

38. *See generally* Lind, *supra* note 36 (discussing neglected and abandoned properties as a result of the mortgage crisis).

39. The Broken Windows theory made famous by Kelling and Wilson in 1982 uses broken windows left unrepaired as a metaphor for the emergence of a culture of lower standards of care and order that enables blight to be acceptable and to spread. Its later application to policing personal conduct may be a departure from its initial focus on the visual appearance of neglected buildings and neighborhood environments. George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC (Mar. 1982), <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

that permeates a society frequently described as separate and unequal. Mid-twentieth century suburban sprawl in America is a realization of a white American Dream by those in a supreme position to abandon not only a place they consider undesirable but also a social diversity they reject as well.

As blight becomes more common it becomes more acceptable. As it becomes more acceptable, neglect, abandonment, and even destruction become more evident.<sup>40</sup> It also contributes to the decisions made by local leaders, legislators, elected officials, and administrators who set priorities, make budgets, and allocate resources. Their policy making demonstrates the prevailing values of their constituents. That is at the heart of the Broken Windows theory.<sup>41</sup> Today many state legislatures are cutting taxes, mostly on high incomes and large accumulations of wealth of people in upscale suburban neighborhoods, which then requires the reduction of tax generated revenue going to local municipalities, public schools and the infrastructure maintenance of older communities.<sup>42</sup> As a result, municipalities have to cut services and raise local taxes to subsidize the cuts in state taxes and revenue distributions.<sup>43</sup> This reinforces the cultural notions that old is bad and new is better; poor is unworthy and riches are evidence of worthiness; and abandoning the structures and land in inner cities is justified by the easier, more lucrative development outside of them. By a mixture of design and disdain, the culture accepts the lowering level of

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40. *Id.*

41. *Id.*

42. In an example, many Ohio cities and towns are seeking tax increases in 2016 to replace cuts in state revenue. Local municipalities complain bitterly that the State's governor campaigning for President claims he cut state taxes but ignores the fact that municipalities paid for those cuts with reduced services and increased local taxes. Rich Exner, *Ohio Tax Changes Under Gov. John Kasich Leave Villages, Cities Scrambling To Cope with Less*, CLEVELAND.COM (Mar. 9, 2016 5:21 PM), [http://www.cleveland.com/datacentral/index.ssf/2016/03/ohio\\_tax\\_changes\\_under\\_gov\\_joh.html](http://www.cleveland.com/datacentral/index.ssf/2016/03/ohio_tax_changes_under_gov_joh.html).

43. *Id.* A 2011 report by the Center on Budget and Policy Priorities details state budget cuts to localities in 46 states and the District of Columbia showing the services people most affected. NICHOLAS JOHNSON ET AL., CTR. ON BUDGET & POLICY PRIORITIES, AN UPDATE ON STATE BUDGET CUTS: AT LEAST 46 STATES HAVE IMPOSED CUTS THAT HURT VULNERABLE RESIDENTS AND CAUSE JOB LOSS (2011), <http://www.cbpp.org/sites/default/files/atoms/files/3-13-08sfp.pdf>.

maintenance by both individuals and the public; defers and diminishes the upkeep of urban water systems, sewer systems, bridges, roads, power grids, and utility facilities; and is sanguine about the way large, remote corporations treat homeowners, borrowers, debtors, and the neighborhoods are being stripped of economic value and social significance.

It is now past time to take a wider look at neighborhood blight, a look that includes the cultural, social, economic, and political factors that are the context for sustaining and growing blight. The struggle against cultural values that allow blight requires more than these new strategies, policies, programs, and data systems. It requires a counter-culture that does not accept blight but instead advances the values of healthy neighborhoods and engaged communities against blight, whether it be intentional or by neglect. What matters most in resisting a culture of blight is a willing coalition of collaborators at the local community level capable and determined to remove blight and resist all that causes or allows it in their community and neighborhoods.

#### *D. Blighted Houses and the Mortgage Crisis*

Recent reports suggesting that the U.S. housing market has largely recovered from the 21st century Mortgage Crisis are premature.<sup>44</sup> A closer look reveals that the country is composed not of one market, but of thousands of smaller, local housing markets that have experienced dramatically uneven levels of recovery.<sup>45</sup> Repeated waves of home mortgage failures have inundated certain communities (the “Hardest Hit Communities”) resulting in what amounts to a permanent transition to a lower value plateau or, in some cases, to repurposing of previously used land.<sup>46</sup> Homeown-

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44. HUD posts a monthly scorecard on the housing market recovery. See e.g., Katherine O’Regan, *Measuring Progress in the Housing Market*, HUDDE (Jan. 11, 2016), <http://blog.hud.gov/index.php/2016/01/11/measuring-progress-housing-market-16/>.

45. For a study estimating recovery times of metropolitan markets up to ten years, see Mark Lieberman & Thomas C. Frohlich, *Housing Markets Facing Longest Road to Recovery*, USA TODAY (Mar. 28, 2015, 8:30 AM), <http://www.usatoday.com/story/money/personalfinance/2015/03/28/24-7-wall-st-housing-markets-tough-recovery/70551350/>.

46. See, e.g., Joe Light, *Why the U.S. Housing Recovery is Leaving Poorer Neighborhoods Behind*, WALL STREET J., <http://www.wsj.com/articles/in-u-s->

ers in these predominantly low and middle income and/or minority communities who endured the Crisis lost significant equity in what is typically their principal asset.<sup>47</sup> Many, including the co-authors, have been closely involved with the tsunami of housing distress, abandonment, chronic vacancy, fraud, and abuse that has overtaken neighborhoods and, in some cases, utterly destroyed them. When we use the word blight to describe the devastation that has happened, and is still happening, to the housing in neighborhoods hardest hit by mortgage abuses and failures, there is no larger or deeper category of blight with which to compare it. The property loss visible to the eye is only the surface.<sup>48</sup> Not so visible is the loss of municipal revenue, the increase cost of virtually every public service provided by municipalities and public schools, and the increasing fiscal instability of many municipalities.<sup>49</sup> And the loss

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poorer-areas-have-yet-to-see-housing-rebound-1435091711 (last updated June 23, 2015); Nelson D. Schwartz, *Poorest Areas Have Missed Out on Boons of Recovery, Study Finds*, N.Y. TIMES (Feb. 24, 2016), [http://www.nytimes.com/2016/02/25/business/economy/poorest-areas-have-missed-out-on-boons-of-recovery-study-finds.html?smprod=nytcore-iphone&smid=nytcore-iphone-share&\\_r=0](http://www.nytimes.com/2016/02/25/business/economy/poorest-areas-have-missed-out-on-boons-of-recovery-study-finds.html?smprod=nytcore-iphone&smid=nytcore-iphone-share&_r=0).

47. Matthew J. Rossman, *Counting Casualties in Communities Hit Hardest by the Foreclosure Crisis* 3 (Case W. Reserve Univ. Sch. Of Law, Case Studies Legal Research Paper No. 2015-22, 2015), <http://ssrn.com/abstract=2698756> (assessing the scope and scale of damage not nearly and not likely ever to be, recovered by housing consumers). Another study published by the Haas Institute for a Fair and Inclusive Society draws attention to the concentration in African American communities of underwater mortgages and lost equity. See PETER DREIR ET AL., HAAS INST., UNDERWATER AMERICA: OW THE SO-CALLED HOUSING “RECOVERY” IS BYPASSING MANY AMERICAN COMMUNITIES 2 (2014), [http://diversity.berkeley.edu/sites/default/files/Haas Institute\\_UnderwaterAmerica\\_PUBLISH.pdf](http://diversity.berkeley.edu/sites/default/files/Haas%20Institute_UnderwaterAmerica_PUBLISH.pdf)

48. The housing equity loss is estimated at \$7 trillion out of some \$16 trillion lost altogether. Recovery in the housing sector is going much slower than the rest of the economy and the concentration of high rates of loss by homeowners of color in middle and lower economic households means those who lost the most will recover the least, many not at all. See Rossman, *supra* note 46, at 1–3.

49. See generally, Raymond H. Brescia, *Cities and the Financial Crisis*, in *HOW CITIES WILL SAVE THE WORLD: URBAN INNOVATION IN THE FACE OF POPULATION FLOWS, CLIMATE CHANGE, AND ECONOMIC INEQUALITY* (Ray Brescia and John Travis Marshall, eds., 2016); see also, Howard Chernick & Andrew Reschovsky, *The Fiscal Health of U.S. Cities* (2013), <http://www.lincoln>

of dreams, hopes, expectations, and status of individuals and families is beyond counting. One needs to spend only a few hours in a courtroom where code violation cases are heard to see how housing blight is taking its high toll. The concluding chapter on the Mortgage Crisis is yet to be written.

The scale of blight represented in the abandonment of dilapidated housing by those with a legal obligation for or interest in the property is an unprecedented challenge in the neighborhoods of all cities; however, for those cities and older suburbs where most of the housing is occupied by people whose livelihood depends on wages, blight threatens the very survival of their neighborhoods. Removing those blighted structures or rehabilitating them is the essential blight strategy. Where houses are still occupied, blight may be anticipated by property tax and mortgage defaults, deferred or neglected maintenance, ineffective code enforcement, poor rental practices, disappearing equity, underwater mortgages, failure of dwellings for sale to attract purchasers, or replacement of owner occupants with renters. Those indicators call for early intervention.

In the Mortgage Crisis, neighborhood blight usually starts with things that are not apparent from the curb. For instance, in cities where predatory subprime lending was an emerging threat people were unaware that this was the beginning sign of a blight crisis.<sup>50</sup> Some cities that became aware of the threat were preempted by state legislatures from protecting residents and property owners from fraudulent financial practices until it was too late to prevent disaster.<sup>51</sup> The blight that results in structures being

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inst.edu/pubs/2338\_The-Fiscal-Health-of-U-S--Cities (last visited May 22, 2016).

50. See, e.g., KATHLEEN C. ENGEL & PATRICIA A. MCCOY, *THE SUBPRIME VIRUS: RECKLESS CREDIT, REGULATORY FAILURE, AND NEXT STEPS* 3–11 (Oxford Univ. Press 2011).

51. Brett Altier, *Municipal Predatory Lending Regulation in Ohio: The Disproportionate Impact of Preemption in Ohio's Cities*, 59 CLEV. ST. L. REV. 125, 127 (2011) (analyzing the preemption of Cleveland's attempt to protect borrowers from predatory lending practices resulting in a surge of defaults and foreclosures). The use of preemptive legislation to undermine community resilience in the face of abusive business practices is routine. See *id.* at 129–30. Legislative proposals ostensibly to fast track mortgage foreclosure of abandoned vacant housing have language attached that would impede localities from code



disposed of as solid waste is preceded by blighting influences—owner neglect, personal crises, predatory lending and debt collecting, poor maintenance code compliance, an abandoned dwelling next door.<sup>52</sup> Therefore, the Mortgage Crisis presents a situation in which the term blight needs to apply to the causes, especially the lawless causes, of the abandoned properties that are an immediate threat to public health, safety, welfare, and property interests. Preventing incipient blight from taking hold of properties and spreading by early intervention with strategically designed maintenance policies and programs is a good investment for neighborhoods and cities.

## II. LEGAL AND POLICY CHALLENGES IN ADDRESSING NEIGHBORHOOD BLIGHT—THE FORMATION OF NATIONAL AND LOCAL NETWORKS

Against this conceptual framework of blight and nuisance abatement, the authors of this article were both working in the 1990s on the development and implementation of municipal housing codes and code enforcement policies to address community concerns over substandard housing and vacant and abandoned properties. In 2000, Joe Schilling, a former municipal prosecutor from San Diego, was then heading the brownfields redevelopment and smart growth programs for the International City/County Management Association (“ICMA”) in Washington D.C. Kermit Lind, a Clinical Professor of Law at Cleveland State University, was in a teaching law practice representing inner city community development corporations whose neighborhood agenda included housing development and neighborhood maintenance.

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enforcement efforts to ensure banks and other dealers in distressed foreclosed houses comply with community codes. *See id.* at 159.

52. *See* Lind, *supra* note 36, at 450. For more studies on this topic, see CLAUDIA COULTON, ET AL., CTR. ON URB. POVERTY & CMTY. DEV., FORECLOSURE AND BEYOND: A REPORT ON OWNERSHIP AND HOUSING VALUES FOLLOWING SHERIFF’S SALES, CLEVELAND AND CUYAHOGA COUNTY, 2000-2007, 2 (2008); CLAUDIA COULTON, ET AL., CTR. ON URB. POVERTY & CMTY. DEV., PATHWAYS TO FORECLOSURE: A LONGITUDINAL STUDY OF MORTGAGE LOANS, CLEVELAND AND CUYAHOGA COUNTY, 2005-2008, 3, 14 (2008); Kathleen C. Engel & Patricia A. McCoy, *A Tale of Three Markets: The Law and Economics of Predatory Lending*, 80 TEX. L. REV. 1255, 1260 (2002).

A conference in Cleveland co-sponsored by the Housing Division of Cleveland's Municipal Court and the Cleveland-Marshall College of Law in the spring of 2000 brought these two blight pioneers together for their first meeting. In light of the growing crisis of abandoned vacant houses in Ohio cities, the conference reexamined the use of civil nuisance litigation to abate the blighted conditions caused by abandonment of both local maintenance regulations and unmarketable houses. Although San Diego and Cleveland have dramatically different real estate markets and scales of blighted properties, they found common ground in assessing the challenges of capacity, structure, and code enforcement processes in both cities to adequately address neighborhood blight.

Since then the co-authors have partnered in a variety of technical assistance projects helping local government and community leaders across the country develop more effective legal tools and policy strategies for dealing with the multiple waves of neighborhood blight. Their individual contributions through research, writing, drafting legislation, litigation, speaking, and consulting, helped to lay the foundation for new concepts, such as strategic code enforcement, as well as facilitate the creation of local and national networks of communities and professionals dedicated to reclaiming vacant properties.<sup>53</sup> With a special focus on municipal code enforcement policies and programs, this next section describes their work with local government officials, community developers, and civic leaders to develop and design more collaborative, data driven strategies that can help communities prevent, abate and reclaim blighted properties in a more systematic way.

#### *A. Code Enforcement's Evolution and Prominence*

Although neighborhood blight has many drivers and takes different forms, it seems to move fast and takes hold where housing markets and local regulation are weak and fragmented. One common contributing factor that we have seen and studied is the failure of local government code enforcement—the traditional

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53. A brief disclaimer is perhaps in order here. Our story is not unique for we have been fortunate to work with many amazing practitioners, policy-makers, and community leaders in forging these national and local networks. Space does not allow us to name them, but we want to acknowledge the impact and influence of our fellow travelers upon us and this vacant property policy movement.

housing and neighborhood maintenance programs and associated public policies—to take systematic approaches to manage blight.<sup>54</sup>

Another factor is the inherent and historic isolation of code enforcement as a practice and as a policy strategy for helping preserve, protect, and revitalize neighborhoods. Few avenues exist for those “doing” code enforcement to learn innovative polices and model practices beyond their respective ranks and professions. Effective code enforcement demands breaking down organizational silos and specialized fields, but most code enforcement programs, leaders, and staff operate within a culture of isolation. Below we trace the recent evolution of code enforcement practices and policies as the field expands its horizon. These efforts to reform code enforcement policy and enhance its practice illustrate the work of individuals and the increasing impact and influence of local and national vacant property networks.

In reflecting back, code enforcement during the 1990s seemed to work best when it took actions against individual property owners on a case by case basis. Neglect was perhaps more of a side effect of sprawl and deindustrialization. From our litigation experience at the time, problem property owners were typically of two common types—(1) local rental property owners including the small time, “mom and pop” landlords that rented apartments, duplexes and a few single family homes; and (2) the indigent, unstable or elderly, single-family homeowners and tenants. Code enforcement management and inspection were still emerging as a profession with little formalized training, few resources, and a lack of technology to support it.<sup>55</sup>

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54. Code enforcement (“CE”) often means the legal and administrative processes and tools that local governments use to gain compliance with relevant property maintenance, housing, building and zoning codes designed to protect the public health, safety, and welfare under the municipal police power. See Karen Beck Pooley & Joseph Schilling, *Emerging Research on Code Enforcement Strategies for Reclaiming Vacant Properties and Stabilizing Neighborhoods*, VACANT PROP. RES. NETWORK (forthcoming summer 2016) (translation brief), <http://vacantpropertyresearch.com/translation-briefs/code-enforcement>.

55. For a general description of the state of code enforcement practice (the good, bad and ugly) during the 1980s and 1990s, see generally, Elizabeth Howe, *Housing Code Enforcement in Eleven Cities*, 60 U. DET. J. URB. L. 373 (1982–83); Peter J. May & Raymond J. Burby, *Making Sense Out of Regulatory Enforcement*, 20 L. & POL’Y 157 (1998); and H. Laurence Ross, *Housing Code Enforcement Law in Action*, 17 L. & POL’Y 133 (1995).

During our early days of practice, Cleveland and San Diego were gaining attention among their peers for testing new code enforcement strategies and approaches. Cleveland's Municipal Housing Court broke new ground with its innovative sentencing and effective deployment of court specialists to work with homeowners, including corporate defendants. By 2000, Cleveland State University's Urban Development Law Clinic came into its own by using Ohio's receivership statute to support its CDC clients in their efforts to acquire and revitalize vacant properties. By 1995, San Diego City Attorney's Code Enforcement Unit ("CEU") grew to five full time attorneys, three litigation investors, and three support staff prosecuting violations of zoning, building, housing, and other quality of life codes. In partnership with the University of San Diego Law School, CEU also adapted community mediation processes and models to help the city's Planning Department resolve nearly 600 zoning, noise, and other quality of life code cases long before they might need the attention of the courts.<sup>56</sup> CEU also experimented with civil injunctive action against owners of multiple substandard properties and even resurrected provisions of California's old drug and red-light abatement statutes.

By 2000, code enforcement practice seemed somewhat stable, even coming out of the Savings and Loan debacle of the late 1980s. However, as the financing and holding of property portfolios became more sophisticated, predatory, and located far from the community itself, these shifting dynamics within the real estate and lending industries started to expose the weaknesses and limitations of traditional code enforcement practices. Within a few short years the arthritic and fragmented code enforcement apparatus became inadequate for protecting ordinary communities in the path of more complex and pernicious forms neighborhood blight.

Based on our work then and now, we recognized that code enforcement programs and policies serve as the lynchpin for blight prevention and neighborhood preservation. Communities need effective code enforcement, which includes a wide range of legal

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56. Joseph Schilling, *Local Land Use and ADR—The San Diego Saga* (1997) (paper presented before the Committee on ADR and Land Use and Development, Texas State Bar, Real Estate and Probate Section and the Center for Public Policy Dispute Resolution, University of Texas School of Law) (on file with co-author).

and administrative remedies, well written codes, more capacity, and new strategies to address the increasingly complex reality of declining housing markets, institutional owners, and a wide array of property conditions. Reforming code enforcement into a system that can be deployed strategically for maximum effect requires political will from a variety of public institutions and officials responsible for the public health, safety and welfare. It takes not only a community-wide commitment and political will to achieve change, we also found out that it would require the formation of and support for local and national networks.

*B. Formation of the National Vacant Properties Campaign*

The 2000 conference in Cleveland stimulated lots of ideas and subsequent discussions about the need for and value of sharing best practices across communities. A growing number of cities and organizations were looking for new solutions to address blight which threatened their work and investments in neighborhood revitalization. Community advocates wanted to adapt model practices from places as different as Cleveland and San Diego. National funders, public and private, were approached by alarmed community developers and intermediaries looking for help with the explosion of abandonment and vacancy undermining their rehabilitation and restoration work. Those working the front lines of code enforcement and vacant properties also wanted the benefit of new tools such as housing courts, code inspection technology, departmental reorganization, statutory authority for civil litigation, and code reforms—all things that were being tried and tested in those cities hit with the first waves of blight in the 1980s and 1990s.

Around the same time, the Fannie Mae and Ford Foundations became concerned about the threats to their community development and community building investments from neighborhood blight. In the fall of 2001, they brought together leading experts and local housing and community development officials to explore the dimensions of vacant property reclamation—from code enforcement and land banking to repair and rehabilitation.<sup>57</sup> Schilling shared his work with ICMA's vacant properties consortium

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57. *Vacant Land and Abandoned Properties*, FANNIE MAE FOUNDATION ROUNDTABLE (Nov. 5, 2001), co-sponsored by the Ford Foundation (Roundtable Binder and Briefing Papers on file with co-author).

while learning about similar educational efforts for community development professions through the Local Initiative Support Corporation (“LISC”). The convening also drew attention to the pioneering work of Emory Law Professor Frank Alexander on land banking<sup>58</sup> along with the deep insights about housing, community development, and neighborhood revitalization from national expert Alan Mallach.<sup>59</sup> What became apparent from this gathering was the desperate need for information sharing and collaborative problem solving by those policymakers and practitioners working on the front-lines of neighborhood blight.

From this gathering, ICMA and LISC formed a partnership with a new Washington, D.C. nonprofit Smart Growth America (“SGA”) to launch the National Vacant Properties Campaign (“NVPC”).<sup>60</sup> SGA served as its institutional home with significant contributions from ICMA and LISC offering their outreach and technical expertise. With initial support from the Fannie Mae and Surdna Foundations, the NVPC quickly went to work providing various forms of technical assistance to roughly 50 communities over the course of six short years. NVPC relied on the extensive networks and expertise of the three principle organizations—ICMA, SGA, and LISC—as they each represented both new and traditional players in the vacant property issue—local governments, community development organizations, and planners and policymakers interested in revitalization of existing neighborhoods to prevent further sprawl.<sup>61</sup> A wide range of national organizations

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58. FRANK ALEXANDER, *LAND BANK AUTHORITIES—A GUIDE FOR THE CREATION AND OPERATION OF LOCAL LAND BANKS* (2005), <https://www.hudexchange.info/resources/documents/LandBankAuthoritiesGuideforCreationandOperation.pdf>.

59. See MALLACH, *supra* note 35,

60. See generally *Policy Analysis*, SMART GROWTH AMERICA, <http://www.smartgrowthamerica.org/research/policy-analysis-vacant-properties> (last visited May 22, 2016). NVPC’s mission and goals included: (1) creating the national network of practitioners and experts trained to help communities implement and improve vacant property strategies and tools; (2) develop and deliver policy tools, research and information resources; (3) build capacity of local regional and national practitioners; and (4) communicate the “case” and brand the issue.

61. See generally *Vacant Properties and Smart Growth: Creating Opportunities from Abandonment*, FUNDERS NETWORK FOR SMART GROWTH AND

(such as American Planning Association, National Trust for Historic Preservation, etc.) and national experts engaged in different NVPC activities.<sup>62</sup> The NVPC produced a number of important policy assessments, none more influential than its first in Cleveland.

Its report—*Cleveland at the Crossroads*—set forth a comprehensive vacant property action plan for public officials and community leaders to adopt and adapt.<sup>63</sup> Together, this initial intervention in Cleveland and the *Crossroads* report served as the template for subsequent NVPC technical assistance projects. Its four-point policy and program framework—(1) real property data and information systems; (2) code enforcement, nuisance abatement, and housing rehabilitation; (3) demolition, land banking, vacant property acquisition and disposition; and (4) land reuse planning, urban greening, and redevelopment—arose from NVPC’s compilation of model practices from other communities.<sup>64</sup> The NVPC model provided a menu of short and long term strategies with the goal of affecting positive changes not only to individual properties but also to neighborhoods and the public and nonprofit organizations involved in addressing neighborhood blight.<sup>65</sup>

Another program hallmark piloted in Cleveland was its collaborative process of engaging diverse groups of local stakeholders (e.g., representing local government, the community development field, universities, etc.) to guide the technical assistance team. Neighborhood Progress, Inc., a Cleveland community development

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LIVABLE COMMUNITIES (Sept. 2004), [http://www.fundersnetwork.org/files/learn/LCW\\_4\\_Vacant\\_Properties.pdf](http://www.fundersnetwork.org/files/learn/LCW_4_Vacant_Properties.pdf).

62. From 2005 to 2009, the NVPC’s email list grew from 300 to over 3,000—a good indicator of the Campaign’s importance and impact. Interview with Jennifer Leonard, Former NVPC Director (Apr. 6, 2016).

63. ALAN MALLACH, LISA LEVY & JOSEPH SCHILLING, *CLEVELAND AT THE CROSSROAD: TURNING ABANDONMENT INTO OPPORTUNITY* (2005), [https://clevelandmunicipalcourt.org/docs/default-source/default-document-library/at\\_the\\_crossroads.pdf?sfvrsn=0](https://clevelandmunicipalcourt.org/docs/default-source/default-document-library/at_the_crossroads.pdf?sfvrsn=0).

64. Jennifer Leonard & Joseph Schilling, *Lessons from the Field—Strategies and Partnerships for Preventing and Reclaiming Vacant and Abandoned Properties*, 36 REAL EST. REV. 31, 31–39 (2007).

65. See generally Robert Beauregard, *Strategic Thinking for Distressed Neighborhoods*, in *THE CITY AFTER ABANDONMENT* 227–43 (Margaret Dewar & June Manning Thomas eds. 2013).

intermediary, formed a 25-plus person steering committee that provided feedback to Mallach and Schilling, the NVPC lead consultants. Based on the Cleveland experience, subsequent NVPC technical assistance work was typically led by one NVPC staff member with a team of two to three consultants or practitioners with expertise that closely matched the pressing vacant property challenges identified in preliminary “scoping” visits. Such peer-to-peer learning along with collaborative engagement with local stakeholders increased the likelihood of buy-in and follow-through with the assessments recommendations. The NVPC repeated this approach to technical assistance in other cities by conducting preliminary scoping meetings and study visits to build relationships, uncover the underlying issues, determine the most effective areas of engagement, and then facilitate coalitions of local official and community development practitioners to assess the gaps in their vacant property policies and programs.<sup>66</sup>

Now more than ten years since its release in the summer of 2005, the legacy of the *Crossroad’s* process and the report’s recommendations can be measured by the on-going work of the Cleveland’s Vacant and Abandoned Property Council (“VAPAC”).<sup>67</sup> With initial support from the Cleveland Foundation

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66. Co-author Schilling led a series of comprehensive policy assessments, including Cleveland (2005), Dayton (2005), New Orleans (2006), Richmond, Virginia (2006), Buffalo (2006), Toledo (2007), and Youngstown (2009). Each was funded by a combination of resources from local governments, local foundations, and technical assistance grants supported by the Surdna Foundation and a HUD Community Development Block Grant Technical Assistance grant to LISC. The Campaign, under the direction of its first and only full time Director, Jennifer Leonard, also provided other types and levels of technical assistance on specific vacant property issues, such as land banking or code enforcement, etc. Several of these assessment reports can be found at *Policy Analysis: Vacant Properties*, SMART GROWTH AMERICA, <http://www.smartgrowthamerica.org/research/policy-analysis-vacant-properties/>.

67. VAPAC grew from the advisory group that helped guide the NVPC’s Crossroad report. See generally FRANK FORD, CUYAHOGA COUNTY’S VACANT AND ABANDONED PROPERTY ACTION COUNCIL—VAPAC (Sept. 22, 2015), [http://www.wrlandconservancy.org/wp-content/uploads/2015/12/Collaboration\\_VAPAC.pdf](http://www.wrlandconservancy.org/wp-content/uploads/2015/12/Collaboration_VAPAC.pdf); David Morley, *Leading the Charge on Neighborhood Stabilization in Cleveland*, VACANT PROPERTY RESEARCH INSTITUTE, [http://vacantpropertyresearch.com/wp-content/uploads/2012/02/Ford\\_Final.pdf](http://vacantpropertyresearch.com/wp-content/uploads/2012/02/Ford_Final.pdf); Mary Helen Petrus, *Growing Pains*, FED. RESERVE BANK OF CLEVELAND (May 5, 2015)



and the Enterprise Community Partners, this ad-hoc group of mid-level public officials, nonprofit leaders, and university and institutional experts have met monthly for more than ten years to trouble shoot policy issues and shepherd the adoption of policy actions recommended in the *Crossroads Report*. Two of those recommendations have in fact become national models such that other cities now look to Cleveland for expertise and advice—the Cuyahoga County Land Reutilization Corporation (a powerful land bank) and Case Western Reserve’s real property information system, the Northeast Ohio Community and Neighborhood Data for Organizing (“NEO CANDO”).<sup>68</sup>

Beyond its fieldwork, the NVPC leveraged its institutional home at SGA to expand its network and reach within the policy dynamics of Washington, D.C. Working with LISC’s public affairs division, the NVPC helped design and draft federal legislation sponsored by Congressmen Higgins from Buffalo and Ryan from Youngstown that would have established a competitive federal technical assistance grant program specifically targeted to older industrial cities that had lost more than fifteen percent of their population.<sup>69</sup> NVPC released an influential survey of the literature documenting the costs and impacts from vacant properties—*Vacant Properties—the True Costs to Communities*.<sup>70</sup> Given his leadership in reforming state law and creating a new breed of land bank authorities in Michigan, former County Treasurer Dan Kildee and his Genesee Institute, the nonprofit research arm of the Gene-

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<https://www.clevelandfed.org/en/newsroom-and-events/publications/notes-from-the-field/nftf-20150505-growing-pains.aspx>.

68. For more in depth history and analysis of the VAPAC, NEO CANDO, the Cuyahoga County Land Reutilization Corporation, Reimaging a More Sustainable Cleveland, and other policies and programs that Cleveland developed and expanded, see JOSEPH SCHILLING, CLEVELAND CUYAHOGA COUNTY—A RESILIENT REGION’S RESPONSE TO RECLAIMING VACANT PROPERTIES, VACANT PROPERTIES RESEARCH NETWORK (2014), <http://vacantpropertyresearch.com/case-studies/cleveland/>.

69. See generally *Support the Community Regeneration, Sustainability, and Innovation Act of 2009 (H.R. 932)*, SMART GROWTH AMERICA, [http://www.smartgrowthamerica.org/documents/coalition/2009/08/CRSI-Fact-Sheet\\_House.pdf](http://www.smartgrowthamerica.org/documents/coalition/2009/08/CRSI-Fact-Sheet_House.pdf).

70. NATIONAL VACANT PROPERTIES CAMPAIGN, *Vacant Properties: The True Costs to Communities* (2005), <http://www.smartgrowthamerica.org/documents/true-costs.pdf>.

see County Land Bank Authority, became part of the NVPC's executive team. Perhaps its most enduring legacy is the Reclaiming Vacant Properties Conference, first convened in Pittsburgh in 2007, then subsequently in Louisville in 2009, and again in Cleveland in 2010.<sup>71</sup> Even today, now hosted by the Center for Community Progress, the Reclaiming Vacant Properties Conference remains the only national convening exclusively devoted to vacant property strategies and tools.<sup>72</sup> The NVPC served as the incubator for this national movement by catalyzing local action, synthesizing model practices across communities, and providing a conduit for national organizations, associations, and frontline practitioner and policymakers devoted to finding better ways for reclaiming vacant and abandoned properties. Many of these and other early relationships and connections made through the NVPC still endure today.

*C. Expanding the Network in Response to National Crisis of Vacant Properties*

By 2003, signs of the mortgage foreclosure crisis were visible in Cleveland—long before they were visible in other communities. As the proverbial “canary in the coalmine,” many of Cleveland's thirty-six community development corporations were already documenting the stories of predatory lending as increasing numbers of mortgage foreclosures prompted homeowners, and eventually traditional lending intuitions, to abandon their investments, many of which were located in once stable or transitional neighborhoods.<sup>73</sup>

During NVPC's preliminary work on Cleveland's *Crossroads Report*, the team found that Dayton and Toledo, Ohio, had

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71. See generally *Reclaiming Vacant Properties Conference Champions Economic and Environmental Revitalization*, SMART GROWTH AMERICA (Oct. 15, 2010), <http://www.smartgrowthamerica.org/2010/10/15/reclaiming-vacant-properties-conference-champions-economic-and-environmental-revitalization/>; Steve Davis, *Second Reclaiming Vacant Properties Conference Begins Today*, SMART GROWTH AMERICA (June 1, 2009), <http://www.smartgrowthamerica.org/2009/06/01/second-reclaiming-vacant-properties-conference-begins-today/>.

72. *About*, CTR. CMTY. PROGRESS, <http://www.communityprogress.net/2015-archives-pages-423.php> (last visited May 10, 2016).

73. Kermit J. Lind, *The Perfect Storm: An Eyewitness Report from Ground Zero in Cleveland's Neighborhoods*, 17 J. AFFORDABLE HOUS. & CMTY. DEV. L. 237, 240–41 (2008).

adopted local ordinances that would impose new disclosure requirements on predatory lenders.<sup>74</sup> Unfortunately, the powerful banking interests convinced the Ohio Supreme Court to take a narrow interpretation of the case law by striking down this local neighborhood protection effort under the rubric of state preemption.<sup>75</sup>

Symbolically, Cleveland's Slavic Village neighborhood became known as "ground zero" for the mortgage foreclosure crisis.<sup>76</sup> Cleveland, like many older industrial legacy cities from Detroit and Flint to Buffalo and Baltimore, was now in the middle of a second tsunami of vacant and abandoned properties that crushed many neighborhoods already diminished by decades of depopulation and deindustrialization.<sup>77</sup> News reports and documentaries reinforced the widespread negative impacts of the crisis in major cities across the country from Cleveland and Detroit in the Midwest to Phoenix and Las Vegas in the West.<sup>78</sup>

By 2008 to 2009, the United States' financial system was on the verge of collapse, led by the mortgage foreclosure crisis. As foreclosures escalated and smaller financial institutions failed, thousands of underwater homeowners and victims of predatory lending and debt collecting were forced out of their homes.<sup>79</sup> Local governments were left to figure out how to keep neighborhoods stable. The mortgage foreclosure crisis caused a myriad of "spillover" impacts to once stable neighborhoods, such as the decreases in property values and increases in crime and property abandon-

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74. Altier, *supra* note 51 (reporting on this preemptive reaction to municipal self-protection from corporate abuse of land and consumers of housing).

75. *Id.* at 126–27.

76. Lind, *supra* note 77, at 237–38.

77. SCHILLING, *supra* note 68.

78. JUSTIN HOLLANDER, *SUNBURNT CITIES: THE GREAT RECESSION, DEPOPULATION, AND URBAN PLANNING IN THE AMERICAN SUNBELT* (2011); see David R. Godschalk, *In Print: Sunburnt Cities by Justin B. Hollander*, URBANLAND (July 27, 2011), <http://urbanland.uli.org/economy-markets-trends/in-print-sunburnt-cities-by-justin-b-hollander/>.

79. See generally DAN IMMERGLUCK, *FORECLOSED: HIGH-RISK LENDING, DEREGULATION, AND THE UNDERMINING OF AMERICA'S MORTGAGE MARKET* (2011).

ment.<sup>80</sup> Homeowners and mortgagees alike were overwhelmed by the explosion of mortgage foreclosures.<sup>81</sup> Many community development corporations watched sadly as years of hard work and millions of dollars' worth of buildings and rehabbed housing became engulfed by foreclosed vacant abandoned properties.<sup>82</sup>

As the crisis of foreclosed and vacant homes spread across the nation, community development organizations and government associations, such as the Local Initiative Support Corporation, Enterprise Community Partners, NeighborWorks America, and the National Governor's Association, convened a series of workshops, conference calls, and developed online web resources with neighborhood based strategies.<sup>83</sup> They and others became deeply interested in the vacant property assessments and policy strategies, such as land banking and code enforcement, that had been developed and disseminated through the NVPC's emerging network of vacant property communities and practitioners.

For the first time in decades, perhaps since the creation of HUD as part of President Lyndon Johnson's Great Society program, the federal government launched several policy initiatives to combat the market collapse of the mortgage industry. Federal agencies, such as HUD, Treasury, and the Federal Reserve Bank's Community Affairs and Research Divisions convened meetings, workshops, symposiums, and commissioned case studies and research about vacant properties.<sup>84</sup> As the federal government

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80. See generally Joseph Schilling & Jimena Pinzon, *The Basic of Blight*, VACANT PROPERTY RESEARCH NETWORK, <http://vacantpropertyresearch.com/translation-briefs/blight/>.

81. Joseph Schilling, *Code Enforcement and Community Stabilization: The Forgotten First Responders to Vacant and Foreclosed Homes*, 2 ALB. GOV'T L. REV. 101, 103 (2009).

82. *Id.*

83. See generally FORECLOSURE RESPONSE, <http://foreclosure-response.org> (last visited May 11, 2016) (listing a sampling of the foreclosure analysis and support from national community development NGOs that still continues today).

84. Co-author Schilling and NVPC Director Jennifer Leonard attended more than twenty meetings with federal government officials during the peak of the foreclosure crisis from 2008–2010. They were engaged with dozens of national, regional, and local community development organizations through the Neighborhood Stabilization and Foreclosure Prevention Task Force staffed by the National Housing Conference and Enterprise Community Partners. Schilling

brought together members of NVPC to share strategies, it started to understand the need to address the potential spillover effects from this concentration of vacant and foreclosed homes. Until that point the federal government's focus was on the individual homeowners, banks, and the mortgage lending industry.<sup>85</sup> With the rather quick adoption of President Obama's stimulus plan, the Neighborhood Stabilization Program ("NSP") became in many respects the federal government's first line of defense against the mortgage foreclosure crisis.<sup>86</sup>

In light of this national crisis, it became apparent that NVPC's work and its network would need to scale up quickly. The Ford Foundation again brought together a critical mass of national leaders and experts, several of whom had been at their earlier meeting in Washington, D.C. that led to the creation of the NVPC, to develop a game plan for addressing the nation's expanding needs.<sup>87</sup> From this convening, a plan emerged to merge the NVPC with Dan Kildee's Genesee Institute (GI) that would provide additional capacity and capabilities to help communities address the national vacant properties crisis. The new entity would leverage the NVPC's national leadership and holistic command of the issues with GI's deep expertise on land banking and tax foreclosure. With multi-year funding commitments from the Ford Foundation and the Mott Foundation in Flint, Michigan, a new entity arose, the Center for Community Progress ("CCP") led by former Genesee County Treasurer Dan Kildee,<sup>88</sup> the land bank pioneer who became CCP's first president and chairman. Former NVPC Director Jennifer Leonard along with Professor Frank Alexander, and Amy Hovey from the GI served as CCP's first leadership team. During its early days CCP quickly became the "go-to-group" for expanding land banks throughout the rust belt states and beyond along with hosting important events, such as the Reclaim-

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also made several presentations at workshops and conferences of the Federal Reserve Banks of Cleveland and Richmond.

85. *Id.*

86. Schilling, *supra* note 81, at 163.

87. Vacant Properties Strategy Meeting, May 7–8th, 2008. Ford Foundation Binder and Briefing Papers on file with co-author Schilling.

88. Dan Kildee has been the U.S. Representative for Michigan's 5th congressional district since 2013.

ing Vacant Properties Conference and the CP Leadership Institute at Harvard.

Today, under the leadership of President and CEO Tamar Shapiro, the Center for Community Progress (“CCP”), headquartered in Flint, Michigan, with offices in Washington, D.C., Detroit, New Orleans, and Atlanta, has continued to solidify itself as the primary hub for this growing national network of practitioners and policymakers.<sup>89</sup> Nothing illustrates Community Progress’ role more than its signature event—the Reclaiming Vacant Properties Conference—which now draws over 1,000 participants to share model practices from data systems, code enforcement, land banking, tax foreclosure, and more recently emerging examples of innovative reuse, among other topics. With ongoing support from the Ford, Mott, Kresge Foundations, and others, CCP, with a full-time staff of nineteen and several senior advisors, now has a robust suite of initiatives including direct technical assistance, leadership and education, policy, and research.

As an outgrowth from the Campaign, the Vacant Property Research Network (“VPRN”) plays complementary roles convening working groups of practitioners and researchers, translating the latest academic and policy research, documenting this emerging policy network, and producing comprehensive case studies.<sup>90</sup> Under the leadership of co-author Schilling, and with assistance from university researchers, graduate students and experts, VPRN synthesizes existing research about blight and vacant properties in order to support innovative policies and programs in the field. Many of the activities also engage new researchers and scholars to help build interest and expertise in vacant property reclamation as a field of applied policy and planning research.

Other strategic linkages in the emerging vacant property network include several state nonprofit organizations that engage in education, training, research, and state legislative advocacy. Over the past ten years, the Housing Alliance of Pennsylvania has been the driving force behind several important state law changes to expand the powers and ability of local governments to fight

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89. See *About*, CTR. CMTY. PROGRESS, <http://www.communityprogress.net/2015-archives-pages-423.php> (last visited May 10, 2016).

90. See *About the Network*, VACANT PROP. RES. NETWORK, <http://vacantpropertyresearch.com/about> (last visited May 10, 2016).

blight, such as land banking and conservatorship (e.g., receivership).<sup>91</sup> It has also produced strategic and influential reports, including the popular and easily digestible practitioners guide “From Blight to Bright.”<sup>92</sup> In Ohio, the Thriving Communities Institute in Cleveland and the Greater Ohio Policy Center in Columbus together have diffused and supported the state’s growing number of city and county land bank authorities. Thriving Communities’ President Jim Rokakis (former Cuyahoga County Treasurer) led the effort to enact land-banking legislation in Ohio.<sup>93</sup> He was the driving force behind the federal government’s allocation of Hardest Hit Funds to Ohio and other rust belt states in need of demolition resources for vacant, abandoned, and unusable foreclosed homes.<sup>94</sup> Greater Ohio continues to examine the intersections of land use planning, sprawl, and the reuse of brownfields (former industrial properties with actual or perceived environmental contamination) and most recently greyfields (the design and reuse of vacant and underused commercial/retail properties).<sup>95</sup>

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91. See VACANT PROP. RES. NETWORK, PHILADELPHIA’S VACANT PROPERTY JOURNEY: FOSTERING COLLABORATIVE ALLIANCE WITH CONVERGING POLICY REFORM (2013), [http://vacantpropertyresearch.com/wp-content/uploads/2015/06/VPRN\\_Philadelphia-full-report.pdf](http://vacantpropertyresearch.com/wp-content/uploads/2015/06/VPRN_Philadelphia-full-report.pdf).

92. THE HOUSING ALLIANCE ON PENNSYLVANIA, FROM BLIGHT TO BRIGHT: A COMPREHENSIVE TOOLKIT FOR PENNSYLVANIA (2013), <http://www.nxtbook.com/nxtbooks/swell/fromblighttobright>.

93. See *Jim Rokakis*, WESTERN RESERVE LAND CONSERVANCY, <http://www.wrlandconservancy.org/who-we-are/our-staff/jim-rokakis> (last visited May 10, 2016).

94. See *Neighborhood Initiative Program*, OHIO FINANCE HOUSING AGENCY, <https://ohiohome.org/savethedream/neighborhoodinitiative.aspx> (last visited May 10, 2016).

95. MARIANNE EPPING & LAVEA BRACHMAN, REDEVELOPING COMMERCIAL VACANT PROPERTIES IN LEGACY CITIES, A GUIDEBOOK TO LINKING PROPERTY REUSE AND ECONOMIC REVITALIZATION (2014), <http://www.greaterohio.org/files/pdf/eppigbrachman-vacantproperties-updatedoct14-lowres.pdf>.

*D. Developing a Systematic, Data-Driven Policy  
Framework for Strategic Code Enforcement*<sup>96</sup>

The seeds for a new approach to code enforcement were sowed in 2009 to 2010 when Schilling returned to work with Professor Lind and Cleveland's VAPAC. Despite many positive changes, the City of Cleveland's building and housing code enforcement programs were still addressing vacant properties in a reactive way, responding on a case-by-case basis in light of the mounting mortgage foreclosure crisis. Even suburban cities with very good enforcement programs in traditionally stable communities, such as Shaker Heights and South Euclid, were challenged with how to effectively identify, locate, and take code enforcement actions against banks, flippers, and institutional investors. With a small grant to the Campaign from the Fannie Mae Corporation, Schilling was tasked to help a VAPAC working group reexamine traditional code enforcement approaches through a series of working sessions and site visits.

Schilling found that once again local community development organizations, the law school's clinic, and Cleveland's Municipal Housing Court were continuing to push code enforcement changes. Neighborhood Progress, Inc. ("NPI"), launched its Neighborhood Stabilization Team ("NST") project with assistance from NEO CANDO and co-author Lind's Urban Development Law Clinic. NST represented a new type of data driven problem solving using all available legal and administrative tools to identify a course of action against different types of problem properties owned by different individuals or corporations within a defined

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96. Although this Article and section focus on strategic code enforcement, it is important to understand that code enforcement is part of a larger vacant property policy system that includes real property information systems, land banking, demolition, reuse planning, and urban greening. The executive summaries for VPRN's Cleveland and Philadelphia case studies sets forth a vacant property policy system model that illustrates how these pieces fit together and the policy process for design, adoption, and implementation. Our point is not to downplay the importance of land banking, urban greening, and other relevant legal and policy strategies and tools, but to recognize code enforcement does and can serve as a multiple prong policy intervention that can support many of the other vacant property reclamation strategies. Unfortunately, it has been the experience of the co-authors that code enforcement often gets the least attention and the least resources.



neighborhoods or geography.<sup>97</sup> NPI and Professor Lind gained nation-wide attention for filing civil nuisance abatement lawsuits against Wells Fargo and Deutsche Bank for failure to abate serious nuisance conditions at REO foreclosed residences they held title to as trustees.<sup>98</sup> In a classic battle of “David vs. Goliath,” Cleveland’s Housing Court Judge Raymond Pianka also issued criminal bench warrants against corporate officials from global financial institutions when the defendant corporations ignored criminal nuisance complaints for failure to secure and maintain vacant and foreclosed homes.<sup>99</sup>

During this engagement, Schilling brought to bear his code enforcement experiences and knowledge of model practices from other cities. By this time, Michael Braverman’s transformation of Baltimore City’s code enforcement program was becoming the gold standard by which major city code enforcement departments are now measured against today.<sup>100</sup> Braverman revamped reactive code enforcement processes by infusing business practices and systems that rely heavily on data driven program and policy decisions.<sup>101</sup> By taking a more proactive approach, Baltimore’s code enforcement managers and inspectors could tailor their code enforcement interventions to address different types of problem properties. Baltimore’s Housing Code Enforcement operation also included legal counsel and enforcement attorneys within the department, which made it more efficient to take more aggressive

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97. See SCHILLING, *supra* note 68.

98. See Lind, *supra* note 5, at 103–12.

99. See SCHILLING, *supra* note 68; Raymond L. Pianka, *Cleveland Housing Court—A Problem-Solving Court Adapts to New Challenges*, TRENDS IN STATE COURTS, <http://ncsc.contentdm.oclc.org/cdm/ref/collection/spcts/id/232>.

100. Both authors have known Assistant Housing Commissioner Braverman for over ten years and presented with him at workshops and roundtables. Co-author Schilling conducted interviews and site visits with Braverman and some of his staff in 2008, 2011, and 2012. Unfortunately, this research has not yet found its way into a published article. Perhaps the best sources are the many presentations Braverman has made at national conferences. See generally MICHAEL BRAVERMAN, BUILDING CAPACITY & DEPLOYING IT STRATEGICALLY (2011), <http://www.hcdnj.org/assets/documents/braverman%20%20-%20final.pdf>.

101. See Jim Chrisinger, *Smart Management and the Turnaround of a City: The Right Management Tools Can Literally Help Rebuild a Blighted City*, GOVERNING MAGAZINE, June 1, 2011.

civil receivership actions against those long-standing abandoned properties with serious title issues.<sup>102</sup> New Orleans was another city transforming its code enforcement approaches.<sup>103</sup> In the post Katrina world, the city adopted a new property maintenance/blighted property code but chose to design and manage an elaborate administrative hearing process to more aggressively gain compliance.<sup>104</sup>

In late 2010, CCP asked Schilling to develop ideas for expanding its code enforcement capacity building and technical assistance efforts. Schilling brought the usual suspects to Flint, Michigan, to take stock of the current state of the field, assess its needs and opportunities, and spend a day with the city of Flint's code enforcement officials.<sup>105</sup> CCP played another important role by featuring code enforcement issues and model practices at its March 2011 Community Progress Leadership Institute. In September 2011, as a follow up to these two activities, the CCP invited several teams from emerging code enforcement programs (e.g., Memphis, New Orleans, Atlanta, Newburg (New York), Flint, and Detroit) to tour Braverman's operation in Baltimore and further ex-

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102. See e.g., Jason Hessler & Steve Barlow, *The Code Enforcement 'Plaintiffs' Lawyer: Practitioner Notes and Observations From the Front Lines* (paper and presentation at September 2014 workshop hosted by the International Municipal Lawyers Associations (IMAL) and CCP) (on file with co-author).

103. At the request of the NVPC Office in New Orleans Lind and Schilling participated in several study visits post Katrina to help guide NVPC's efforts to help the city transform its code enforcement operation and professionalize the staff. They reviewed the city's administrative hearing ordinances and hearing officer procedures, recommended the hiring of Doug Leeper as code enforcement executive in residence, and facilitated a visit by Michael Braverman and his team with New Orleans's existing code enforcement managers, inspectors, and administrative staff.

104. See CITY OF NEW ORLEANS, BLIGHT REDUCTION REPORT 16 (2014), [http://www.nola.gov/getattachment/Performance-and-Accountability/Initiatives-and-Reports/BlightSTAT/Blight-Report\\_web.pdf](http://www.nola.gov/getattachment/Performance-and-Accountability/Initiatives-and-Reports/BlightSTAT/Blight-Report_web.pdf) for details on reorganization for the code enforcement and hearing bureau.

105. The usual suspects featured several well-known code enforcement practitioners and experts, including Professor Kermit Lind, John Kromer, author and former Housing Director for City of Philadelphia under former Mayor Rendell, Baltimore City's Deputy Housing Commissioner Michael Braverman, Former Code Enforcement Director for the City of Chula Vista, California (the first city to adopt a vacant property registration ordinance that applied to foreclosed properties) Doug Leeper.

plore the dimensions and range of possible code enforcement capacity building activities along with national experts Schilling, Lind, Leeper, and CCP staff. These CCP convenings and the intense discussions with Cleveland's VAPAC began to inform Lind and Schilling's thinking about the need for a new code enforcement model.

From these past and recent collaborations, Schilling and Lind have issued a call to action for local governments and their partners to design, adopt, and support a strategic approach to code enforcement. Although Lind and Schilling each stress different dimensions,<sup>106</sup> as an emerging concept, strategic code enforcement includes: (1) tactical decisions that involve specific code enforcement issues at particular properties; and (2) strategic policy and programmatic decisions that might apply to entire neighborhoods and/or address broader policy and planning goals. From the tactical perspective, strategic code enforcement encourages local governments to deploy their legal remedies and policy tools in a more effective and efficient way by targeting the right response to the right place at the right time. This approach requires investigative resources and expertise beyond site inspections that can identify and unravel the contemporary complexities of property owners and legal interests. Strategic code enforcement relies on improving operational, administrative, and legal processes so that code enforcement systems are more nimble, time-and-cost efficient, and, as a result, effective. Such a systematic approach demands close interagency and inter-departmental coordination and seamless integration with a jurisdiction's planning, land development, and housing and community development plan, policies and programs. Another core element is the pivotal role of community groups,

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106. Note that Lind calls it strategic code "compliance" enforcement, stressing the ultimate goal of this endeavor is to bring properties into compliance with relevant rules and regulations regardless of the means. Kermit J. Lind, *Code Compliance Enforcement in the Mortgage Crisis* 3 (2012), [http://www.communityprogress.net/filebin/pdf/new\\_resrcs/Kermit\\_Lind\\_Code\\_Enforcement\\_Paper.pdf](http://www.communityprogress.net/filebin/pdf/new_resrcs/Kermit_Lind_Code_Enforcement_Paper.pdf). Enforcement actions—those formal administrative and judicial remedies and processes—are not necessary for the larger percentage of violation cases that local governments manage. However, for purposes of this Article we are using strategic code enforcement to include both compliance strategies, tools and techniques as well as the traditional enforcement mechanism.

neighborhood organizations, and local residents. Strategic code enforcement cannot be effective without transparent processes and meaningful public engagement and, in some cases, empowerment.

The foundation of strategic code enforcement, however, rests on data and integrated real property information systems. Developing integrated data systems are now regarded as essential for dealing with neighborhood blight. Public policy makers and officials, neighborhood public interest advocates, and scholars search for data in various separate institutional silos. They are looking for information on individual properties as well as the connections among the changing variables related to large-scale blight. Since parcels of real property bear unique identifying codes (often a single unique parcel identification number issued and maintained by local government assessors and tax collectors), all real property related data can be assembled from many sources into an integrated data system for access, analysis, and mapping. Decision makers and program managers need this capacity to monitor and evaluate their work in real time. For example, many such systems often connect existing data from different local government departments and agencies, such as: (1) Code Enforcement Cases: common indicators of blight are the existing and past cases which outline violations of real property, building, health, or housing codes.<sup>107</sup> Most local governments have ordinances and processes that declare problem properties, often vacant and/or abandoned, as public nuisances and concentrations of public nuisances as blighted areas. (2) Mortgage Foreclosure: tracking the homes in the mortgage foreclosure process offers another common indicator of blight, such as neighborhoods or blocks with higher foreclosure rates, inactive or abandoned foreclosures, foreclosure sale of defective homes, and disposition by mortgagees of defective homes taken in foreclosure.<sup>108</sup> (3) Tax Foreclosure: Some tax-delinquent

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107. R.C. Weaver, *Re-framing the Urban Blight Problem with Transdisciplinary Insights from Ecological Economics*, 90 *ECOLOGICAL ECON.* 168, 170 (2013).

108. See generally, Michael P. Johnson et al., *What Foreclosed Homes Should a Municipality Purchase to Stabilize Vulnerable Neighborhoods?*, 10 *NETWORKS & SPATIAL ECON.* 363–88 (2010); Ingrid Gould Ellen et al., *The Foreclosure Crisis and Community Development: Exploring REO Dynamics in Hard-Hit Neighborhoods*, *FURMAN CTR. FOR REAL EST. & URB. POL'Y N.Y.U.*

properties are seen as blighted by their communities.<sup>109</sup> Tax delinquency is often an indicator of abandonment and blight. One recent study showed that areas where there are high levels of city-owned properties and elevated rates of vacancies are more likely to experience housing abandonment.<sup>110</sup> (4) Vacant and Abandoned Lots, Homes and Buildings: Abandonment occurs when a property no longer has a steward who is responsible for the basic responsibilities of property ownership.<sup>111</sup> Vacancy describes property that is not occupied, which may or may not be a public nuisance—much depends on who monitors and can maintain the property during vacancy. The critical data reveals when, how, and why a vacant or abandoned building becomes a public nuisance—those problem properties that pose threats to public safety and neighborhood quality of life.<sup>112</sup>

Without these critical indicators, code enforcers and neighborhood community organizations cannot respond effectively. Sharing data and the knowledge it yields enables collaboration among data keepers across sectors and institutional boundaries. Sharing knowledge can result in more and better information for making policy decisions and resource allocations.

In today's climate of local government fiscal instability and dwindling revenues and resources, strategic code enforcement is even more critical as local leaders ask more from their code en-

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1–13 (2013), <http://furmancenter.org/files/publications/REOHardHitWorkingPaperApril2013.pdf>.

109. Stephan Whitaker & Thomas J. Fitzpatrick, *Deconstructing Distressed-Property Spillovers: The Effect of Vacant, Tax-Delinquent, and Foreclosed Properties in Housing Submarkets*, 22 J. HOUSING ECON. 79, 3 (2012).

110. Robert Mark Silverman et al., *Dawn of the Dead City: An Exploratory Analysis of Vacant Addresses in Buffalo, NY 2008-2010*, 35 J. URB. AFF. 131, 133 (2013) (citing A.E. Hiller et al., *Predicting Housing Abandonment with the Philadelphia Neighborhood Information System*, 25 J. URB. AFF. 91–105 (2003)).

111. See generally Paolo Rosato et al., *Redeveloping Derelict and Underused Historic City Areas: Evidence From a Survey of Real Estate Developers*, 53 J. ENVTL. PLAN. & MGMT. 257, 257–81 (2010); Daniel Miller Runfola & Katherine B. Hankins, *Urban Dereliction as Environmental Injustice*, 9 ACME: AN INT'L E-JOURNAL FOR CRITICAL GEOGRAPHIES 345, 345–67 (2009); Miriam Hortas-Rico, *Sprawl, Blight, and the Role of Urban Containment Policies: Evidence from U.S. Cities*, 55 J. REGIONAL SCI. 298, 298–323 (2010).

112. *Charting the Multiple Meanings of Blight*, supra note 1, at 25–35.

forcement agencies and frontline inspectors in neighborhoods with ever changing conditions, markets, and local conflicts. Code enforcement agencies thus need a greater array of different code enforcement interventions—more arrows in their quivers—that can identify substandard properties, prevent them from becoming vacant, secure and save them when possible, demolish vacant and abandoned structures, abate a wide array of public nuisances, and recover the costs of doing so. If done right, strategic code enforcement programs can improve housing and property conditions, support neighborhood revitalization projects, and contribute to the overall health of its residents. However, as far as we can tell, only a handful of communities are actually taking a more strategic, proactive approach to code enforcement.

### III. REFLECTIONS ON HOW FAR WE HAVE COME AND HOW FAR WE NEED TO GO

Great progress has been made over the past ten plus years to design and test new responses to the multiple dimensions of neighborhood blight. Thanks in part to the development of a national network of practitioners and policymakers, innovative policies and program such as land banking, real property information systems, and urban greening initiatives, have become prevalent and common practices. Relationships and partnerships continue to grow and expand among national, regional, and local organizations involved in this common quest to reclaim abandoned properties and revitalize neighborhoods. Sharing of best practices through conferences, workshops, web sites, and reports have become the lifeline to and the inspiration for many local governments and non-profit organizations working the frontlines of the fight against blight.

Despite the efforts within these vacant properties networks, local code enforcement officials and community-based organizations now operate within a more complex world that demands increasing levels of collaboration and creativity. The diversity of the housing and real estate markets and property business models, the on-going community impact of the mortgage foreclosure crisis and economic dislocation from the Great Recession, along with decreasing government resources and increasing local government instabilities, all indicate that neighborhood blight will continue to spread and fester, especially in those communities with aging

housing stock and surplus commercial and retail properties. Vacancy and abandonment is no longer just a big city problem. Many inner ring suburban cities are now seeing more vacant properties as they lose population and once strong real estate markets become weaker.<sup>113</sup>

There is no reason to expect neglected, poorly maintained structures to recover overnight or for neighborhoods with households of wage earners who lost savings and income prospects to now magically blossom and thrive. The economics of home repair and building rehabilitation does not deliver the benefits it once did. That reality makes it difficult for community development corporations, especially in legacy cities, to make the policy and economic case for the traditional model of substantial rehab and resale.<sup>114</sup> Credible economic analysis predicts what appears to be a permanent restructuring of many urban neighborhoods with less homeownership, more rental properties, fewer resources to maintain homes for family households, and a reduction in the coming generations' dreams or capacity for ownership of single family dwellings surrounded by yards.<sup>115</sup>

In light of this “new normal,” municipal governments, civic organizations, community groups, the real estate and housing industries—with support from universities, nonprofits, and foundations—must collaborate to design, adopt, and implement a more systematic suite of neighborhood preservation and revitalizations strategies that can tackle these more complex and dynamic challenges. Cross sector collaboration becomes the political and community mortar that strengthens the campaign for better public poli-

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113. Kathryn W. Hexter, et al., *Revitalizing Distressed Older Suburbs*. WHAT WORKS COLLABORATIVE & CLEV. ST. U. 1–2 (2011), [http://cua6.urban.csuohio.edu/publications/center/center\\_for\\_community\\_planning\\_and\\_development/Final\\_11.28.11\\_RevitalizingDistressedSuburbs.pdf](http://cua6.urban.csuohio.edu/publications/center/center_for_community_planning_and_development/Final_11.28.11_RevitalizingDistressedSuburbs.pdf).

114. See Frank Ford et al., *The Role of Investors in the One-to-Three Family REO Market: The Case of Cleveland*, JOINT CTR. FOR HOUSING STUD. HARV. U. 10 (2013). As an addendum to this study, Ford and his team estimated the rehabilitation levels and costs for three neighborhoods and found only one first tier suburban community where the most basic rehabilitation would make economic sense. *Id.*

115. See *id.* at 3 (studying the post-foreclosure REO properties and their disposition in the housing market to make recommendations on curbing business practices harmful to neighborhood stability and renewal).

cies and more effective programs and actions—both in the prevention of blight’s spread and the recovery and resilience of vitality at the neighborhood level. Below we offer a few ideas on how national and local networks can foster the collaboration, coordination, and capacity needed to address some of these emerging challenges.

A. *Clarifying the Legal Principles of Blight and Nuisance in State and Local Laws and Policies*

Referring to the opening discussion of the important legal uses of blight, nuisance (both public and private), police power, property rights, and public rights to protect public health, safety, and welfare, legal scholars and their practicing colleagues have more to do to defend neighborhoods from the rapaciousness ingrained in predatory business practices.<sup>116</sup> A new but powerful threat to community life has taken root. The titans of global commerce and finance have demonstrated a profound disregard for the way ordinary people in their ordinary neighborhoods are burdened with the external consequences of their business plans. Regulatory agencies appear to be feeble and out of touch with the impact on neighborhoods of titanic global profit seeking.<sup>117</sup> This new reality calls urgently for renewed vigor in public interest legal work and legal training and education—work that recognizes communities are coping with new, unfamiliar threats to their sustainability.

New remedies for blight must start with clear, up-to-date codes for local housing and neighborhood environmental maintenance stating in law what is properly to be deemed blight and setting forth model code enforcement processes. Municipal legislators and code officers responsible for the exercise of police power need to study in detail the harm that blight causes to the public and make sure the legislation necessary for policing blight is current and effective. Blight conditions that are public nuisances must be described clearly as such with appropriate remedies and sanctions

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116. See *supra* Part I.A.

117. Lind, *supra* note 5, at 91–93; David P. Weber, *Zombie Mortgages, Real Estate, and the Fallout for the Survivors*, 45 N.M. L. REV. 37, 43–45 (2014); see also Nicholas Freudenberg & Sandro Galea, *Cities of Consumption: The Impact of Corporate Practices on the Health of Urban Populations*, 85 J. URB. HEALTH: BULL. N.Y. ACAD. MED. 462 (2008).



levied in administrative and judicial proceedings. The regulations and the enforcement system need additional capacity and expertise to match the new realities of the land use, markets, structures, and the persons, both real and corporate, who are subject to the police power. Policing and adjudicating code enforcement cases can no longer function with uncertain regulations, ineffective sanctions, easily manipulated case management, and unqualified, untrained, or unmotivated personnel.

Criminal codes must be policed by a system strategically managed to achieve compliance first, without unreasonable delay and at the least cost to the public. Many municipal court dockets reveal a trend toward larger and slower moving caseloads with repeat offenders and repeated cases on the same property. Raymond L. Pianka, Judge of the Housing Division of the Cleveland Municipal Court, has described many of these problems he has confronted in his twenty years as a judge in a special purpose housing and environmental court where he sees most of the biggest challenges in code enforcement.<sup>118</sup> He advocates for the establishment of more special purpose courts (e.g., housing and environmental courts) with special jurisdictional and subject matter authority over legal issues involving housing, urban environments, real estates and neighborhoods. Such problem solving courts are better equipped to adapt creatively to new challenges<sup>119</sup> by using local rules to manage dockets, organizing special dockets according to the nature and difficulty of cases, establishing new programs of assistance for defendants with special needs, and using the court for educating the community at large, tenants, landlords, property management servicers, and elderly homeowners.<sup>120</sup> Innovations in service of notice to secure appearances by corporate officers, creative sentencing, and the use of parole in situations involving corporate owners to maximize compliance are among the court's tools.<sup>121</sup> The Cleveland Housing Court is one of the busiest courts in Ohio, handling more than 7,000 criminal cases and 11,000 civil

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118. See Pianka, *supra* note 99, at 44–49; see also Kermit J. Lind, *The People's Court*, SHELTERFORCE, NAT'L HOUSING INST. (2011), [http://www.shelterforce.org/article/2484/the\\_peoples\\_court2](http://www.shelterforce.org/article/2484/the_peoples_court2).

119. See Pianka, *supra* note 99, at 44–49.

120. *Id.*

121. *Id.* at 47.

cases a year at this point in time.<sup>122</sup> Among those are civil public nuisance abatement cases involving the appointment of receivers.<sup>123</sup> Finally, it should be noted that the court maintains relationships with other key institutions like the county's state-of-the-art land bank, the other courts, and local law school clinics, and bar associations.<sup>124</sup>

A strategic code compliance system should include programs of information, incentives, and assistance for those residents who will—with help—comply. The vast majority of housing and environmental code violations are corrected by responsible owners or occupants without a court appearance. Some communities have neighborhood-based programs to help people avoid citations with financial and/or self-help training, tool lending, or volunteer labor.<sup>125</sup> More advanced innovations involve training community members to assist in monitoring abandoned properties that are or need to be boarded up, making qualified complaints to the inspection officials to cut the time and expense of officers in the field.<sup>126</sup> The development of hand-held telecommunication devices for photography and direct data entry via the internet is opening up many new ways community organizations can expand the scope and immediacy of routine work in code compliance.<sup>127</sup>

Underlying these policies and programs should be a civic culture that will not tolerate either blighted places or blighting conduct. Without an organized and sustained community-based commitment to combat blight, the struggle for survival and sustainability, especially in hard hit neighborhoods, is unlikely to be

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122. *Id.* at 45.

123. *Id.* at 46.

124. *Id.* at 47; *see also* Lind, *supra* note 118.

125. *See, e.g.*, HOME REPAIR RESOURCE CTR., <http://www.hrrc-ch.org> (last visited May 11, 2016).

126. Cleveland's code enforcement partnership pilot program uses citizen code compliance inspectors assigned to local community development corporations. *See* MARK FRATER, COLLEEN M. GILSON & RONALD J. H. O'LEARY, THE CITY OF CLEVELAND CODE ENFORCEMENT PARTNERSHIP (2009), [http://www.communityprogress.net/filebin/pdf/CLE\\_CE\\_Partnership.pdf](http://www.communityprogress.net/filebin/pdf/CLE_CE_Partnership.pdf).

127. Several cities have partnered with NGOs to conduct extensive property condition surveys that identify the vacant properties throughout an entire city. *See City of Change: Evolutions in the Condition of Detroit's Housing Stock*, DATA DRIVEN DETROIT (Nov. 18, 2014), <http://datadrivendetroit.org/city-of-change/city-of-change-evolutions-in-the-condition-of-detroits-housing-stock>.

successful. Indeed, public officials whose platform includes fighting blight cannot win the fight without wide-scale support from residents who want their neighborhood to be litter free and civic leaders who are prepared to give time and political force to making difficult changes in public policies and programs in the public interest, even when those changes may affect their own business or professional interests.

Changing a culture with new norms and expectations is difficult. It takes more than slogans and campaigns. It is more like a movement than a program. Yet the urgency for advancing such a movement has reached greater intensity with the obvious distress in many ordinary neighborhoods and communities fighting to survive the tsunami of housing abandonment and neighborhood distress. Being indifferent or neutral about advancing blight—in small matters like “free range litter” as well as whole blocks of empty row houses, apartments, and store fronts—is self-destructive. The acceptance of blight as either not a personal issue or as one too vast to care about by ordinary people guarantees that it will prevail. Ultimately, it is the community as a whole, not just its government, civic pillars, and neighborhood activists, who will be needed to meet the challenge of blight.

*B. Developing New Systems and Capacities for  
Strategic Code Enforcement*

Since our discussion centers on code enforcement, it seems appropriate and perhaps necessary that we reflect on its future. As this Article explains, our experience working with dozens of cities highlights that typical code enforcement programs spend most of their efforts reacting to individual cases of vacant properties and neighborhood blight. Given dwindling resources and greater complexities, policymakers and practitioners need help in transforming existing code enforcement policies and programs into more strategic and comprehensive enterprises. Here we consider how collaborative networks (local and national) could help communities recalibrate their code enforcement programs around the concepts of strategic code enforcement—the standard against which all future code enforcement program and policies should be measured.

The cornerstone of this transformation will rest with those who lead, manage, and direct code enforcement programs and neighborhood stabilization and revitalizations initiatives. This group of potential change agents includes local government man-

agers, CDC directors, housing and community development department directors, municipal attorneys, prosecutors, and others in civic leadership positions. Collectively they can set and influence code enforcement's policy and program direction and they occupy the positions and perspectives to effectuate this type of change. Collectively, they comprehend the political, community, policy, and legal context as well as the micro level details and long standing culture of code enforcement organizations. They also work closely with and engage community leaders and neighborhood residents. Code enforcement managers are critical in leading this change as they can translate code enforcement's role in broader housing and community development policy goals to front line inspectors, community leaders, and state and local government officials.

Code enforcement managers will need help in guiding and directing this level of change. They could benefit from a deeper understanding about the process of changing organizations and policies as well as the practical techniques for developing, implementing and evaluating new sets of strategic procedures, remedies and policies for addressing neighborhood blight. Change of this magnitude—shifting the code enforcement community of practice towards a strategic and systematic model—will demand the development of core principles, a comprehensive curriculum and a variety of capacity building activities.

Unfortunately, within the existing national vacant property network, only a few organizations and code enforcement experts provide direct technical assistance to a limited number of communities on how to improve their code enforcement programs. Since 2014 the Center for Community Progress (“CCP”) has administered its Technical Assistance Scholarship Program (“TASP”) serving thirteen cities covering a wide range of vacant property policies and programs, some which focus upon code enforcement.<sup>128</sup> CCP also convenes its annual leadership institute where it brings together small teams (around three to six people) from four

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128. For example, Gary, Indiana, a 2015 TASP recipient, requested code enforcement help. See Tarik Abdelazim, *Building a Strategic, Data Drive Code Enforcement Program for Gary, Indiana*, CTR. FOR CMTY. PROGRESS (2015), [http://www.communityprogress.net/filebin/150928\\_TASP\\_Gary\\_Report\\_\\_FINAL.pdf](http://www.communityprogress.net/filebin/150928_TASP_Gary_Report__FINAL.pdf).

to six cities for three plus days of intensive instruction, discussion, troubleshooting, and reflection on vacant property challenges and solutions.<sup>129</sup> From time to time discussions about code enforcement issues arise at this annual gathering but much depends on the focus on the participant cities and individuals. CCP also sponsors occasional code enforcement workshops.<sup>130</sup> Outside of CCP, few national organizations engage in code enforcement education or technical assistance.<sup>131</sup> While state and local chapters of code enforcement associations offer inspector education and training, and some states, such as California, have inspector certification processes,<sup>132</sup> our recent research could not find a comprehensive course and curriculum for code enforcement department directors, prosecutors, policymakers, hearing officers and judges on the legal and policy dimensions of a data driven, strategic approach to code enforcement.<sup>133</sup> Moreover, little research exists on how to consistently track, document, and evaluate the outputs and outcome from these new code enforcement interventions.<sup>134</sup>

Now is the time for policymakers and public interest foundations to invest in the capacity of a new cadre of code enforce-

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129. *Community Progress Leadership Institute*, CTR. FOR CMTY. PROGRESS, <http://www.communityprogress.net/community-progress-leadership-institute-pages-414.php> (last visited May 10, 2016).

130. *See, e.g., Regulation to Revitalization: The Role of Strategic Code Enforcement*, CTR. FOR CMTY. PROGRESS, <http://www.communityprogress.net/regulation-to-revitalization--the-role-of-strategic-code-enforcement-pages-434.php> (last visited May 10, 2016).

131. Note the International Municipal Lawyers Association (IMLA) has a special code enforcement working group and has held one and two-day code enforcement workshops prior to their annual conference. *See 2015 Code Enforcement IMLA's 2015 Code Enforcement Program*, INT'L MUN. LAWYER'S ASS'N, <http://www.imla.org/events/code-enforcement> (last visited May 10, 2016).

132. *Certification*, CAL. ASS'N CODE ENF'T OFFICERS, <http://www.caceo.us/?page=66> (last visited May 10, 2016).

133. The authors conducted a simple scan of different organizations that have done or touch upon code enforcement, vacant properties, and blight elimination and could not find a comprehensive course or workshop tailored for code enforcement managers and directors on strategic code enforcement.

134. *See Code Enforcement*, VACANT PROP. RES. NETWORK, forthcoming summer 2016 VPRN translations and policy brief on code enforcement at <http://vacantpropertyresearch.com/translation-briefs/code-enforcement> (last visited May 10, 2016).

ment leaders. If these public and philanthropic organizations are serious about changing the substantial role that neighborhood blight plays in income inequality and social injustice, then it becomes critical to support local capacity building and policy interventions that regenerate physical place and people at the same time. A professional management academy for directors, supervisor, municipal lawyers, and judges could in the short term enhance and expand the capacities of individual communities; and it could also lay the foundation for transforming the practice of code enforcement to meet current challenges.

The potential management curriculum would prepare managers and directors for establishing and expanding special investigation processes, developing performance metrics, understanding the legal and policy impacts and tradeoffs for their activities. Core to the strategic model is the tailoring of code enforcement and compliance interventions based on neighborhood assets, real estate markets, property ownership profiles, case type and community needs, capacity and engagement—selecting the right remedy for the right case at the right time. Such a strategic approach is fundamentally different than how most code enforcement managers operate or think. The transformation from reactive to strategic will take time, resources, and significant political will and community support.

Beyond education and training, community code enforcers will need reinforcement to launch and sustain such transformative change. While existing conferences and workshops can help plant the seeds of change by researching and sharing model practices from across cities and code enforcement programs, more intensive follow through can ensure the effective and complete shift towards the operation of strategic code enforcement. Additional hands-on technical assistance would also expedite the policy transfer process and facilitate adaptation of innovative policies and programs to local political, policy, and legal circumstances. Hiring consultants, who often have little direct code enforcement experience or expertise or who pay insufficient attention to their clients' circumstances usually leads to disappointing results. Although they will require additional resources and greater technical expertise, policymakers and foundations should explore, perhaps even pilot, other capacity building interventions, such as placing code enforcement executives in residence, facilitating short-term peer exchanges, and launching a fellowship program that might allow an experienced

department director to spend six months to a year assisting in the reorganization of another city's code enforcement department.

Within the domain of legal education, the emergence of the University of Memphis' Neighborhood Preservation Clinic offers a potential model for shaping the next generation of blight litigators and code enforcement directors.<sup>135</sup> Law schools operate clinical practice as a training ground for lawyers while also providing critical public and legal services to individual and organizational clients who do not have access to or sufficient resources to obtain legal services. Co-author Lind directed the Urban Development Law clinic at Cleveland Marshall School of Law at Cleveland State for more than fifteen years. Currently the Memphis Neighborhood Preservation Clinic assists the city of Memphis in the prosecution of code enforcement cases that come before the Shelby County Environmental Court, the Honorable Larry Potter presiding. More than twenty-four students have filed more than one hundred actions in the community's campaign against blighted properties. Beyond learning the nuts and bolts of code enforcement litigation, the students also spend time collaborating with frontline inspectors, law enforcement, community members, and other stakeholders involved with fighting blight. By practicing before a special purpose problem solving court, they gain insights beyond litigation tactics. In reality the clinic lays the foundation for a wide variety of potential careers fighting blight beyond litigation—directing a city housing/community agency, code enforcement unit, or community development corporation, for some examples. In fact, several major cities have attorneys who currently direct code enforcement departments and started their careers as code enforcement litigators.<sup>136</sup>

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135. See Karen Sloan, *Law Students Combat Urban Blight in Memphis*, Karen Sloan, NAT'L L. J., (Jan. 21, 2015), <http://www.nationallawjournal.com/id=1202715716500/Law-Students-Combat-Urban-Blight-in-Memphis#ixzz448g70L5h>; see also Lance Wiedower, *Memphis Law Students Help Shape City's Blight Fight* (Jan. 14, 2016), <http://www.highgroundnews.com/features/blightclinic.aspx>.

136. As of 2016 our personal list includes Michael Braverman, Baltimore, Ron O'Leary, Cleveland, and now the new code enforcement for Memphis, Patrick Dandridge.

*C. Developing Local Teams or Councils for Supporting  
Cross Sector Coordination and Collaboration*

One reality faced by those threatened by neighborhood blight is that the various agencies and programs needed to be marshaled are often fragmented and disconnected from each other. As a result, sometimes they compete or interfere with each other without intending to do so. Legal and political impediments often prevent the sharing of information or taking collective action, let alone the more permanent merger or reorganization of such agencies. Deeply entrenched interests usually resist institutional change that would cross particular bureaucratic silos. However, those institutional units can be connected and coordinated by the formation of teams or councils composed of senior policy and program leaders in public and public interest agencies who meet regularly to share experiences, problem solve, pool resources and collectively set policy priorities and develop action plans for reform.<sup>137</sup>

Within the vacant property field, a number of cities have government led task forces, often initiated by the mayor or other policymaker and led by a city manager, county executive or department head. Task forces typically focus on inter-department or intra-agency collaboration on particular types of vacant properties or specific neighborhoods.<sup>138</sup> Nothing is wrong with this approach, as they can help break down government silos and foster program and project coordination; but we contend they do not go far enough. We observe that long term, effective initiatives against blight and vacant properties must include strategic partners outside of local government. While local code enforcement programs control many of the policy levers and legal tools, the complexities of fighting neighborhood blight require significant contributions from nonprofit organizations, community based groups, philanthropy

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137. See Jessica Bacher & Meg Byerly Williams, *A Local Government's Strategic Approach to Distressed Property Remediation*, 46 URB. LAW. 877, 879 (2014).

138. *Id.* Task forces can also include representatives from nonprofit, business, and local institutions as they do for the Distressed Property Task Force in Newburgh, New York. Note, Lind and Schilling performed a special assessment of the vacant property challenges in Newburgh, New York, as consultants to the Pace Land Use Law Center. *Id.*



and private business interests. Nongovernmental organizations are usually able to act with flexibility and nimbleness in the public interest that is uncharacteristic of government. That is especially true in the acquisition, management, and disposition of real property interests and in organizing complex financial transactions from multiple sources in major projects. Their governing structures can be tailored to provide a high level of accountability to both private and public stakeholders. We find that public-private teamwork is the hallmark of communities that are leading the way in battling blight.

As we have discussed earlier in this Article, a leading example of such cross sector collaboration is Cleveland's Vacant Abandoned Property Action Council ("VAPAC"). In 2005 VAPAC came together with the preliminary goal to oversee implementation of the NVPC's policy and program recommendations set forth in their *Cleveland at the Crossroads* report. VAPAC includes leaders from local public interest housing and community development organizations, along with key public officials in county, city, and suburban jurisdictions in an informal collaborating group of professionals. This self-initiating group realized that progress in dealing with their vacant abandoned property crisis required them to work together, sharing information, coordinating policies and, in general, cooperating instead of competing. In their nearly eleven-year history there have been major accomplishments, such as scaling NEO CANDO into a robust real property information system, lobbying for the creation of the Cuyahoga County Land Reutilization Corporation, and supporting reforms to municipal code enforcement operations and county tax foreclosure programs.<sup>139</sup> It has commissioned, conducted, or collaborated in studies of local issues that provide information and guidance for policy and program development. VAPAC continues to hold monthly meetings where the members trouble-shoot intricate details of vacant property processes, share information across sectors and agencies, coordinate their actions for maximum effective results, and advocate for changes in state and local policy. Those partici-

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139. For more detailed reports and descriptions, see SCHILLING, *supra* note 68, and Morley, *supra* note 67. See also Kermit J. Lind, *Strategic Code Compliance Enforcement: A Prescription for Resilient Communities*, in HOW CITIES WILL SAVE THE WORLD (Ashgate Pub.) (forthcoming).

pating in the monthly meetings regard the gatherings as essential. Variations on this type of coordination and collaboration are emerging in other places around the country. While the concept of a “coalition of the willing” is generally the same from place to place, the details of participation, structure, and mission may vary in accord with local circumstances.<sup>140</sup>

*D. Developing New Collaborative Models—Insights  
from the Memphis/Shelby County Neighborhood  
Blight Elimination Charter*

Since the summer of 2015, the co-authors have been working with a new Memphis nonprofit, Neighborhood Preservation, Inc. (“NPI”), to develop what could be the nation’s first official community-wide charter to fight blight.<sup>141</sup> Throughout this entire strategic planning process, local officials in Memphis and Shelby County, along with civic and public interest community developers, have been adapting lessons from other communities, such as Cleveland and Baltimore, as they tailor policy and program innovations from these and other cities to match local conditions and dynamics. Memphis in many respects is experimenting with a new prototype for cross sector collaboration against blighted properties.<sup>142</sup> Other cities taking similar approaches include Detroit, which adopted a citywide blight strategic plan,<sup>143</sup> and Flint, Michigan, which incorporated a special element on blight remediation into its comprehensive land use plan.<sup>144</sup> Although implementation

140. Lind, *supra* note 139.

141. See generally MEMPHIS BLIGHT ELIMINATION CHARTER, [www.memphisfightsblight.com](http://www.memphisfightsblight.com) (last visited May 11, 2016) (listing all Charter related activities maintained by NPI).

142. J.B. Wogan, *It Takes a Village: The Idea Behind Memphis’ Anti-Blight Strategy*, GOVERNING MAG. (May 17, 2016), <http://www.governing.com/topics/urban/gov-memphis-blight-elimination-charter.html>.

143. Cassie Owens, *A 341-Page Blight-Fighting Plan Requires a Lot of Teamwork*, NEXT CITY (June 15, 2015), <https://nextcity.org/daily/entry/detroit-blight-task-force-models-collaboration>. The entire plan and task force activities can be found at DETROIT BLIGHT REMOVAL TASK FORCE PLAN (May 17, 2014), <http://report.timetoendblight.org>.

144. Anna Clark, *Flint, Michigan Has an Ambitious New Plan to Fight Blight* (Mar. 16, 2015), <https://nextcity.org/daily/entry/flint-michigan-blight-plan-cost-metrics>. For a review of the complete five-year plan, see NATALIE PRUETT, BEYOND BLIGHT, CITY OF FLINT COMPREHENSIVE BLIGHT

of this charter remains a work in progress, we close with a brief review of the Charter's content, and reflect on the successful ingredients of the high level of collaboration and trust that helped create it.

Released at a community summit on March 17, 2016, the Greater Memphis Neighborhood Blight Elimination Charter contains an ambitious vision that all neighborhoods have the right to be free from vacant, abandoned, and blighted properties. Its ten core principles reflect a number of important community values, such as creating a culture of care, engaging local residents, and strategically deploying resources and tools. The principles also acknowledge the multiple dimensions of blight—the social and community impacts beyond the physical appearance and neighborhood deterioration. The Charter's overarching goal is to enable stronger coordination of existing and prospective blighted property programs and policies across all sectors—nonprofit, public, and private. Several of the principles incorporate what are now becoming the well-accepted policy elements—expand information systems, proactive policy interventions and investment, link neighborhood stabilization, revitalization, and reuse activities. The charter even calls for Memphis to link blighted property remediation with the city's land use and community development plans, housing and environmental codes and economic development processes.

Although the Charter is not a legally binding document, it can provide policy and program guidance to help align those agencies and entities that directly deal with blight, their various programs and policies, and the necessary public and philanthropic resources to reclaim and reuse vacant properties. Lind and Schilling served as national experts and facilitators for this process. From their vantage point, the Memphis Charter experience offers several important lessons that other cities should consider for their blight-fighting initiatives:<sup>145</sup>

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ELIMINATION FRAMEWORK (Feb. 10, 2015), <https://www.cityofflint.com/planning-and-development/blight-elimination-and-neighborhood-stabilization>.

145. Co-author Schilling shared several of these insights on the Urban Wire blog at THE URBAN INSTITUTE, <http://www.urban.org/urban-wire/lessons-memphis-collaborative-campaign-against-blight> (last visited May 23, 2016).

- Local intermediaries within the vacant property networks play incredibly pivotal roles, often as convener, collaborator, and/or connector. NPI in Memphis illustrates a new intermediary prototype that combines its process roles with significant expertise in blight policy and programs. Core to the success of NPI and other intermediaries is the passion and energy of a catalytic leader. For Memphis, NPI co-founder and blight litigator Steve Barlow drives the blight agenda with high levels of trust and support from public officials, civic organizations, and community leaders.<sup>146</sup>
- Invest sufficient time and resources in the process. The Memphis experience reinforces the importance of meaningful engagement around critical issues, such as the need for better data about the cost and impacts of blight and demystifying agency and nonprofit roles and programs that address blight. The process of creating a charter is often more important than the document as it builds trust and mutual understanding of blight's problems and solutions among the key stakeholders in key positions.
- A blight charter offers communities a flexible format. The principles can reflect core values, local priorities, as well as elevate essential vacant property strategies, such as data driven decision making, strategic code enforcement, land banking, and urban greening. More importantly, a charter can speak to the social impacts of blight, its racial legacy, and the disparate impacts that blight imposes on communities of color.

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146. Note that many of these lessons were first established through the NVPC's Cleveland at the Crossroads process and convened by another NPI, but led by another pioneer in this field, Frank Ford now at Thriving Communities Institute.

- Leveraging the charter itself as a way to bring local and national attention to the issue and the plight of disinvested neighborhoods. NPI's communication team's framing and marketing activities around the Memphis Charter and Community Summit helped connect new voices to the blight fight.<sup>147</sup>
- Instituting a blight coordinating council or team. Blight does not happen overnight, as thoroughly discussed throughout this Article. It is produced by processes and changing conditions. It will take the concerted efforts of a coalition of the willing to address the persistent churn of real property abandonment in our cities. Memphis put implementation of a sustained response front and center by writing a separate section in the Charter that calls for two critical goals—formation of a Blight Coordinating Team and development of a Blight Elimination Action Plan. Initial meetings were held at the end of April 2016.

“It’s like de ja vu all over again,” the phrase often associated with former New York Yankee’s catcher, Yogi Berra,<sup>148</sup> somehow seems appropriate here as we reflect on our journey and on the new directions and challenges that lie ahead for distressed communities and the national and local vacant property networks that support them. The frameworks developed first in Cleveland and refined in other cities through the NVPC and CCP are still being revised and recalibrated in cities such as Memphis as people adapt these policies and programs and to different sets of driving forces, local market characteristics, and changes in neighborhood conditions and circumstances. Despite the differences, the same core policies and programs still apply—real property information systems, strategic code enforcement, restoration and preservation of structures, land banking, land reutilization and urban greening—

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147. See MEMPHIS BLIGHT ELIMINATION CHARTER, [www.memphisfightsblight.com](http://www.memphisfightsblight.com) (last visited May 11, 2016).

148. See Yogi Berra, WIKIPEDIA, [https://en.wikipedia.org/wiki/Yogi\\_Berra#.22Yogi-isms.22](https://en.wikipedia.org/wiki/Yogi_Berra#.22Yogi-isms.22) (last visited May 11, 2016).

to all cities seeking to revitalize neighborhoods and regenerate. Facilitating the learning across cities and professions, adapting the lessons from one place to another, still remains the hallmark of these functional and effective local and national networks.

As a result of our research across communities and our front line experiences, we know that many factors affect how communities remain resilient when confronting existing, new, and difficult circumstances. Therefore, informed collaboration that encompasses those factors—collaboration among public actors and among stakeholders residing in publicly defined jurisdictions—must reach unprecedented levels moving forward. Unless blight-threatened neighborhoods have the political and community commitment to abate and prevent blight their future remains in peril and will be determined by external market forces that care little for preserving and protecting healthy, resilient neighborhoods.