



from blight



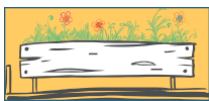
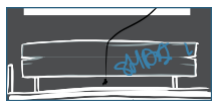
to bright

a comprehensive toolkit
for pennsylvania

updated June 2016



Housing Alliance
of Pennsylvania



From Blight To Bright: A Comprehensive Toolkit for Pennsylvania

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The Housing Alliance of Pennsylvania

Founded in 1985, the Housing Alliance of Pennsylvania is a statewide membership and advocacy coalition that provides leadership and a common voice for policies, practices and resources to ensure that all Pennsylvanians, especially those living on with low incomes, have access to safe, decent, accessible and affordable homes.



**Housing Alliance
of Pennsylvania**

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INTRODUCTION

“Both people and land lie at the heart of community. It is the people who create the relationships, the dreams, the spirit, and the culture. It is the land that creates the place and the space. As human relationships are constantly evolving through times of nurture and growth and times of conflict and discord, so too are our uses of land. We are dependent on other people, yet we are also dependent on land. We are stewards of land, and it supports and protects us; we neglect and abuse land, and it soon mirrors our fractured community.”

--- *Frank S. Alexander, Sam Nunn Professor of Law at Emory University
School of Law and cofounder of the Center for Community Progress*

Today communities throughout Pennsylvania are fighting to reclaim their blighted, abandoned land, through code enforcement, land banks, demolition, rehabilitation, by creating pocket parks, urban gardens, side yards, homes or shops. An essential paradigm shift has taken place. Instead of accepting that blighted, abandoned property is an immutable part of our landscape, Pennsylvanians throughout the state are demanding more. They are taking these properties from liability to viability.

For Pennsylvania's communities to thrive, the roughly 300,000 vacant properties in the state must be put into productive reuse. Many abandoned eyesores can become side yards or small parks. Others can be redeveloped as homes or businesses. Some can help with storm water management or provide a way to reduce homelessness. But regardless of how properties will be reused, it is imperative that we eliminate the blight that vacant, untended properties impose on our communities and local economy, and that we replace them with usable and useful properties that add value to our neighborhoods and Main Streets.

There is a body of research documenting what we know in our hearts to be true: that blight hurts communities, imperils children, is a haven for crime and brings down property values. Blight is a reminder of failure.

But what can we do?

Over the past decade, Pennsylvania has expanded the tools available to local governments to fight blight. The tools generally fall into two categories. The first includes tools

that employ progressive code enforcement—escalating the fines and penalties imposed on properties to achieve code compliance and to abate violations. The second includes tools to address long-term vacant properties that pose a threat to the health and safety of communities when code enforcement has been ineffective.

This manual presents the most effective tools available to Pennsylvania's local governments to return vacant properties to productive use. The goal is to provide community leaders, local government staff and elected officials with information sufficient to weigh and consider the tools. For each tool, the manual provides a description, the problem it is intended to solve, the actions needed for implementation, and suggestions for how to most effectively use and finance the tool. The manual also provides examples of jurisdictions that have adopted the tools, along with sample documents from the jurisdictions' ordinances and programs.

Section 1 shows how to ensure that enforceable laws are in place to prevent and eliminate blight and to use code enforcement strategies that are progressive and based on data.

Section 2 presents tools directed to properties that have long-term vacancies and endanger a community's health and safety.

Supplemental documents and samples are available online at www.housingalliancepa.org and click on PA Blight Library.



ACKNOWLEDGEMENTS

The Housing Alliance of Pennsylvania first began working on blighted and abandoned property in 2003 with the publication of "Reclaiming Abandoned Pennsylvania" which laid out a comprehensive legislative agenda of state level actions that, if adopted, would make it faster, easier and cheaper for local communities to address blight. Today, in 2014, many of those recommendations have become reality. The author of that analysis and this manual is the immensely talented Karen Black, principle of May 8th Consulting. The partnership between the Housing Alliance and Karen has provided a powerful combination of a well-conceived, research-based framework and effective statewide advocacy to promote its adoption.

Unlike many other states, the legislature in Harrisburg has provided consistent, informed and intrepid leadership to adopt an anti-blight agenda. They have forged partnerships across the divides of urban, suburban and rural, Republican and Democrat, House and Senate to put our communities first, enacting sensible, flexible and useful laws.

Among the many notable champions in the legislature are the Chairmen, past and present, of the Pennsylvania House of Representative Urban Affairs Committee: State Representatives Keith Gillespie, Ted Harhai, John Taylor, Chris Ross, Curtis Thomas and Tom Petrone. Similarly, the Chairmen of the Pennsylvania Senate Urban Affairs and Housing Committees, past and present, have led the charge: Senators Dave Argall, Jim Brewster, Gene Yaw, Dominic Pileggi, Shirley Kitchen, and Charlie Dent. A special note of thanks to the late Senator Jim Rhoades for convening the Blight Task Force. Pennsylvania House and Senate staff has provided guidance, perseverance and skill needed to take a shared vision and make it a reality. We gratefully acknowledge the tireless work of those executive directors past and present: Christine Goldbeck, John Castelli, Diane Warriner, Melissa Raffensperger in the House; John Hopcraft, Sara Cassin, Adam Pankake, Nick Troutman, Greg Mahon, Lee Derr, Clarissa Freeman and Stacey Connors in the senate. Mary Beth Dougherty in Senator Argall's office, and previously in Senator Rhoades's office, has been steadfast in her commitment to reclaiming coal country and helping the rest of us along the way.

Cynthia Witman Daley, Policy Director for the Housing Alliance of Pennsylvania has provided the skillful, steady hand to needed to forge compromise while maintaining the essence of the legislative intent that makes it possible to move bills from concept to reality. Irene McLaughlin, former magistrate, mediator and great legal mind, has provided technical assistance throughout.

Finally, funding for this work has been provided by a range of philanthropies over the years: The Pew Charitable Trusts funded the original analysis published in 2003. The William Penn Foundation supported our research, coalition building, education and outreach for more than ten years. The Heinz Endowments recognized that cities that could better tackle blight could reduce suburban green-space development pressures. Both the national Ford and Surdna Foundations contributed over the years to this body of work.

Special thanks are due to the Benedum Foundation for funding the development and writing of this manual and to Jim Denova who made it happen because he thought it mattered.

We thank Susan Hockenberry of the Local Government Academy and Court Gould of Sustainable Pittsburgh for the partnership that led to the publication of this manual.

We encourage users of this information to go to PA Blight Library at the Housing Alliance of Pennsylvania website: www.housingalliancepa.org where there is a rich, searchable library of ordinances, petitions, press coverage and a wealth of other sample materials designed to help local officials reduce the cost and time needed to develop their own materials.

Onward to tools we have today to move from blight to bright and reclaim abandoned Pennsylvania.

GETTING STARTED:

What We Know About Blight

Every official, resident, and business owner in every Pennsylvania community can agree on one fact: for Pennsylvania communities to thrive, a majority of the roughly 300,000 vacant properties in the Commonwealth must be put into productive reuse. As we have all learned, blight is bad for business and bad for quality of life. Many abandoned eyesores can become side yards or small parks. Others can be redeveloped as homes or businesses. But regardless of how properties will be reused, it is imperative that we eliminate the blight that vacant, untended properties impose on our communities and that we replace them with usable and useful properties that add value to our neighborhoods. It is a big job; it took global economic shifts, the creation of the modern suburb, and the failure of whole industries to get us where we are today. But we can change the culture of blight by aggressively, consistently, and proactively using all the tools available under Pennsylvania law to reactivate such properties and remove their blighting influences.

The status quo is not an option. Vacant properties create significant costs for local government, decrease community safety, and deter investment. Returning vacant properties to productive use presents a critical ingredient to revitalize Pennsylvania's towns and cities. Vacant properties provide the land and structures needed to create new amenities, to inject an aging housing stock with modern alternatives, and to help businesses expand.

Over the past decade, the Housing Alliance of Pennsylvania has worked with the state to pass new laws that will help in the fight against blight. In addition, we have partnered with

municipalities, residents, redevelopment authorities, and non-profits throughout Pennsylvania that are working each day to reduce blight in their communities. Although many local governments and residents feel powerless to stop blight from expanding, the tools available to combat blight are growing, as are the successful uses of those tools in communities across the Commonwealth.

This manual presents the most effective tools available to Pennsylvania local governments to return vacant properties to productive use. For each tool, it provides a description, the problem it is intended to solve, the actions needed for implementation, and suggestions for how to most effectively use and finance the tool.

The manual also provides examples of jurisdictions that have adopted the tools, along with sample documents from the jurisdictions' ordinances and programs. The manual does not provide legal advice or take the place of a solicitor's opinion. The parties involved should seek legal advice specific to the properties and processes in their jurisdictions. Rather, the goal of this manual is to provide local government staff and elected officials with information sufficient to weigh and consider each tool.

Most of the heavy lifting for removing blight and returning vacant properties to productive reuse is done at the local level. We are learning from one another. This manual fosters the exchange of information and experience from local efforts.

The High Cost of Blight

Vacant properties impose significant costs on municipalities. The residents of every municipality in Pennsylvania suffer when blight reduces property values, tax revenues, and the quality of life. Two recent studies quantify the costs of blight and vacant properties to local communities. In 2013, the Tri-COG Collaborative in the Mon Valley¹, made up of 41

municipalities, calculated that blight and vacant properties cost their municipalities \$11 million a year in direct costs for municipal services and \$9 million a year in lost tax revenue. Blight lowers the values of surrounding properties, resulting in the annual loss of an additional \$8 to \$10 million in local tax collections. Also, the loss associated with the lack of economic

1. The Tri-COG comprises the 41 member communities within the Steel Valley COG, Turtle Creek Valley COG, and Twin Rivers COG. The 41 communities are Braddock Borough, Braddock Hills Borough, Chalfont Borough, Churchill Borough, Clairton City, Dravosburg Borough, Duquesne City, East McKeesport Borough, East Pittsburgh Borough, Edgewood Borough, Elizabeth Borough, Forest Hills Borough, Forward Township, Glassport Borough, Homestead Borough, Liberty Borough, Lincoln Borough, McKeesport City, Monroeville Municipality, Munhall Borough, North Braddock Borough, North Versailles Township, Penn Hills Township, Pitcairn Borough, Plum Borough, Port Vue Borough, Rankin Borough, South Versailles Township, Swissvale Borough, Turtle Creek Borough, Versailles Borough, Wall Borough, West Elizabeth Borough, West Homestead Borough, West Mifflin Borough, West Newton Borough, Whitaker Borough, White Oak Borough, Wilkins Township, Wilkinsburg Borough, and Wilmerding Borough.

development and reinvestment is \$11,812,644 in construction impacts (one-time) and another \$8,284,294 annually in ongoing impacts.² A 2010 study of Philadelphia found that the city spends \$21 million each year to maintain vacant properties and to provide police and fire protection, pest control, and waste cleanup. Vacant properties need substantially more investment of police and fire resources than occupied properties, because



they are often the sites of crime and arson or accidental fires. A significant number of Philadelphia's vacant properties are tax delinquent, resulting in the loss of \$2 million in uncollected property taxes each year. But the greatest financial cost is the \$3.6 billion in lost household wealth as vacant properties reduce the value of each nearby property by an average of \$8,000.³

Eliminating Blight Reduces Crime, Improves Health, and Increases Property Values and Tax Revenues

Fighting blight is a proven method to increase tax revenues to government, increase the wealth that residents possess in their homes, reduce crime, and improve the health of residents. A 2014 study of an anti-blight program in Philadelphia called the Windows and Doors Program found that the program increased surrounding real property values by millions of dollars.⁴ Under the Windows and Doors Program, the city fined the owners of long-term vacant structures that had openings not covered by functional windows or doors. The study, conducted by the Reinvestment Fund, found that properties that complied with



citations created \$74 million in sales prices for surrounding properties. The increased value resulted in \$2.34 million in additional transfer tax revenue to the city (see online appendix). Studies by the University of Pennsylvania give conclusive evidence that eliminating blight from vacant properties through greening or redevelopment

increases surrounding property values by up to 30% in certain neighborhoods⁵, markedly reduces gun-related violence⁶, and improves the health and exercise habits of residents while reducing their stress.⁷

Blight Elimination Efforts

Blight elimination efforts can be divided into four critical categories.

ONE: Enforceable Legal Framework

Municipalities need to enact codes and laws that affirmatively require owners to maintain and care for their properties. Many of the tools described in this manual are state authorized. Even with state authorization, however, it is advisable for

municipalities to pass ordinances that include clear definitions and policies for how the state law will be implemented. (Sample local ordinances are available in the online appendix.)

2. "Financial Impact of Blight on the Tri-COG Communities" (September 2013), <http://www.housingalliancepa.org/node/1501>.
3. "Vacant Land Management in Philadelphia: The Costs of the Current System and the Benefits of Reform" (November 2010), http://may8consulting.com/pub_16.html.
4. Executive Summary: Strategic Property Code Enforcement and Impacts on Surrounding Markets, The Reinvestment Fund (2014) http://www.rhls.org/wp-content/uploads/Strategic_Property_Code_Enforcement.pdf.
5. Susan M Wachter, Grace Wong (2008), "What Is a Tree Worth? Green City Strategies and Housing Prices", *Real Estate Economics*, 2008, 213 – 239; Susan Wachter, *The Determinants of Neighborhood Transformations in Philadelphia—Identification and Analysis: The New Kensington Pilot Study*, The Wharton School, University of Pennsylvania (Spring 2005). http://www.kabaffiliates.org/uploadedFiles/KAB_Affiliates.org/Wharton%20Study%20NK%20final.pdf.
6. Branas CC, Gracia N, Rubin D, Guo W: "Vacant Properties and Violence in Neighborhoods." *ISRN Public Health* 2012: 1 – 23, 2012; Garvin E, Branas CC, Cannuscio CC: "Greening Vacant Lots to Reduce Violent Crime: A Randomized Controlled Trial." *Injury Prevention* 18(5): 1 – 6, 2012.
7. Garvin E, Branas CC, Keddem S, Sellman J, Cannuscio C: "More Than Just an Eyesore: Local Insights and Solutions on Vacant Land and Urban Health." *Journal of Urban Health* 12(7): 9782-7, 2012; Branas CC, Cheney RA, MacDonald JM, Tam VW, Jackson TD, Ten Have TR: A Difference-in-Differences Analysis of Health, Safety, and Greening Vacant Urban Space. *American Journal of Epidemiology* 174: 1-11, 2011.

Municipalities also have significant power to enact laws and regulations for locally authorized interventions aimed at vacant properties. So, for example, a municipality can enact a quality-of-life ticketing ordinance that allows it to fine property violations without a hearing (like traffic tickets). In

other cases, a municipality may choose to proactively adopt a model code, such as the International Property Maintenance. **the property has been in repeated violation of the law, and that despite continual attempts to bring the property up to code, blighted conditions remain.**

TWO: Targeting Limited Resources and Collaborating to Enforce the Law

Every municipality in Pennsylvania has limited resources. Identifying the three to five poorly maintained properties that have the greatest negative impact in a community allows municipalities to create detailed plans to enforce the laws against those properties before moving on to others. Not only does focusing resources and attention on the very worst properties eliminate the blight they create; but publicity about actions taken against such properties can motivate other owners to bring their properties into code compliance.

Similarly, using this manual to understand which tools will be most effective in addressing a community's blight is critical. There is no magic bullet. Each tool offers a different approach, with varying costs and risks. Talking with solicitors, assistant district attorneys, magistrates, and district justices about the significant costs that blighted properties impose on municipalities and their residents and about the laws that have

been passed to help municipalities address them is crucial to creating the teams needed to reduce blight. The reality is that the condition of vacant properties is a major driver of crime; lawyers, prosecutors, and the judiciary play a crucial role in enforcing codes. Several jurisdictions have worked with the courts to assign a single jurist to hear all property-related cases so that they can become familiar with repeat offenders and the penalties available (see blight court tool).

Finally, it is important to educate property owners about their contributions to clean, safe, attractive communities and to ensure that no properties fail to satisfy code because the owners do not know what is expected of them. Municipalities can achieve better-maintained properties by giving all owners the knowledge they need to bring their properties into compliance with the laws.

THREE: Compliance and Changing the Culture

Many long-term vacant properties have been in poor condition for years or even decades. Making clear that the municipality will enforce a higher standard for the condition of those properties is crucial to changing the culture and setting an expectation that the exteriors of all properties must be well tended and cared for. A progressive-discipline approach that imposes consistent penalties on properties that violate codes and increases fines and penalties over time is most effective. It is also essential to tailor tools and their penalties to the conditions

of properties and the owners' abilities to bring them into code compliance. The harshest fines and penalties should be reserved for absentee owners who have clear assets but refuse to invest in their properties. Harsh treatment of owners who lack sufficient resources may only cause them to walk away. Where properties are in poor condition partly or wholly because of their owners' limited financial resources, assistance programs may be needed to facilitate repairs.

FOUR: Transfer Worst Properties to Responsible New Owners

When a property affects a community's health and safety and remains in blighted condition despite regular fines and penalties, it may be time to transfer the property to a responsible new owner, using conservatorship, eminent domain, or another tool

in this manual. Taking that step with even one property—the worst of the worst—has the benefit of creating a tangible threat that will encourage owners to improve other properties.

The challenges that vacant properties present have been with us for decades but resist easy solutions. Since 2003, the Housing Alliance has been working to increase the state-authorized tools to fight blight. Over the same decade, Pennsylvania municipalities have aggressively created and refined locally authorized tools. This manual attempts to provide information about each tool so as to create a catalog of potential strategies that municipalities can use to eliminate blight and bring vacant properties into productive reuse.

Data-Driven, Progressive-Discipline Code Enforcement

Code enforcement officials have some responsibility for nearly every aspect of a municipality's response to vacant



properties, including identifying, tracking, and responding to all types of abandoned-property issues. Data-driven 'progressive discipline' on code violations, rather than complaint-driven code enforcement, allows for better regulatory oversight of private properties and better use of small staffs. Data-driven enforcement allows municipalities to coordinate data and information so that they can measure blight and reduce it.

High-quality data collection allows code enforcement officials and consultants to target their limited resources toward the most effective use; show a pattern of violations to a judge; enforce licenses, permits, fees, and fines; and create a performance management tool for tracking the progress of code enforcement efforts throughout a municipality. A municipality uses the database to record each complaint, inspection, violation, communication, and action intended to resolve a violation. The database can also track licenses and permits obtained, as well as permits' expiration dates. The first inspection may begin a two-year-long process to reactivate properties. Keeping clear records of every action taken is often the key ingredient for success.

The first step to data-driven enforcement is to create a searchable code enforcement database. Core data will originate from the code enforcement inspector's records. The database will capture basic information about the nature of each violation; date and time of each inspection; a photo documenting the violation; the name and contact information of the owner, tenant, agent, or other persons

involved; any action taken by the parties; and fines or penalties owed. The violation notices, photos, and communications can be attached or associated with the property file.

The code enforcement database can be as simple as a spreadsheet that includes all complaints (type, status, and dates) and all code violations (type of violation, status, dates), or as complex as a database that fully integrates police and fire reports, property ownership records, and building permits and that maps violations across the municipality. The



goal is to create a property history that provides a view of everything that is happening or has happened on any property.

Once a municipality compiles a body of data, it can use the database to—

- Identify owners of more than one problem property
- Identify the most common violations in each area
- Evaluate the number and types of violations in each area
- Enforce registration and permit laws
- Establish the best areas to target proactive enforcement efforts
- Determine more efficient enforcement scenarios based on workload and area covered
- Make a strong case before a judge as to why action is needed to bring a property up to code

Section 1

Tools to Prevent and Eliminate Blight and Keep Properties Up to Code

This section describes the need to enact enforceable laws that prevent and eliminate blight and to use code enforcement strategies that are progressive and based on data. Municipalities must have a legal framework to enforce, whether it is in the form of a comprehensive code or individual targeted laws. Dealing with a potential violation as swiftly as possible is the most cost-effective approach to preventing blight and abandonment. Tools discussed in this section are intended to bring vacant properties into code compliance and to eliminate blight. The most severe actions are reserved for long-term vacant properties that threaten a community's health and safety.

The following numbered points outline steps that municipalities can take to prevent and eliminate blight. The bulleted items are specific laws and strategies. After each is a more detailed discussion about each step.

1. By enacting key codes or individual ordinances, setting a legal framework, and holding properties to clear standards, municipalities can better maintain the condition of occupied properties and prevent blight
 - **International Property Maintenance Code or Individual Ordinances:** A legal framework to hold properties to clear standards
 - **Quality-of-Life-Violation Ticketing Ordinance:** Tickets and fines for code violations that are visible on the exteriors of private properties
2. By requiring the registration of rental, vacant, and foreclosed properties, municipalities can better monitor conditions and finance proactive efforts to ensure that properties remain up to code
 - **Registration of Rental Properties:** Requiring rental-property owners to provide contact information for the owners or their local agents, pay an annual fee to cover the costs of regular inspections and complaint response, and learn their responsibilities under the code and regulations
3. By requiring that properties be brought up to code within a specific time frame after sale and by disqualifying tax-sale bidders who have tax delinquencies or code violations, municipalities can break the cycle of blight
 - **Registration of Vacant Properties:** Requiring vacant-property owners to provide contact information for the owners or local agents, pay an annual fee to cover the costs of regular inspections and complaint response, and learn their responsibilities under the code and regulations
 - **Registration of Foreclosed Properties:** Partnering with a for-profit company to require lenders to register properties once they are in default, pay an annual fee, and identify a contact person to oversee the security and maintenance of foreclosed properties
 - **Presale Inspections:** Requiring sellers to pay for inspections before transferring properties to new owners and notify owners of deficiencies or bring properties up to code
 - **Municipal Code and Ordinance Compliance Act:** Requiring purchasers of properties that have known code violations to resolve the violations within 18 months
 - **Disqualification of Tax Sale Bidders and Cost Recovery for Properties:** Restricting bidders who have tax delinquencies or code violations and recovering costs for maintenance and rehabilitation of properties that fail to sell at upset sale

4. By making grants and loans available to homeowners or small, “mom and pop” landlords who lack the money to keep their properties up to code, municipalities can improve the housing stock condition, eliminate blight, and revitalize neighborhoods
 - **Home Repair and Rental Rehabilitation Assistance:** Financial assistance to owners who lack the money to bring properties up to code
5. By prioritizing severely blighted properties that threaten health and safety, and by gaining the owners’ attention through significant fines, permit denials, or criminal charges, municipalities can encourage owners to repair and maintain blighted properties. The goal is to change the owners’ stance from “I’m going to ignore you” to “How much time do I have to get my property into compliance?”
 - **Doors and Windows Ordinance:** Fines for each missing door and window, and increasing fines over time
 - **Permit Denial:** Denying permits to owners of tax-delinquent properties or properties that have judgments for serious code violations
 - **Asset Attachment:** Attaching owners’ other assets to pay to demolish or improve properties
 - **Hall of Shame:** Bringing public pressure to bear on owners of the most blighted properties
 - **Criminal Misdemeanor Sanctions for Multiple Code Violations:** Criminal penalties on owners who repeatedly violate building, property maintenance, or housing codes
 - **Extradition of Out-of-State Property Owners:** Asking Pennsylvania’s governor to extradite property owners living in other states so that they can be brought for criminal prosecution

Chapter 1

By enacting key codes or individual ordinances, setting a legal framework, and holding properties to clear standards, municipalities can better maintain the condition of occupied properties and prevent blight.

Tool A.	Enact International Property Maintenance Code or Adopt Individual Ordinances	10
Tool B.	Adopt Quality-of-Life-Violation Ticketing Ordinance	12

International Property Maintenance Code or Individual Ordinances: A legal framework to hold properties to clear standards

Municipalities need to enact codes and laws that affirmatively require owners to maintain and care for their properties. One option is to adopt the International Property Maintenance Code, a model code that spells out the minimum maintenance requirements for existing buildings.⁸ The Property Maintenance Code transforms the maintenance of buildings and surrounding properties from an option to a legal requirement for property owners. The collection of licenses and fines established by the IPMC pays for enforcement. The code requires property owners to maintain their vacant properties in good condition—whether they are local residents, absentee owners, or lenders temporarily in control of foreclosed properties. Municipalities can adopt the code in whole or in part, and they can modify it to suit local conditions. Another option is to adopt a set of customized local laws that address the property conditions most likely to affect health and safety.



What does it do?

The International Property Maintenance Code allows municipalities to adopt an up-to-date code that contains clear and specific requirements governing the maintenance of buildings. Municipalities can modify the code in any way they choose—adding or deleting provisions to serve their unique needs. The code presents the minimum health and safety requirements for existing buildings, structures, and property. It prohibits common blighting influences, such as the accumulation of trash, high weeds, and derelict vehicles. Property owners who violate the code are notified in writing of the reasons for a violation and are given a reasonable time period to comply. The code is updated approximately every three years. Municipalities may choose whether or not to update their codes that frequently, depending on how important they regard potential changes. The Pennsylvania Uniform Construction Code does not mandate the statewide use of the International Property Maintenance Code, so adoption is optional. Some municipalities will prefer to pass specific laws, such as prohibiting junk cars or trash on lawns, rather than adopt the entire code.



How do we pay for it?

Fines and penalties can pay for the enforcement of the code. Adopting the code usually costs very little.



What types of property are covered?

The municipality can decide what properties are covered. A property maintenance code typically establishes minimum

maintenance standards for buildings that have residential, commercial, or industrial land uses. Many jurisdictions do not make all provisions of the code mandatory for historic buildings and structures that code officials judge to be safe and in the public interest of health, safety, and welfare.



What challenges will it solve?

Many Pennsylvania municipalities have no laws about property conditions and maintenance. Others have several health and safety codes that are neither clear nor comprehensive, making the code officials' job difficult and leaving property owners confused about their responsibilities. The property maintenance code provides clear rules and steps for government to take when property owners leave their buildings or lots in an unsafe, dilapidated condition.



Where does it apply?

The code applies within any jurisdiction that voluntarily adopts it. Municipalities may prefer to adopt more specific local ordinances that set standards for property conditions.



How does it work? What is needed to use the law effectively?

To implement the code, municipalities must adopt it formally. They may modify it by including a list of exceptions to the ordinance adopting the code. Those could include a mix of more lenient and more severe provisions.

8. 2012 International Property Maintenance Code, published by the International Code Council.



What policies and practices will increase our chances of successfully using this tool?

The municipality should present a clear and persuasive case to residents and property owners as to why the code or ordinances are needed. Several Pennsylvania municipalities have faced objections to the adoption of the International Property Maintenance Code on the grounds that government does not have the right to tell property owners what they can and cannot do on their properties. Residents complain that although government has the legal right to require property owners to cut their grass, discard their trash, or remove junk cars from their yards, to do so is unfair or overstepping. The simple response is that owners have the right to maintain their properties as they choose as long as it doesn't negatively affect their neighbors. As Cindy Daley of the Housing Alliance of Pennsylvania says: "Your right to extend your fist ends at the tip of my nose." Owners of neighboring properties have the right to not have their property values brought down by vermin and blight next door.

Upon adoption of the property maintenance code, the municipality should send a list of common violations to building owners and let them know that the municipality will enforce the new code. First-time violations might provoke a warning rather than a fine as owners become familiar with the code requirements.

As with other code enforcement tools, the adoption of a maintenance code is a good time to ensure that the municipality has a database that can support the systematic monitoring of complaints, violations, and properties. The database should be searchable by type of property, number of complaints and violations, type of violation, neighborhoods, length of time in the system, compliance status, number of inspector contacts, owner and agent, and other variables. Where possible, the database should interface with databases used by the tax assessor, tax claim bureau, and others that have critical information about property ownership, tax arrears, and sales activity that may support enforcement efforts. An ability to interface with the police database may help support collaborative problem-solving for properties that have chronic code violations and repeated criminal incidents.



What legal documents will we need?

Jurisdictions wishing to adopt the 2012 International Property Maintenance Code as an enforceable regulation governing

existing structures and premises should ensure that certain factual information is included in the adopting legislation. Sample legislation for adoption of the International Property Maintenance Code is available at <https://law.resource.org/pub/us/code/ibr/icc.ipmc.2012.html>.



Who is using the tool now?

The Borough of Etna in Allegheny County has adopted the International Property Maintenance Code in its entirety and without modification. Etna

has found the code to be an essential tool in the borough's blight fight because it gives the borough the regulatory authority to cite owners who fail to cut their grass, leave trash in their yards, or fail to repair holes in their sidewalks. Etna found that once owners failed to take basic steps to care for their properties, blight became contagious and nearby owners similarly failed to keep up their properties. Enforcing the code standards makes clear to all that buildings in Etna must be properly maintained.



Immediately after adoption, Etna took steps to enforce the code strictly, sending certified letters to owners and routinely taking violators to common pleas court. The process often left residents angry and defensive. Many waited to fix their properties until the day before a court hearing, causing magistrates to feel that their time was wasted. Now Etna employs a friendlier approach, using doorknob hanger signs that explain the need to remedy violations, and phone calls where needed to gain compliance. Staffing has been a challenge because Etna outsources its enforcement of building codes and property maintenance codes and needs someone with knowledge of the community who isn't fazed by the challenge of citing relatives, friends, and friends of friends when necessary. Etna makes the investment in enforcement because when private owners stop caring and maintaining their properties, property values and taxes go down, along with quality of life.



How can we combine this with other strategies?

A property maintenance code is a prerequisite to many of the tools described in this manual.

Quality-of-Life-Violation Ticketing Ordinance: Tickets and fines for code violations that are visible on the exteriors of private properties

Municipalities that have property maintenance codes may issue tickets and fines for immediate payment—similar to a parking ticket—when code violations are visible on the exterior of a private property. Typical quality-of-life ticket violations include trash and litter on the property, abandoned vehicles or appliances, or high grass and weeds. When inspectors target a single area for the proactive inspection of properties and issue tickets, it is called a sweep. In fact, Allentown issues tickets under its Solid Waste Education and Enforcement Program, or SWEEP for short.



What does it do?

The goal of quality-of-life ticketing is to eliminate unsightly conditions on the exterior of properties — such as high weeds and grass, trash, and abandoned vehicles, appliances, or furniture — that blight a neighborhood.⁹ Inspectors are cross-trained to handle any type of eyesore complaint as they “sweep” blocks, commercial corridors, or neighborhoods, and give tickets to owners who have property maintenance code violations. When code inspectors find a private property violation, they issue a violation notice to the property owner, along with a deadline for corrective action. Rather than citations that are enforceable by the courts and require a hearing, the violations are treated like parking tickets: Fines and actions to correct the violations are due immediately. Code officials or police officers typically issue a ticket with a \$25 fine for a first offense. The severity of the fine rises with subsequent offenses—for example, \$50, \$100, \$300. Violators have a week to 10 days to pay. Quality-of-life tickets have a very high response rate. When the owner refuses to fix the condition or pay the fine, however, a citation is issued and the matter lands in court.



How do we pay for it?

The tool has brought in thousands of dollars to government coffers in communities that have adopted it. Fines imposed for quality-of-life tickets can be used to fund inspectors on the street. There is no legal limit on the amount of fines collected. That differs from restrictions on licensing fees, which must be limited to covering costs.



What types of property are covered?

Quality-of-life ticketing can be used for offenses on all types of property.



What challenges will it solve?

A quality-of-life ticketing ordinance is designed to streamline the process of punishing violators of nuisance ordinances, freeing up both the magisterial court system and municipal code officials—along with ensuring that revenue from fines goes to local government. The ordinance also makes the process quicker and less expensive for owners. Litter, dumping, and graffiti are costly problems that contribute to the deterioration of property values and general disorder in a community. Litter and littered properties degrade the physical appearance of a community, reducing business and tax revenue and inhibiting economic development. In addition, sweeps can identify small code violations while they are still small and can be corrected at low cost.



Where does it apply?

Any Pennsylvania municipality may adopt a quality-of-life ticketing ordinance.



How does it work? What is needed to use the law effectively?

Typically, a property owner receives a warning. If the owner fails to remediate the violation in a short, declared amount of time, the code enforcement official or a police officer issues a code violation ticket. The owner pays a small fine, such as \$25. Fines continue to accumulate if the owner fails to remedy the violation. Announcing sweeps, publicizing the most common violations, and educating the public about how such violations harm the community are practices that encourage owners to remedy problems quickly. Ticketing ordinances allow owners to appeal the tickets. Owners who appeal are often required to pay the fine with the appeal submission and to seek reimbursement. When owners fail to respond to escalating

9. The exterior inspection, however, may trigger an interior inspection if a structural issue is visible from the outside.

fines, the municipality must bring them to court to resolve the violations.



What policies and practices will increase our chances of successfully using this tool?

Sweeps are only as effective as the follow-up enforcement and remediation. The goal is to encourage action by issuing repeated notices to owners as fines increase and accumulate. Inspections should be ongoing and should be followed up by re-inspections to determine whether the violations have been cleared.



What legal documents will we need?

- Ordinance allowing for quality-of-life ticketing
- The tickets themselves
- Appeals forms for owners who seek to appeal the tickets



Who is using the tool now?

Allentown's Solid Waste Education and Enforcement Program (SWEEP) began in 2005 and was the first program of its type in Pennsylvania. In Allentown, each day that a violation continues constitutes a separate offense for which a separate fine may be imposed. Employees designated as SWEEP officers, along with police, animal control, and members of the health bureau, issue tickets for a variety of violations, such as the failure to remove snow or ice from city sidewalks in a timely manner, excessive noise, and illegal dumping.

Allentown has found SWEEP to be a cost-effective program that limits the amount of time that officers spend in court hearings. In 2011, Allentown issued more than 5,800 SWEEP tickets for more than 9,000 violations. Fines were \$25 to \$100,

and 60% of tickets were paid. The fines benefit the city's solid-waste fund. Offenders can appeal SWEEP tickets and request a court hearing. The inspections are ongoing and are followed up by re-inspections to determine whether a violation has been cleared. If not, the case is set for a hearing to determine possible fines and an order for remedial action. Any cost of remediation that the municipality incurred is the violator's responsibility. If a fine is not paid within 10 days, a citation is issued and the city requests a court hearing.

In 2012, Coal Township in Northumberland County began a ticketing system modeled on the Allentown SWEEP program. Tickets carry an initial \$25 fine for violating nuisance codes about trash, high grass, junk vehicles, and more. The fines can reach \$300 for subsequent violations, and individual tickets can be levied daily until the nuisance is abated. Township commissioner Gene Welsh was recently quoted as saying that the ticketing program has had a positive impact on the general cleanliness of township properties.¹⁰ Although the goal is to allow for enforcement without going to court, the township had one case in which owners refused to fix their dilapidated properties. The township pursued court action, and the magisterial district judge found the owners guilty of 26 code violations for 9 properties and fined them a total of \$4,331.¹¹



How can we combine this with other strategies?

Tickets issued must meet violation definitions in the property maintenance code or relevant municipal ordinances. As a result, the Housing Alliance recommends adopting the International Property Maintenance Code before passing a ticketing ordinance or beginning SWEEPS. A ticketing ordinance may also work effectively in combination with a conservatorship program. Where an owner refuses to remediate conditions after receiving repeated tickets, and the property has some value, it may make sense to allow a conservator to petition the court of common pleas to borrow against the property to fund repairs and to be reimbursed from the sale of the property.

10. Eric Scicchitano, "Proactive Approach to Blight Paying Off in Coal Township," NewsItem.com, August 30, 2012. <http://newsitem.com/news/proactive-approach-to-blight-paying-off-in-coal-township-1.1365791>.

11. Id.

Chapter 2

By requiring the registration of rental, vacant, and foreclosed properties, municipalities can better monitor conditions and finance proactive efforts to ensure that properties remain up to code

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tool C

Rental-Property Registration: Requiring rental-property owners to provide contact information for the owners or their local agents, pay an annual fee to cover the costs of regular inspections and complaint response, and learn their responsibilities under the code and regulations

Rental-property registration, a self-funded tool established by local ordinance, requires owners of rental properties to register the properties with the municipality before leasing. Owners must provide detailed contact information, pay an annual fee, make the property available for inspection, and pay fines if they fail to register or meet the municipality's standards. Registration fees may not exceed the total cost of administering the program.



What does it do?

The goal of rental registration ordinances is to preemptively address the burdens that problematic rental properties place on local governments. The registration law allows municipalities to quickly contact owners via phone or e-mail to report problems. Where an owner does not live or work in the municipality, an ordinance may require the owner to assign a local agent who can quickly respond to issues that arise. Each ordinance assesses annual fees to cover the costs of regularly inspecting properties and responding to complaints. Registration offers an opportunity to track and improve the performance of landlords without having to bring them to court.



How do we pay for it?

Rental registration programs pay for themselves, but fees collected must not exceed the total cost of administering the program. Commonwealth Court upheld a rental registration law, holding that an annual fee per residential rental unit is a permissible regulatory license fee as long as the total fees collected are commensurate with the costs of the program in connection with the issuance and supervision of the license or permit. The license fee may not exceed the actual or probable cost of the special municipal services rendered to enforce the regulation, including salaries and benefits for inspectors' time devoted to the program. The court has determined that the salaries of the mayor and council are too far removed to be covered in part by rental registration fees. Similarly, costs that were fixed before the rental registration program was passed cannot be covered by the fee.¹²



What types of property are covered?

Rental registration ordinances typically apply to all residential rental properties.



What challenges will it solve?

Registration creates a database of the locations and owners of a municipality's residential rental properties. Local governments can use the database as an effective resource to promote responsible management and allow for prompt contact with owners or managers from police, fire, emergency, and inspections departments when issues or emergencies develop.¹³

The law also allows a municipality to inspect a property before each new lease, annually or as infrequently as every three years for properties that have no history of code violations. The law allows a municipality to assess fines and recover costs through property liens for any corrective action that the municipality must take to ensure health and safety.



Where does it apply?

Any Pennsylvania municipality may adopt a rental registration law.



How does it work? What is needed to use the law effectively?

The ordinance should set goals, the specifics of the registration process, the inspection schedule, duties of owners, enforcement

12. *Robert Kappe Associates et. al. vs. West Chester Borough*, Court of Common Pleas Civil Action No. 00-07407 (2003) provides an extensive analysis of exactly what costs can be covered by rental registration fees. (See online appendix.)

13. Some local governments, such as Carbondale, exempt nonprofits from their escalating-fee requirement. Carbondale, Pa., File of the Council No. 14 (2008) available at www.safeguardproperties.com/vpr/docs/Carbondale,PAordinance.doc (last visited Dec. 10, 2009).

mechanisms, and an appeals process. Many ordinances also set forth tenants' rights and responsibilities. Legal rulings have made it clear that the fees charged must be used to fund the administration of the program and cannot exceed the costs of implementation. A rental registration law works if there is good, constantly updated data and a low-cost enforcement mechanism to ensure that owners are following the law, as discussed in the next paragraph.



What policies and practices will increase our chances of successfully using this tool?

Make it easy for property owners who have high-quality rental properties to satisfy the requirements. The goal here is to hold negligent owners—those who fail to take care of their properties or rent to tenants with bad behavior—accountable, not to add significant costs or burdens to responsible owners of residential properties. Allowing owners to pay fees online helps make paying the annual fees less of a chore. Less-frequent inspections for owners of high-quality properties are very much appreciated as well. Having the capacity to complete inspections promptly upon request will ensure that owners can quickly lease to prospective tenants. In addition, a cap on total charges for owners who have multiple units may make sense, although in some locations smaller property owners have argued that a cap favors large landlords.

A low-cost method to enforce the registration requirement is also essential. New York City courts encourage owners to register by refusing to allow the eviction of tenants from unregistered rental properties. Minneapolis's water company automatically checks whether a property is registered when a tenant calls to have a water bill put in his or her name. If the property is not registered, the owner must pay a \$500 fine.¹⁴ Other municipalities do not provide occupancy permits to unregistered properties.

Finally, a municipality must ensure that it can levy a lien against a property if the owner fails to pay penalties or if the municipality determines that it must take a corrective action and be reimbursed upon the sale of the property. Although courts have approved the concept of a residential registration fee, many jurisdictions include unique provisions that may be challenged in court. They include criminal penalties for repeat offenders, and mandatory liability insurance. Disruptive-tenant ordinances are not recommended, because they have been repeatedly challenged in the courts.¹⁵



What legal documents will we need?

- Ordinance establishing the registration requirements

14. Alexa Rissoff, *Are YOU Registered? An Analysis of Buffalo's Rental Registry Code*, Partnership for the Public Good (2009). <http://www.ppgbuffalo.org/wp-content/uploads/2010/06/Rental-Registry.pdf>.

15. Ordinances that fine landlords or force them to evict disruptive tenants have been challenged because of the subjective nature of 'disruptive conduct' and their potential to violate the Federal Fair Housing Act.

16. 53 Pa.C.S.A. § 304.

- Registration forms
- Searchable database
- Fee schedule

Several examples of ordinances, forms, and fee schedules appear in the next paragraph. To ensure that the total fees collected do not exceed the program's administrative costs, a municipality will also need to itemize the program's budget.



Who is using the tool now?

Large cities such as Allentown, Erie, and Pittsburgh have rental licensing ordinances, but so do smaller municipalities such as New Castle, Mahanoy City, and Coal Township. Allentown's ordinance was approved by Commonwealth Court in 2007, although we note that it is once again facing a court challenge. For other sample documents, go to the Housing Alliance Web site. Some ordinances contain "disruptive conduct" provisions along with rental licensing. Under Act 200 of 2014,¹⁶ municipalities are prohibited from enforcing provisions of nuisance ordinances that penalize tenants who call for emergency assistance. The law was enacted after the Borough of Norristown forced a landlord to evict a tenant who was the victim of domestic violence when the police were called to her home for the third time.



There have been cases in other jurisdictions outside of Pennsylvania that have questioned the legal validity of rental licenses. For example, in *Timber Glen Phase III LLC vs. Township Of Hamilton*, the Appellate Division of the New Jersey Superior Court <http://law.justia.com/cases/new-jersey/appellate-division-published/2015/a1775-13.html> finds that under NJ law, neither general police powers nor a specific statute gave municipalities the right to require rental licenses that includes a revenue generating component. The opinion is confined to the authority to license and does not address a municipality's regulatory or inspection authority. Pennsylvania has not ruled on this issue, however, it is clear under Pennsylvania law that fees charged must be limited to covering actual costs of implementing the ordinance and can not be used to generate general fund revenue.



How can we combine this with other strategies?

The database created by registering rental properties can be very helpful in proactive code enforcement. Registration can also be an effective strategy for vacant and foreclosed properties.

tool D

Vacant-Property Registration:

Requiring vacant-property owners to provide contact information for the owners or their local agents, pay an annual fee to cover costs of regular inspections and complaint response, and learn their responsibilities under the code and regulations

Nationally, hundreds of cities, counties, and boroughs have adopted vacant-property registration ordinances that require owners of vacant properties to register the properties with their respective municipalities and maintain the properties in accordance with local codes. The program is self-funding, but registration fees may not exceed the total cost to administer the program.



What does it do?

The goal of vacant-property registration ordinances is to preemptively address the burdens that problematic vacant properties place on local governments. The registration law allows municipalities to quickly contact owners via phone or e-mail to report problems, so that owners know what their responsibilities are under codes and regulations, and to ensure that they meet minimum property-maintenance standards. Generally, registration laws require the owners of vacant properties to submit their contact information and provide a local agent for the service of process. Registration under a vacant-registration ordinance is typically triggered by a certain length of vacancy set by ordinance, but the length of time differs greatly, ranging from a requirement to register immediately upon vacancy to a requirement to register within 120 days after vacancy. Safeguard Properties has created a nationwide directory of all such ordinances at http://www.safeguardproperties.com/Resources/Vacant_Property_Registration/Default.aspx?filter=vpr. A spreadsheet of all Pennsylvania vacant-property registration ordinances is available at http://www.safeguardproperties.com/Resources/Vacant_Property_Registration/PA.aspx?filter=vpr.



How do we pay for it?

Vacant-property registration laws pay for themselves. The license fees may not exceed the actual or probable cost of the special municipal services needed to enforce the program, including salaries and benefits for inspectors' time and the creation and maintenance of the vacant-property database. The registration ordinance can employ an escalating fee structure because costs per property increase over time. Fees charged vary widely. For example, Richmond, Virginia charges an annual fee of \$25,

while Minneapolis charges an annual fee of \$6,000, based on a city council – directed study of the true cost to the city of maintaining a vacant building.¹⁷ The goal of the escalating fee structure is to provide an incentive for owners to sell, lease, or demolish properties rather than incurring ever-increasing fees. A municipality may fine a property owner who fails to comply, and if the owner does not pay the fine, the municipality can place a lien on the property. Fines and penalties are not limited by the actual costs of implementing the program.



What types of property are covered?

Vacant-property ordinances typically apply to all properties that are vacant and unoccupied for a specified period of time.



What challenges will it solve?

Many municipalities struggle to inventory their vacant housing stock, whether or not they have registration ordinances. Registration creates a database of the locations and owners of a municipality's vacant properties. The municipality can use the database as an effective resource to understand its vacant-property challenges, to promote the responsible maintenance of the properties, and to allow for prompt contact with owners or managers from police, fire, emergency, and inspections departments when issues or emergencies develop. Affirmative duties of responsible parties under ordinances may include the submission of a plan detailing how a property has been secured and how it will remain secured in the future, the required purchase of insurance coverage for the unoccupied building, and the posting of contact information on the property. Additionally, many ordinances require an owner to submit a 'vacant-building plan' when registering a property. A vacant-building plan generally requires a plan for temporarily securing a building and then a plan for demolition or rehabilitation.

17. The Minneapolis fee has survived several court challenges, but owners continue to appeal, stating that the fee exceeds the cost of maintaining a building. Maya Rao, "Vacant Minneapolis Properties Are Assessed Huge Annual Fees," Star Tribune (August 8, 2012). <http://www.startribune.com/local/minneapolis/165370756.html>.

A few municipalities allow the owner to register the property for only a specific period; then the owner must rehabilitate the property or demolish it.



Where does it apply?

Any municipality may adopt a vacant-property registration law.



How does it work? What is needed to use the law effectively?

According to the Center for Community Progress, a vacant-property registration ordinance should include—

- A clear definition of which properties and which parties must register
- The registration requirements and procedures, including the information required of owners or lienholders
- The fee structure
- The owners' obligations in maintaining the property
- Penalties for failing to register in a timely fashion

More information is available at <http://www.communityprogress.net/tool-1--vacant-property-registration-ordinances--pages-257.php#sthash.64k9sT2u.dpuf>.



What policies and practices will increase our chances of successfully using this tool?

A vacant-property registration law should have a very clear definition of which vacant properties it covers. The goal is to include all vacant and abandoned properties without placing significant new burdens on landlords or property owners whose properties are unoccupied for a period of time in the normal course of business.

In addition, an ordinance should clearly define the owner of a property. The owner, for example, can be the mortgagee, trustee, agent, corporation, or lienholder.

Finally, there must be a mechanism to check whether owners have registered their vacant properties. Often, a municipality will assess a penalty for each day an owner fails to register. Thus, an owner of a property in a municipality with an ordinance that includes a \$100-per-day penalty may be subject to a \$36,500 penalty if he or she fails to register for one year. Chicago's assessment of daily fees for failure to register was deemed appropriate by the courts.¹⁸



What legal documents will we need?

- Ordinance establishing the registration requirements
- Registration forms
- Searchable database
- Fee schedule



Who is using the tool now?

Allentown's ordinance was approved by Commonwealth Court in 2007. In addition, the City of Washington and the City of Erie have vacant-property registration laws. In Washington, nonlocal owners must designate a responsible local agent. In Erie, owners must obtain liability insurance. For a full list of all Pennsylvania municipalities that have vacant-property registration laws, go to http://safeguardproperties.com/Resources/Vacant_Property_Registration/PA.aspx?filter=vpr.



How can we combine this with other strategies?

The database created by registering rental properties can be very helpful to record code violations and enforce progressive discipline. The ordinance can also require the registration of foreclosed properties.

18. Overview of Municipal Vacant Building Registries, Partnership for the Public Good (2010) <http://www.ppgbuffalo.org/wp-content/uploads/2010/06/vacant+property+registry+laws.pdf>.

Registration of Foreclosed Properties: Partnering with a for-profit company to require lenders to register properties once they are in default, pay an annual fee, and identify a contact person to oversee the security and maintenance of foreclosed properties

A foreclosure-registration ordinance requires lenders to register properties with a municipality once they are in default, to pay an annual fee, and to identify a contact person to oversee the security and maintenance of a foreclosed property. Municipalities may partner with a for-profit company that will, for a portion of the annual fee, contact the lender, create an interactive database of registered properties, and collect an annual fee from the lender. **Since Allentown adopted its law in March 2013, the city, working with a for-profit, has registered more than 600 of approximately 900 foreclosed properties, has earned more than \$60,000 in fees to support the program, and has achieved significant success in persuading lenders to repair properties that pose a danger to health and safety.**



What does it do?

Foreclosure registration requires lenders to register all properties with a municipality at the time a bank issues a notice of default. Properties must be registered annually for as long as they remain vacant or in default. The ordinance requires lending institutions to provide a contact person to address safety and aesthetic concerns on the property.



How do we pay for it?

The program is financed through an annual fee. For example, Susquehanna Township charges a one-time fee of \$200 to register each foreclosed property. Allentown charges an annual fee of \$200 per property.



What types of property are covered?

The ordinance covers properties that have been foreclosed or whose lender has issued a notice of default. A 2013 court challenge of Chicago's registration law found, however, that a city cannot hold federal government lenders Fannie Mae and Freddie Mac liable for maintaining a property during the foreclosure process, because Chicago cannot make law for federal agencies and the agencies have their own property maintenance standards.¹⁹



What challenges will it solve?

When a property is foreclosed, it typically goes through a period of disinvestment until the bank sells it. Foreclosed properties have cost Pennsylvania's local governments millions of dollars in direct expenses as a result of the need to maintain, inspect, and respond to fires and crimes at the properties. Unmaintained foreclosed properties also bring down the values of surrounding properties. Foreclosure registration increases the accountability of the lending institution (which temporarily owns the property) for keeping the property up to code until it is sold to a new owner.



Where does it apply?

Any municipality may adopt a foreclosure registration ordinance.



How does it work? What is needed to use the law effectively?

Unlike most other tools in this manual, a law requiring the registration of foreclosed properties can be handled by for-profit companies that contract to implement the law for a fee. The for-profit will alert the municipality when a foreclosure is imminent, create a comprehensive database of all foreclosed properties that allows the municipality to contact a specific individual at the bank's property management firm or division by e-mail, and handle the enforcement of that provision, in return for a percentage of annual fees.

19. Mary Ellen Podmolik, "Chicago Loses Court Challenge to Vacant Building Registry," *Chicago Tribune* (August 26, 2013). www.chicagotribune.com/business/breaking/chi-chicago-vacant-building-registry-20130825,0,7588381.story.

Allentown partnered with one such for-profit, the Federal Property Registration Corporation. Susquehanna Township partnered with another for-profit, the VacantProperty Registry. Both rely on the for-profit to identify properties in foreclosure; to find the correct lender and contact person; to enter that information into a database that allows the municipality to quickly communicate with the lender; and to inform them of any code violations. The for-profit also collects the registration fee, providing half of the fee to the municipality and retaining the other half.

The for-profit creates and maintains the database of foreclosed properties, but municipal staff members have access to the database from their own computers. Every e-mail or communication is logged and tracked through the database, including when the bank was notified, whether and when a payment was made, and copies of all official correspondence. Municipal staff can scan and send letters and notices of code violations directly to the appropriate contact person via the database or can call the contact person. The municipality may aggregate all code and registration violations across all of a bank's properties and charge the bank at a single time for all violations or fines.



What policies and practices will increase our chances of successfully using this tool?

National lenders typically have foreclosed properties in multiple jurisdictions. They will obey local laws but typically only where jurisdictions succeed in attracting their attention. This can be very difficult when a municipality cannot locate the correct contact person at a national lender's office. Having a for-profit partner who has gathered this information about lenders across the country can be helpful.



What legal documents will we need?

- Ordinance establishing the registration requirement
- Registration forms
- Searchable database, possibly created and maintained by the for-profit partner
- Fee schedule



Who is using the tool now?

Susquehanna Township enacted a foreclosure registration ordinance in 2011. The goal was to make lenders accountable for the properties that they own in the township as a result of foreclosure proceedings. Susquehanna has one code enforcement and health officer and hires a part-time code enforcer to inspect properties in the evenings during the summer. Susquehanna partnered with a for-profit company called the VacantProperty Registry to implement the registration requirement. The Vacant Property Registry identified and installed a searchable database of all properties being foreclosed in the township, along with information about the relevant lender and the individual responsible at the lender's office. By January 1, 2014, the township had 157 registered foreclosed properties.



Susquehanna charges a \$200 one-time registration fee. That differs from Allentown and some other Pennsylvania municipalities, which charge an annual fee. The for-profit partner collects the fee and keeps half, while the township receives the other half. As a result, foreclosure registration is not a major source of revenue for Susquehanna, but it does give people in code enforcement an important tool to reach out to lenders and resolve code violations. If an issue arises, such as an unmowed lawn, the township can, with a click on the property database entry, send a message to the lender saying that the lender is in violation of the International Property Maintenance Code and that the violation needs to be addressed. The database also provides a phone number and contact person. Susquehanna Township has seen its payments to a contractor who mows neglected lawns of vacant homes in summer decrease. The township does not require non-lender owners of vacant property to register.



How can we combine this with other strategies?

Several cities are considering a single ordinance to cover both properties facing foreclosure and vacant properties, rather than instituting a vacant-property registration ordinance separate from a foreclosed-property registration ordinance.

Chapter 3

By requiring that properties be brought up to code within a specific time frame after sale and by disqualifying tax-sale bidders who have tax delinquencies or code violations, municipalities can break the cycle of blight.

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Presale Inspections: Requiring sellers to pay for inspections before transferring properties to new owners and to notify owners of deficiencies or to bring properties up to code

Under presale-inspection laws, all properties for sale must be inspected by their municipality for code violations before transfer to a new owner. Violations revealed in the inspection report must be either corrected by the seller before sale or revealed to a prospective buyer, who—for the sale to go through—must agree to correct them within a set amount of time after the property transfer.



What does it do?

To ensure compliance with local codes, any owner who offers a property for sale must have the property inspected. Sellers are responsible for paying an inspection fee when they request the inspection. Once the inspection is completed, the public officer prepares a presale-inspection report outlining all code violations. If the officer finds no violations, the municipality issues a certificate of compliance, which is valid for one year from the date of the inspection. If code violations are found, the seller may fix the violations or give the buyer a copy of the report, listing all violations. To complete the sale, the buyer must commit to abating the violations within a specified period of time from the purchase date.

Another significant feature is a requirement that the seller notify the municipality of the buyer's name and address within three days of the transfer. That requirement helps end the practice by some absentee owners of falsely listing the property address as their address. Presale inspections also allow for the verification of a property's allowable use before sale and its compliance with zoning ordinances.



How do we pay for it?

Inspections are financed by the seller, who must pay a fee for the inspection. The fee should be no more than necessary to support the presale-inspection program.



What types of property are covered?

All types of property for sale or transfer to a new owner may be covered.



What challenges will it solve?

Mandatory presale inspections represent a proactive, preventive approach to stabilize and repair older buildings. They are particularly important when a property is repeatedly transferred to absentee owners, who are difficult to hold to local code standards. The presale-inspection requirement applies not only to buyers and sellers in Pennsylvania but also to those out of state and gives municipalities the opportunity to hold the appropriate parties responsible for meeting property improvement and maintenance needs. A reactive approach to enforcing city codes—by pursuing negligent property owners after they cause problems, rather than preventing problems in the first place—is costly and inefficient. In addition, presale inspections help protect potential purchasers by ensuring that they are aware of the existence and the nature of code violations before entering into an agreement of sale.



Where does it apply?

Any municipality may impose a presale-inspection requirement.



How does it work? What is needed to use this law effectively?

The municipality adopts an ordinance that requires presale inspections. Sellers pay a fee, and municipal officials conduct inspections before a sale. A presale report is issued, and either the seller corrects the violations before settlement or the buyer corrects the violations within a certain number of days after settlement. The law should allow for a hearing so that owners may appeal a finding of code violations. The municipality should ensure that it has sufficient housing inspectors, whether on staff or available under contract, to operate the program.

Presale-inspection laws have been upheld by the courts. In *Mann v. Calumet City*, Nos. 09-1681 and 09-2481, 2009 WL 4546352 (7th Circuit, December 7, 2009), the United States Court of Appeals for the Seventh Circuit reviewed a point-of-sale ordinance prohibiting the sale of houses until

they were inspected to determine whether they complied with city building codes. Prospective sellers claimed that the ordinance prevented or delayed them from selling their homes. The court rejected the owners' challenges to the ordinance, saying that preventing a transfer of property until a certificate of compliance was issued does not violate owners' rights and that a hearing process allowing owners to challenge correction requirements provides adequate safeguards.



What policies and practices will increase our chances of successfully using this tool?

In Allentown, the implementation of the ordinance began in February 2008. Before beginning implementation, the city completed a mass mailing to real estate brokers and lenders. The mailing had information about the program's purpose and intent and the responsibilities set forth in the ordinance. To ensure the notification of all sellers and buyers subject to the ordinance, the city has been monitoring deed transfers (particularly sale-by-owner transactions) as well property conveyances to successful bidders at sheriff's sales.²⁰ After inspection, Allentown has certified some homeowner properties and rental properties as unfit for human habitation.



What legal documents will we need?

- Ordinance requiring presale inspections
- Buyer notification inspection report form or presale-inspection report form
- Certificate that certifies the property for transfer without code violations
- Where violations do exist, a form in which buyers can acknowledge the violations and state their commitment to fixing the violations within the required timeframe



Who is using the tool now?

The City of Easton requires sellers to advise buyers of the legal use and condition of properties and to obtain a buyer notification inspection report and certificate before making an agreement of sale. A seller must schedule an inspection with the bureau of codes and inspections. Fees for inspection and certificate of occupancy must be paid to the code office before the inspection date. The seller of a single-family home must pay a \$150 inspection fee and a \$75 certificate-of occupancy fee. The seller then receives a report of the inspection and an application for a certificate of use and occupancy. The buyer notification inspection report must be forwarded to the buyer. If there are no violations, a certificate of occupancy is issued. Where there are violations, a certificate of occupancy inspection must be scheduled once the violations are abated.



How can we combine this with other strategies?

Presale inspections are an opportunity to document the violations on a property and obtain a commitment from the buyer, seller, or both to resolve them. It is an important opportunity that should be used with the other code enforcement tools documented in this manual.

20. *Allentown Progress Report*, Fels Institute of Government (April 2009). https://www.fels.upenn.edu/sites/www.fels.upenn.edu/files/Allentown_Progress_Report_0.pdf.

Municipal Code and Ordinance Compliance Act: Requiring purchasers of properties that have known code violations to resolve the violations within 18 months

The Municipal Code and Compliance Act²¹ requires purchasers of properties that have known code violations to resolve the violations within 18 months (structures) or 12 months (lots) of purchase. To assess code violations, the municipality inspects a property any time before purchase and performs a follow-up inspection 12 or 18 months later. An owner is personally liable for any violations and faces fines ranging from \$1,000 to \$10,000.



What does it do?

The goal is to ensure that a property does not continue to violate codes once it is transferred to a new owner, whether as part of a private sale or a tax sale. The act provides that within 18 months of the date of purchase²², any purchaser of any building or structure known to have one or more substantial violations of a building, housing, property maintenance, or fire code must bring the building into compliance with the code or demolish the building in accordance with the law. Failure to do so will result in the purchaser's being personally liable for the costs of repairs or demolition and a fine of not less than \$1,000 and not more than \$10,000. In addition, any purchaser of any lot or parcel of land known to have one or more substantial violations of a municipal ordinance relating to maintenance, health, or safety must make a reasonable attempt to abate the violation(s) within one year of the purchase date. Failure to do so will subject the purchaser to personal liability for the cost of maintenance and the fines noted above. That said, a municipality may not refuse to issue a use-and-occupancy certificate on the basis of a substantial violation and may not require the correction of a substantial violation as a condition to issuing a permit unless the substantial violation renders the property unfit for human habitation.²³



How do we pay for it?

Fines ranging from \$1,000 to \$10,000 can be used to administer the law. In a municipality that has low-income housing, however, not less than one-third of the fine imposed must be used by the municipality for low-income housing in a manner determined by the municipality.



What types of property are covered?

Properties covered are those that have code violations at the time of purchase or transfer.



What challenges will it solve?

The law's goal is to improve the housing and building stock and prevent worn-down, unsafe properties from changing hands without a plan for making repairs and bringing them up to code. Purchasers of buildings or structures that have known code violations are under a legal obligation to fix up the properties and care for them within 18 months. The law requires a potential purchaser of an "as is" property, when making the decision to buy, to assess both the purchase price and the cost to rehabilitate the property in the next 18 months. The goal for any transfer of a property in substantial disrepair is to ensure that a responsible new owner will take care of the property and bring it back into productive use. This tool attempts to do just that.



Where does it apply?

Everywhere in Pennsylvania.



How does it work? What is needed to use this law effectively?

To use the law, a municipality must cite properties for substantial code violations and make the citations available to the public so that it is clear that buyers have at least "constructive knowledge" of the substantial violations at the time of sale.²⁴ Buyers have

21. 68 P.S. §1081 et seq.; Act 99 of 2000.

22. The 18-month period begins at closing for private sales and on the first day after the owner redemption period if acquired at tax sale under the Municipal Claim and Tax Lien Law.

23. A "substantial violation" is a violation of a building, housing, property maintenance, or fire code, which violation poses a threat to health, safety, or property.

24. If by applying reasonable care or diligence, a person should have known a fact, he or she is deemed to have constructive knowledge of that fact.

only the responsibility to remedy substantial violations that pose a threat to health and safety that they know about. The tool differs from a presale-inspection ordinance, which requires *sellers* to arrange for an inspection of the property before being able to complete a sale. This law places the responsibility for providing an inspection on the *municipality*.



What policies and practices will increase our chances of successfully using the tool?

Clear and timely inspections and making sure that code violations are carefully recorded.



What legal documents will we need?

The municipality must retain clear records noting all code violations and must share those records with a buyer at sale.



Who is using the tool now?

No examples known at this time.



How can we combine this with other strategies?

Progressive code enforcement and clear reporting are crucial for the enforcement of this tool.

Disqualify Tax Sale Bidders and Recover Costs for Properties That Do Not Sell at Upset Sale: Discouraging speculation on tax sale properties

Philadelphia and counties that have tax claim bureaus under the Real Estate Tax Sale Law (RETSL)²⁵ have some power to restrict buyers of properties at tax sale to ensure that buyers will maintain the properties after purchase. Under RETSL, a tax claim bureau may disqualify a delinquent property owner as a bidder at tax sale if the buyer is delinquent in paying a local tax for the taxing district in which the property is located, or if the buyer carries a municipality-owned utility charge that is more than one year delinquent.²⁶ A tax claim bureau also can refuse to sell further tax sale properties to an owner who has outstanding code violations²⁷ or a landlord whose rental license was revoked by a municipality in the same county.²⁸ Philadelphia may disqualify bidders who are tax delinquent.²⁹ Act 77 of 2015 amends the Real Estate Tax Law to give the Tax Claim Bureau the power to incur and recover certain costs of property maintenance and rehabilitation for properties exposed to, but not sold at, upset sale.³⁰



What does it do?

A 1998 amendment to RETSL prohibits tax claim bureaus from selling properties at tax sale to bidders who are delinquent on their current real estate taxes within the taxing district, are more than one year delinquent with a municipality-owned utility bill, have outstanding code violations, or have a revoked rental license in the same county. Although bidders can be asked to complete affidavits asserting their eligibility, it is the responsibility of the county to verify that bidders qualify. Philadelphia has separate provisions that disqualify bidders who have code violations from purchasing properties at tax sale. Under Act 77,³¹ the Tax Claim Bureau may recover from the subsequent sale of a property the cost of rehabilitation or maintenance necessary to address safety issues, restore or maintain the property in a salable condition or maintain the property in compliance with property maintenance codes.



How do we pay for it?

The only cost is a basic search of each bidder's history of tax payments, outstanding code violations, and revoked rental

licenses. Code enforcement agencies have 20 days after tax sale to complete the searches before a deed is issued to the winning bidder. Recovering the cost of rehabilitation or maintenance for properties that failed to sell at upset sale will merely require subtracting this amount from the sale price for the property when it is ultimately sold. Of course the property must have sufficient value to cover these costs.



What types of property are covered?

Properties sold at tax sale by tax claim bureaus under the Real Estate Tax Sale Law (RETSL) and in Philadelphia.



What challenges will it solve?

The state has several tax foreclosure laws that share the goal of revenue generation for taxing authorities. Such laws have allowed the highest bidder to obtain a property at tax sale without any check on whether the bidder will be a responsible owner. By limiting eligible bidders at tax sale in RETSL jurisdictions and in Philadelphia, the municipality can limit potential new owners to those likely to care for their properties. Cost recovery

25. 72 P.S. § 5860.619; Act 5 of 1998.

26. 72 P.S. § 5860.619a, Act 133 of 1998; In Re: *Upset Tax Sale of September 11, 2009, Country Acres v. Wayne County Tax Claim Bureau*, Commonwealth Court of Pennsylvania (opinion not reported), January 5, 2012. <http://statecasefiles.justia.com/documents/pennsylvania/commonwealth-court/5-c-d-2011.pdf?ts=1325859268>.

27. 72 P.S. § 5860.619, Act 5 of 1998.

28. 72 P.S. § 5860.601, Act 5 of 1998.

29. Everything You Need to Know About Sheriff's Sales, Philadelphia Sheriff's Office Website downloaded April 12, 2014. <http://www.officeofphiladelphiasheriff.com/en/real-estate/how-sheriff-sales-work>. Also see the Municipal Claims and Tax Lien Law, 53 P.S. § 7283(b); Act 6 of 1998.

30. Since Third Class Cities Treasurer Sale Law was repealed when the Third Class Cities Code was rewritten, Act 22 of 2014, third class cities now must use the either the Real Estate Tax Sale Law (Act 542 of 1947) or the Municipal Claim and Tax Lien Law (Act 153 of 1923).

31. Real Estate Tax Law - Additional Costs for Rehabilitation and Maintenance, Act 77 of 2015. <http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2015&sessInd=0&act=77>.

for maintenance and rehabilitation will compensate the tax claim bureau for work they do on properties to eliminate blighted conditions during the holding period.



Where does it apply?

Jurisdictions that fall under the Real Estate Tax Sales Law (RETSL) and Philadelphia.



How does it work? What is needed to use this law effectively?

In RETSL jurisdictions, the county tax claim bureau must qualify bidders at tax sale. The tax claim bureau can establish a mandatory preregistration process for buyers of tax sale properties. The process allows relevant agencies to screen registered bidders before sale. Under RETSL, municipalities may challenge a successful bidder within 20 days of sale.³² Code officials must coordinate with the tax claim bureau and the sheriff to identify bidders who have tax delinquencies, code violations, or revoked rental licenses to disqualify them from buying properties.

Act 77 permits a tax claim bureau to recover costs for rehabilitation and maintenance of a property prior to distribution of proceeds from a subsequent judicial sale. There are two other provisions in RETSL that allow a Tax Claim Bureau to recover costs prior to distributing the sales proceeds. Act 77 expands this power to include rehabilitation and maintenance costs.

Courts have held that purchasers delinquent in their real estate taxes are permitted by law to bid at a tax sale as long as the new

owner of a property cures a delinquency within 20 days of the tax sale.³³ The fact that a bidder does not provide certification of payment of real estate taxes under Section 619.1 does not affect the validity of the sale. Instead, it is up to government to prove the tax delinquency.³⁴ If a bidder is found to be ineligible to make a purchase, the tax claim bureau will not issue a deed to the disqualified bidder.

In Philadelphia, the process is different. Within 30 days of a tax sale, the city may petition the court to prohibit the transfer of property to a purchaser who has housing code violations on other properties owned within Philadelphia.³⁵



What policies and practices will increase our chances of successfully using this tool?

The county tax claim bureau should establish a written process that requires mandatory preregistration for potential buyers at tax sale. The tax claim bureau should widely publicize the new procedure and its policy of refusing to sell further tax sale properties to purchasers who have delinquent taxes or municipal utility charges, outstanding code violations, or revoked rental licenses.³⁶

Better sharing of information between tax claim bureaus and municipalities can improve the effectiveness of this tool. Tax claim bureaus can better screen eligible buyers if they receive annual or semiannual information from municipalities listing owners who have tax delinquencies, code violations, or revoked landlord licenses. Similarly, if tax claim bureaus can share information about properties to be offered at sale with municipalities (and land banks, where they exist), municipalities can work with tax claim bureaus to warn potential private buyers of the level of investment needed to bring the most

32. Section 619(a) restricts a tax claim bureau from issuing a deed before 20 days after the judicial sale, and 619(b) gives the municipality 15 days from the date of sale to petition the court to prohibit the transfer to a person who has unabated code violations after being convicted of such violations and the property poses a threat to health and safety. Upset sales have a 30-day period after confirmation when objections can be filed. Objections to private sales can be filed within 45 days of the second advertisement but objections must be based upon the sale. Repository sales give the municipality the option of withholding consent to a sale.

33. RETSL Section 619.1 provides: (a) "Within 20 days of any sale under this [law], a successful bidder shall be required to provide certification to the bureau that the person is not delinquent in paying real estate taxes to any of the taxing districts where the property is located and that the person has no municipal utility bills that are more than one year outstanding. (b) As used in this section, the following terms shall have the following meanings: 'Certification, shall mean proof via receipts of paid real estate taxes and municipal utility bills within the jurisdiction or a notarized affidavit by the bidder evidencing payment of such real estate taxes and municipal utility bills.'" ; In Re: *Upset Tax Sale of September 11, 2009, Country Acres v. Wayne County Tax Claim Bureau*, Commonwealth Court of Pennsylvania (opinion not reported), January 5, 2012. <http://statecasefiles.justia.com/documents/pennsylvania/commonwealth-court/5-c-d-2011.pdf?ts=1325859268>.

34. In Re: *Upset Tax Sale of September 11, 2009, Country Acres v. Wayne County Tax Claim Bureau*, Commonwealth Court of Pennsylvania (opinion not reported), January 5, 2012. <http://statecasefiles.justia.com/documents/pennsylvania/commonwealth-court/5-c-d-2011.pdf?ts=1325859268>.

35. 53 P.S. § 7283(b); Act 6 of 1998.

36. Northumberland County Comprehensive Blight Prevention/Remediation Program (July 2012).

deteriorated properties into compliance and to dissuade bidders who do not have the ability to improve derelict properties. A liaison designated to work with tax claim bureau staff, code enforcement staff, redevelopment authorities, and land banks where they exist can better ensure that properties auctioned at tax sale are purchased by responsible buyers.³⁷



What legal documents will we need?

- Affidavit in which bidders certify that they are eligible to bid under the county's rules

Schuylkill County asks each bidder to sign the affidavit in the presence of a notary public. There is no penalty under law for failing to sign the affidavit and make the certification, but the county may refuse to accept a registration if the form is not completed accurately. Tax claim bureaus are permitted to recover certain administrative costs and the cost of a title search prior to distributing the sales proceeds. Costs recovered under Act 77 can be treated similarly.



Who is using the tool now?

Schuylkill County requires all bidders to register and to sign an affidavit that they are not delinquent in paying real estate taxes, have no municipal utility bills that are more than one year outstanding, and do not bid for or act as the agent for any landlord who has had his or her license revoked. Unfortunately, the requirement lacks teeth, says Deb Dasch of the Schuylkill County Tax Claim Bureau, because the bureau doesn't have the resources to determine whether filers of affidavits are lying, and because bidders who have substantial resources can bid under a different corporate name. At judicial sale, however, the

bidder must have the approval of the municipality in which the property is located. Before repository or private sales, the bureau sends the municipality a letter noting the buyer and the municipality has 45 days to approve or deny sale to the high bidder at a public meeting for reasons that are not 'frivolous.' Where the municipality rejects the high bidder, the property is either added to the next judicial sale or is placed in the repository.³⁸

When the Lackawanna County Tax Claim Bureau finds that delinquent taxes are due from a purchaser, no deed is issued until all taxes are paid in full. The bureau also reserves the right to disqualify any upset-sale bidder because of unpaid taxes.

Act 77 has not yet been used by a tax claim bureau to recover costs.



How can we combine this with other strategies?

Restricting eligible buyers at tax sale can work jointly with progressive code enforcement discipline and denials of permits by providing increased incentives for owners to bring their properties up to code.

37. Interview with Deb Dasch, Schuylkill County Tax Claim Bureau, August 14, 2013.

38. Ibid.

Chapter4

By making grants and loans available to homeowners or small, “mom and pop” landlords who lack the money to keep their properties up to code, municipalities can improve the housing stock condition, eliminate blight, and revitalize neighborhoods

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Home Repair and Rental Rehabilitation Assistance: Financial assistance to owners who lack the money to bring properties up to code

For property owners who don't have enough money to bring their properties up to code, it is important to offer financial assistance that will allow them to make needed repairs so that they can keep their properties inhabitable and occupied. **A Temple University study reviewed all houses that received home repair grants in Philadelphia from 1995 to 2000 and determined that far less than 1% of houses that received repair help were abandoned in 2000—less than one quarter of the typical abandonment rates of houses that did not receive assistance.**³⁹ Home repair loans, deferred loans due upon sale or transfer, and grants are the most common financial assistance programs offered to property owners. In addition, the nonprofit organizations Habitat for Humanity and Rebuilding Together offer rehabilitation and repair services in many areas.



What does it do?

Loan, grant, and tax abatement programs can give owners the resources they need to bring their homes up to code. When homeowners are cited for substantial violations, they should be given an opportunity to prove that they are unable to fund needed repairs and, where possible, should be offered financial assistance to help them do so.



How do we pay for it?

Home repair loans and grants are typically funded through U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) and HOME funds, which can be used for home repairs. The Pennsylvania State Housing Trust Fund, officially the PA Housing Affordability and Rehabilitation Enhancement Fund (PHARE), is another potential funding source for home repairs. Already operating in shale counties with money from Act 13 Impact Fees, PHARE will be able to serve all 67 counties with additional revenue from the Realty Transfer Tax, capped at \$25 million a year. Community development corporations and nonprofits such as Habitat for Humanity and Rebuilding Together may also be able to provide crucial repairs for low-income homeowners.



What types of property are covered?

To ensure that primary residences do not become abandoned, the majority of grants and loans are provided to homeowners. Financial assistance can also be provided to owners of investment properties and to landlords.



What challenges will it solve?

Studies have shown that where property owners do not have the resources to fix serious problems, such as cracks in the walls or holes in the roof, they are likely to abandon the homes in as little as five years.⁴⁰ A repair grant can prevent abandonment and keep a property inhabitable and occupied.



Where does it apply?

Any county or municipality may provide home repair loans or grants to property owners.



How does it work? What is needed to use this law effectively?

The municipality must determine whether property owners who have serious violations are able and willing to take loans to repair the violations. If so, a revolving loan fund with low interest rates may be the least expensive way to provide financial assistance. When owners do not have the credit scores or the willingness to finance repairs, counties and municipalities may explore grants or deferred loans payable on the transfer of a property. Such loans can be forgiven over time.

Pre-screening and training contractors will help develop the workforce to provide repairs and will allow a municipality to negotiate flat rates for services.

Contacting Habitat for Humanity and Rebuilding Together, to take advantage of the resources those nonprofits offer, is also an important step.

39. *Blight Free Philadelphia: A Public-Private Strategy to Create and Enhance Neighborhood Value*, Research for Democracy (2001), reported that of the almost 12,000 houses that received grants from 1995 to 2000, only 117 were found to have been abandoned by 2000.

40. Barbara Wilson, "These Old Houses: 2001" (issued by the U.S. Census Bureau, February 2004).



What policies and practices will increase our chances of successfully using this tool?

To achieve high impact, targeted repair assistance is essential. Local governments can choose to target to a specific population, such as homeowners who have substantial code violations. Local governments can also choose to target funds to a specific neighborhood, thereby making a significant contribution to its revitalization. For instance, to create and sustain mixed-income neighborhoods and allow owners to remain in their homes and take advantage of new amenities, a municipality could target home repair dollars to areas that are attracting significant private investment.

Another option worth considering to help cover the costs of repair is a tax abatement to owners who have incomes at or below 150% of the poverty level. The goal is to offer an incentive for owners straining to invest \$5,000, for example, to keep their homes livable. Owners should be required to document the material and labor expenses for home repairs and improvements.



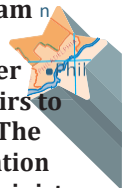
What legal documents will we need?

The legal documents differ, depending on the type of financial assistance offered.



Who is using the tool now?

Philadelphia's Basic Systems Repair Program (BSRP) is the city's primary home repair program. For an average cost of \$6,911 per home, BSRP provides free emergency repairs to electrical, plumbing, and roofing systems. The Philadelphia Housing Development Corporation (PHDC), a government-related nonprofit, administers BSRP with funding from federal Community Development Block Grants, the state of Pennsylvania, and Philadelphia's Housing Trust Fund. The program has two tiers: Tier I covers emergency repairs up to \$3,500, and Tier II covers more extensive repairs, with a maximum cost of \$17,500. To be eligible, a household must prove that its income is no higher than 150 percent of the federal poverty line (\$30,972 for a household of four). Prequalified contractors are sent to homes to complete needed work at below-market prices. The city also offers three loan programs for home rehabilitation: Phil Loans, Phil-Plus Loans, and Mini-Phil Loans. Loan programs are less effective than grants at addressing home repair needs, because owners must have adequate credit to qualify, income to pay back the loans, and confidence in their properties' value to warrant a major investment.



How can we combine this with other strategies?

Most of the tools in this manual focus on taking action against property owners who choose to leave their vacant properties in disrepair. **Home repair and rental rehabilitation assistance is a tool focusing on good owners who lack the resources to maintain their properties. By combining "carrots" and "sticks," local governments can have the most success improving their properties, reducing abandonment, and eliminating blight.**

Chapter 5

By prioritizing severely blighted properties that threaten health and safety, and by gaining the owners’ attention through significant fines, permit denials, or criminal charges, municipalities can encourage owners to repair and maintain blighted properties. The goal is to change the owners’ stance from “I’m going to ignore you” to “How much time do I have to get my property into compliance?”

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Doors and Windows Ordinance: Fines for each missing door and window, and increasing fines over time

A doors and windows ordinance is a local law that requires each opening in a vacant property to be covered with a functional door or window. In Philadelphia, the ordinance applies to all blocks that are 80% occupied or more or that are deemed blighted by the Commissioner of the Department of Licenses and Inspections (L&I). Philadelphia's ordinance fines owners \$300 per day for each missing window or door. Bright pink posters are posted on properties that are violating the ordinance. The tool is effective where properties have sufficient value that significant fines will not cause owners to walk away from their properties. In Philadelphia, the 80%-occupied figure has proved to be a good indicator for areas where properties have sufficient value to cause owners to be responsive. As stated above, the law also allows the city to expand enforcement to areas defined as blighted that have a slightly higher vacancy rates but are experiencing increased private market development. *Note:* In a decision issued on December 22, 2016, the Commonwealth Court upheld the trial court's decision to strike down the City of Philadelphia's "Windows and Doors" ordinance. The Court found that the requirement to have working doors and windows rather than boarding with plywood or other material was for aesthetic reasons rather than health and safety. (Rufo v. Bd. of Licenses and Inspections, No. 2735 C.D. 2015.)



What does it do?

Philadelphia has successfully used its doors and windows ordinance to bring vacant and blighted properties into code compliance. Under the ordinance, owners are informed that they will be fined \$300 per day per opening until they repair their buildings and install functioning windows and doors. Fines mount quickly. For a single row-house with five openings that do not have functional windows or doors, the fine increases by \$1,500 daily. To date, L&I has cited about 8,000 properties under the doors and windows ordinance. On receiving the notification letter, 50% of owners took some action: They installed the windows and doors, got permits to rehabilitate the properties, obtained a vacant-property license, or sold the properties. Building owners who fail to correct violations after two notices from L&I are taken to "blight court," a form of equity court, which has dedicated court days to hear the cases. There, the court can impose fines—often a percentage of the total fines accumulated—and unpaid fines can be entered as liens against the properties.

The ordinance has also been successful in increasing the number of vacant-property registrations in the city. From 2010 to 2013, thanks to the enforcement of the ordinance, the number of properties registering for an annual vacant-property license, at a fee of \$150 per year, grew from 300 to 3,500.



How do we pay for it?

Philadelphia's doors and windows program pays for itself. In its first six months, the city cited 402 buildings for not having proper doors and windows and collected about \$150,000

in fines, license fees, and delinquent taxes. By 2013, after the program had been in place for three years, the city had collected close to \$1 million in licenses and fines. The city is careful to ensure that license fees do not exceed the total costs of the program. It has no similar requirement for fines and penalties.



What types of property are covered?

Properties that are on a block that is at least 80% occupied or have been defined as blighted.



What challenges will it solve?

Property investors often leave their properties blighted for years as they wait for market demand to increase. Meanwhile, the properties reduce property values and create eyesores that invite crime, vermin, and fire. Philadelphia has found that a court hearing and a threat of substantial fines is successful in causing owners, no matter where they are from, to appear in court and bring their properties up to code. In addition, the reintroduction of functional doors and windows makes the properties more attractive.



Where does it apply?

Any municipality may create a doors and windows policy under existing local codes. Please note that in September 2015, the Philadelphia ordinance was overturned by the Court of Common Pleas and the decision is currently under appeal.



How does it work? What is needed to use this law effectively?

- **Finding the Owners:** The first step is finding the owners of vacant properties. Philadelphia assembled a team of tech-savvy interns who reviewed several databases—including deed information, property tax data, utilities billing data, corporation data, Internet searches, and a database used by the Internal Revenue Service on LexisNexis called Accurint—to find valid names and addresses for the owners of vacant properties, many of whom hide behind corporate names. The city uses this intelligence to contact an owner or the closest living heir, often sending letters to several children of a deceased owner in situations where the estate was never opened. The city prioritizes owners of multiple blighted properties. Each property is researched to ensure that proper notice is served.
- **Notifying the Owners:** A notice of violation (NOV) is posted on the property and sent to the property owner at each address found, along with a strict letter that warns of the need to address the violation. (The letter cites the local windows and doors ordinance and Act 90 of 2010, titled the Neighborhood Blight Reclamation and Revitalization Act, available in the online appendix.) After the initial issuance of a doors and windows violation, the city gives owners 35 days to comply.⁴¹ A second inspection is required by law, and a third inspection after 60 days is provided as city policy to determine compliance. The city also sends a letter notifying the owner that he or she is liable for thousands of dollars in fines, which increase each day. About 50% of the owners who receive the notice letter take action.
- **Dedicated Court Time:** Owners who are in noncompliance at the time of the third inspection are taken to court. The city partnered with the equity court to create a blight court that exclusively adjudicates the cases one afternoon per month. In court, the judge will require proof of notice (a photo of the poster from the first inspection plus both NOV's). The NOV's must list exactly what is in violation (number of openings and their locations in the building), along with any citations issued. At court hearings, 60% of properties are represented by owners, including many from out of state. The same judge hears all the cases and is familiar with the law and the owners. Where possible, the city brings all properties owned by a single owner

to the court on the same day. That practice makes it impossible for the owner to plead poverty relative to a specific property. In addition, it allows the court to suggest that owners sell some properties to raise the money to fix up blighted properties that they own.

- **Liens Attached to Property:** For those who are served but do not show up in court, fines are entered as liens on the property. The liens can be leveraged to push the property to sheriff sale, although that has not yet been put into practice. Similarly, the city is prepared to attach the assets of unresponsive owners under Act 90 but has not yet done so.



What policies and practices will increase our chances of successfully using this tool?

The tool is effective only if municipalities can locate the owners of vacant properties and provide notices of violation. It is therefore essential to put in the detective work to identify owners and their whereabouts so that effective notice can be provided.

A municipality can get started even if it lacks a full inventory of vacant properties. Philadelphia L&I began by researching and sending its inspectors to inspect any property that their records indicated might be vacant as an addition to the staff's normal workload. Over time, they have inspected close to 13,000 properties. While out in the field, inspectors also check the area for other vacant properties.

Philadelphia tracks data extensively to determine which tools and approaches are effective against different types of properties, owners, and violations. The city has found that the single most important indicator of whether an owner will be responsive is whether the owner has paid taxes in the past three years. Owners who have paid their taxes recently and consistently are more likely to repair their homes than owners who live only blocks from the property or owners who own multiple properties in the same neighborhood.

The city recently amended the doors and windows ordinance to include mixed-use properties where a storefront or first-floor retail space is occupied but above the store are vacant housing units that are boarded up or unsealed.

41. Thirty-five days is the required statutory waiting period to give the owner a chance to comply.



What legal documents will we need?

- Ordinance establishing the law
- Letter notifying the owner of violations
- Poster to place on the property in clear sight that notes the violations
- Deed and mortgage records
- Tax records
- Database to store owner information and track the three inspections completed during the compliance period, along with court activities
- Complaint to the court
- Individuals to do the research

Samples of most of Philadelphia's documents are available in the online appendix.



Who is using the tool now?

Philadelphia launched its initiative in October 2011. The city's Department of Licenses and Inspections identified 25,000 structures that it believed to be vacant, used interns to find valid names and addresses for the owners, fined owners \$300 per day per opening without a functional door or window, and took owners to blight court. The city collected almost \$1.1 million in license and permit fees. The city achieved compliance rates of 53% for targeted properties through citations and of 62% for properties taken to blight court. A 2014 study by the Reinvestment Fund found that properties that complied with L&I citations created \$74 million in sales value for surrounding properties. The created value increased the city's transfer tax revenue by \$2.34 million. Philadelphia's Windows and Doors ordinance was overturned by a lower court and is currently under appeal.



How can we combine this with other strategies?

The goal is for all owners to sign agreements that they will install windows and doors, become tax compliant, and obtain vacant-property licenses. The law can be used in tandem with Act 90 powers to attach assets and ensure the repayment of fines and penalties.

Permit Denial:**Denying permits to owners of tax-delinquent properties or properties that have judgments for serious code violations**

Permit denial under Act 90 of 2010, titled the Neighborhood Blight Reclamation and Revitalization Act⁴², allows municipalities to deny certain permits and licenses to property owners who have significant tax delinquencies or a judgment of serious code violations by a magistrate or judge anywhere in the Commonwealth. The legislature passed the law in part to overturn a court ruling holding the municipality of Jeannette in Westmoreland County liable for damages for denying occupancy permits to a tax-delinquent owner.

**What does it do?**

The act authorizes municipalities to deny municipal permits to any property owner who has an unappealable delinquent real estate tax or municipal claim or a "serious code violation" anywhere in the Commonwealth. The municipality may withhold the permit until the property owner provides confirmation that he or she has paid taxes or remedied the code violations. For municipalities to deny the permit on the grounds of a "serious violation," the owner must have failed to take "substantial steps" to correct the violation within six months after receiving notice of the imposition of a fine, penalty, or judgment by the court.

**How do we pay for it?**

The denial of a permit should not impose any added costs on a municipality. Denials are issued by a zoning hearing board or other body with jurisdiction to render decisions under the Pennsylvania Municipalities Planning Code.

**What types of property are covered?**

A permit denial can be imposed on owners of residential, commercial, or industrial properties. The tax delinquency or code violations that cause a denial may be for a property located outside the municipality denying the permit.

**What challenges will it solve?**

Permit denial gives negligent property owners who have multiple properties an incentive to pay their taxes and maintain their properties if they wish to expand their property holdings in Pennsylvania. It is targeted at owners who invest in some of their properties, such as private homes, and allow others to deteriorate. Just as jurisdictions may share information to identify and stop criminals who perpetrate the same crimes in multiple jurisdictions, this tool allows municipalities to share information and force seriously negligent property owners to fix their existing properties before they can invest in additional properties.

**Where does it apply?**

Any municipality may adopt a permit denial law.

**How does it work? What is needed to use this law effectively?**

A municipality may refuse to grant permits for real property—including, but not limited to, building permits, occupancy permits, and exceptions to zoning ordinances. To issue a permit denial, the municipality must put the following in writing: street address, municipality and county in which the property is located, and the court and docket number for each parcel cited as a basis for the denial. The denial must also state that the applicant may request a letter of compliance from the appropriate state agency, municipality, or school district, to demonstrate that the delinquency or violation has been resolved. If the state, municipality, or other entity does not issue a letter of compliance within 45 days of the request, the property in question is deemed to be in compliance. All municipal permit denials may remain in effect until a letter of compliance is provided or an agreement on a remediation plan to resolve the issue is reached within 90 days.

42. Chapter 61, titled "Neighborhood Blight Reclamation and Revitalization," was passed into law on October 27, 2010, P.L.875, No. 90, § 6131. Municipal permit denial. The act took effect on April 25, 2011.



What policies and practices will increase our chances of successfully using this tool?

To its local code, a municipality should add language that explicitly grants a privilege to deny municipal permits pursuant to Act 90. Also, the municipality should prepare a written policy that includes clear procedures for permit denial.

To identify property owners who have judgments of code violations, municipalities should use the search function of the magisterial district court's docket sheets. The online database at <http://ujisportal.pacourts.us/DocketSheets.aspx> can be searched by name or parcel ID, and it includes properties and their owners for which there is a judgment by a magistrate or court that the property has serious code violations.

Finally, a municipality may require all applicants for permits to complete a disclosure form in which owners affirm that they have no tax delinquencies or serious code violations or are asked to list all properties they own in the Commonwealth. An owner who fails to complete the form honestly and accurately will be committing a misdemeanor of the third degree and will be required to pay a fine of at least \$1,000.⁴³



What legal documents will we need?

A municipality that seeks to use permit denial should enact an ordinance that explicitly gives the municipality the right to deny permits under Act 90 and provides a compliance response form. In addition, a municipality should draft a written policy that sets out procedures for the—

- Steps to be taken before permit denial
- Review and authentication of compliance letters submitted by the applicant
- Issuance of permit denials
- Response to compliance requests within the mandated 45-day period.

A municipality may also create a disclosure form in which applicants affirm that they have no tax delinquencies, or serious violations of state law or codes, on properties they own in Pennsylvania, or applicants must list all properties owned in Pennsylvania. Note that the use of permit denial needs cooperation between municipalities.



Who is using the tool now?

The city of Johnstown was one of the first Pennsylvania municipalities to implement the provisions of Act 90. Johnstown did not pass a local ordinance; rather, it enforces Act 90 directly. Johnstown has found that the threat of permit denial has motivated owners to correct their delinquencies or serious code violations so that they can obtain permits.



How can we combine this with other strategies?

Permit denial may be used with two other tools detailed in this manual: asset attachment and placing a judgment lien on another property that has the same owner. Where an owner of multiple properties invests in some structures and allows others to deteriorate, the municipality can attach the owner's personal assets (such as wages) to recover costs associated with the blighted properties or can place a lien for past code violation fees and fines on another of the owner's properties in the Commonwealth.

43. 18 Pa. Cons. Stat. § 4904, Unsworn falsification to authorities.

Asset Attachment: Attaching owners' other assets to pay to demolish or improve properties

Asset attachment is the legal process for seizing real or personal property to satisfy a court judgment. Act 90 of 2010, titled the Neighborhood Blight Reclamation and Revitalization Act, gives municipalities the power to initiate an action against the owner of a blighted property and place a lien on the owner's assets—including the property cited, the owner's other real property, wages and bank accounts—if the owner fails to take substantial steps to correct a 'serious violation' within six months of a final court order.⁴⁴ The law went into effect in April 2011.



What does it do?

Asset attachment under Act 90 allows a municipality to place a lien against an owner's real property and personal assets as well as against the property in question. By allowing jurisdictions to attach other personal and real estate assets of the property owner, rather than limiting their efforts to obtain value from the blighted property itself, the law provides the opportunity to recoup the costs of code enforcement, blight remediation, and demolition from owners who have sufficient assets to cover the costs. In addition, the filing of an action to attach an owner's personal home, wages, or other assets may motivate a property owner to appear in court to defend his or her valued assets.



How do we pay for it?

Asset attachment pays for itself. If it is successful, the municipality will recover costs by placing a lien on the owner's personal and other real estate assets. Assets that can be attached include the property owner's bank accounts, other real property, and a portion of the property owner's salary beyond what is exempt for personal and family support.



What types of property are covered?

Asset attachment in Act 90 covers properties that meet the following criteria:

- Owner can be identified
- Owner is liable for 'serious violations'
- Property has significant fines and penalties (for code enforcement) that remain unpaid, and the owner has not corrected the violations after six months. The owner should have sufficient assets to pay fines and penalties, and the court must be willing to issue a court order of attachment.



What challenges will it solve?

Some owners of vacant and blighted properties have the money to fix their properties, but choose to defy court orders. Asset attachment compensates municipalities by forcing those owners to use their other assets to maintain their deteriorated buildings. Also, a writ of attachment may focus property owners' attention and cause them to appear in court to defend their assets.



Where does it apply?

Any municipality may implement Act 90 asset attachment.



How does it work? What is needed to use this law effectively?

The process of attachment is not complicated. A code official must cite a property for substantial violations. In six months, the code official must re-inspect the property, if the official sees that the owner has failed to remediate the violations, the municipality files an action in common pleas court against the owner. If the court issues a judgment against the owner and the owner fails to satisfy the judgment, the municipality can submit a writ of attachment to collect the judgment. Under Act 90, the court may issue a levy of attachment directing the sheriff or other law enforcement officer to serve a copy of the order on the defendant and to seize property equal in value to the sum specified in the writ.

The U.S. Supreme Court has held that property owners have a constitutional right to a notice and a hearing before their

44. 53 Pa.S.C. 6111, 6112. See also City of Philadelphia Code, Administrative Code, Section A-503; City of Pittsburgh, Codified Ordinances, § 1001.10(b); Third Class Cities Code, 53 P.S. § 39133; First Class Township Code, 53 P.S. § 56519; Second Class Township Code, 53 P.S. § 66517; and Boroughs Code, 53 P.S. § 46202(24).

assets are attached.⁴⁵ The notice and hearing requirements depend on the types of assets being attached or garnished (such as real estate, personal property, wages, or bank accounts). Municipalities should consult with their solicitors to ensure that they are providing adequate notice. In addition, the defendant has a right to challenge the seizure. The owner must post a bond for the release of the property, in effect substituting the bond for the property in the court's custody. The order of attachment remains effective for a limited period.

Asset attachment is most effective when an owner has multiple blighted properties but also has real estate in Pennsylvania and wages sufficient to cover penalties and costs incurred in remediating the blighted properties. Where an owner is an association or trust, no lien can be placed on the individual assets of the general partners or trustees, limited partners, shareholders, members, or beneficiaries of the association or trust.



What policies and practices will increase our chances of successfully using this tool?

- Identifying the owners of multiple blighted properties
- Determining whether the owners have the money to cover costs that the government has incurred to remediate the properties
- Determining whether the owners have other properties in Pennsylvania that have value

Attachment is difficult when a person owns property in Pennsylvania but lives in another state. Even if a court in another state was willing to enforce a judgment against the individual and place a lien or attachment on his or her property, the judgment would have lesser priority than other liens or mortgages previously filed on the property. In addition, real property would be subject to Pennsylvania's foreclosure laws.⁴⁶

A municipality should provide extensive proof to the court that the owner is responsible for the property but after repeated violation notices and a court judgment has allowed the property to deteriorate and become a nuisance. A database noting each violation and notification is helpful.

Act 90 § 6112 states that a lien may be placed against the assets of an owner of real property that is in "serious violation" of a code or is regarded as a public nuisance after a judgment, decree, or order is entered by a court of competent jurisdiction against the owner of the property. Some experts have voiced concern that the "serious violation" definition in Act 90 is vague and may be challenged in court. It is essential that the municipality submit detailed documentation of the nature of a violation and why it should be considered serious.



What legal documents will we need?

Municipalities should adopt ordinances allowing for asset attachment and should develop a template for a writ of attachment.



Who is using the tool now?

Philadelphia found that the threat of asset attachment increased compliance. To date, it appears that no municipality has used this tool.



How can we combine this with other strategies?

Asset attachment can be used in concert with nuisance laws and code enforcement to force the owners of nuisance properties to pay under a court judgment. Publicizing the successful attachment of an owner's assets will help ensure that other owners come forward to pay outstanding penalties. A municipality may also want to consider placing a lien on other properties owned by the owner of a property that has serious code violations as defined in Act 90.

45. *Connecticut v. Doehr*, 501 U.S. 1 (1991); *Sniadach v. Family Finance Corp. of Bay View*, 395 U.S. 337, 342 (1969).

46. For more information, see Rute Pinho, "Blight Liens," OLR Research Report (July 3, 2012), <http://www.cga.ct.gov/2012/rpt/2012-R-0250.htm>.

Hall of Shame:**Bringing public pressure to bear on owners of the most blighted properties**

The hall of shame is a program that brings public pressure to bear on property owners who refuse to improve substandard conditions. It posts names, addresses, and photographs of blighted properties online and in the media. A municipality may choose to place a newspaper advertisement featuring hall of shame property owners. The goal is to shame negligent property owners who have rampant code violations into bringing their blighted properties up to code and to motivate other owners to fix up their properties and avoid being added to the hall.

**What does it do?**

The hall of shame is a low-cost tool designed to shame owners into bringing their properties up to code. Posting an owner's name, along with the address and photos of the derelict property, may sometimes spur action to improve the property. And it can motivate other property owners to take action so that they will not be publicly shamed.⁴⁷

**How do we pay for it?**

The cost of creating and implementing a hall of shame is minimal. The owner's name and the property's address are added to the municipal Web site, posted on the property, and featured in the news media.

**What types of property are covered?**

It is up to the municipality to determine which properties are covered. For instance, Allentown decided to include only investor-owned rental properties whose owners live out of state, do not occupy the properties, and have knowledge of repeated violations but have repeatedly refused to fix up the properties.

**What challenges will it solve?**

Used in combination with other tools, the hall of shame can motivate property owners to sell or fix up their properties.

**Where does it apply?**

Any municipality may create a hall of shame.

**How does it work? What is needed to use this law effectively?**

A municipality should first establish rules for eligibility into the hall of shame. For example, Allentown nominates only owners of vacant rental properties that have serious code violations. The municipality then creates a nominating process, typically a committee that will evaluate problem properties and recommend one or two for inclusion in the hall of shame. In Allentown, the Landlord Hall of Shame Committee includes the following members: director of building standards and safety, housing rehab supervisor, housing supervisor, construction code superintendent, a representative from zoning, and a representative from recycling.

The jurisdiction should also establish criteria for inclusion in the hall of shame. Factors that Allentown considers include—

- Delinquent fees (water and sewer, rental, taxes, business license, business privilege tax)
- Property declared a nuisance according to the property rehabilitation and maintenance code
- Registration or license revocation or warnings
- Neighbor "testimonials"
- Health issues (solid waste, animals, and so on)
- Building issues (no permits, no plans)
- Police issues
- Fire issues

47. Interview with David Paulus, director of the Allentown Bureau of Building Standards and Safety, August 16, 2013.

Once selected, the property owners are featured on the government Web site, in news stories, and on posters attached to their rundown buildings. When possible, signs and stories contain the owners' contact information. Pottsville City Council recently presented a slide show of its 10 most blighted properties at a monthly council meeting. So far, 4 owners who have properties in the top 10 have contacted the city to discuss their options.⁴⁸ Since beginning its program in 2008, Allentown has focused on posting only the worst of the worst properties so that it does not send a message to potential residents or investors that the city has have a large catalog of blighted properties. Allentown's hall of shame has never faced a legal challenge.⁴⁹



What policies and practices will increase our chances of successfully using this tool?

The hall of shame should be viewed as just another step in a process designed to make owners accountable for the condition of their properties, rather than as a program that can achieve results on its own.

Allentown has found that the hall of shame's most positive contribution is to motivate owners who may be eligible for induction into the hall of shame, rather than those already inducted, to sell or fix up their properties and avoid being publicly shamed.



What legal documents will we need?

No legal documents are needed.



Who is using the tool now?

Allentown began its Landlord Hall of Shame in October 2008. The city focuses primarily on landlords who live outside the city and have significant assets, including a relatively high value home, yet still choose not to improve the conditions of their Allentown properties. If an owner does not take action to remediate code violations, the property will be added to a pre-blight certification list and taken through the Blighted Property Review Committee condemnation process.



How can we combine this with other strategies?

Allentown uses the hall of shame in concert with the blight determination process of its Blighted Property Review Board. Owners are notified that they will be featured in the hall of shame and that their properties are being considered for condemnation within a month of their inclusion in the hall.⁵⁰

48. Stephen J. Pytak, "Pottsville Blight List to Highlight Future Council Meetings," Pottsville Republican (July 9, 2013). <http://republicanherald.com/news/pottsville-blight-list-to-highlight-future-council-meetings-1.1517454>.

49. Interview with David Paulus, director of the Allentown Bureau of Building Standards and Safety, August 16, 2013.

50. Ibid.

Criminal Misdemeanor Sanctions for Multiple Code Violations: Prosecute owners who repeatedly violate building, property maintenance, or housing codes

Pennsylvania law allows local governments to impose misdemeanor penalties on owners who repeatedly violate building, property maintenance, or housing codes. The goal of criminalizing repeated and severe code violations is to wield a penalty sufficient to give owners of vacant and blighted properties an incentive to bring their properties up to code. Two key laws that impose misdemeanor sanctions are the Municipal Housing Code Avoidance Act and, for third-class cities only, the Third Class Cities Escalated Code Citations and Penalties Act. Other municipalities enforce criminal nuisance laws. Act 34 of 2015 repealed the Municipal Housing Code Avoidance Act and created the “Failure to Comply with a Code Requirement” section in the Neighborhood Blight Reclamation and Revitalization Act. The new section reduces the number of convictions for code violations required to constitute second and first degree misdemeanor.



What does it do?

Pennsylvania law authorizes criminal penalties that include imprisonment for serious and repeated housing code violations. The goal of code enforcement is compliance, not punishment. Yet some chronic violators will not repair or improve blighted properties without the threat of clear, consistent, and severe penalties. Two key laws criminalize flagrant and repeated code violations. Failure to Comply with a Code Requirement⁵¹ makes it a second degree misdemeanor for a property owner to be convicted two times for a violation of the same subsection of the same building, housing, or property maintenance code where the owner has made no reasonable attempt to address the violation. Third and subsequent convictions become a first degree misdemeanor.

The Third Class Cities Escalated Code Citations and Penalties Act⁵², which applies only to third-class cities, allows code officials to issue escalating fines every five days. After the third violation, imprisonment for up to 90 days is an available penalty. Fines are between \$500 and \$1,000 for the first two offenses and \$1,000 to \$10,000 for the third and subsequent offenses. Under either law, if a third-class city elects to prosecute under either act, the prosecution must be brought by an assistant district attorney.



How do we pay for it?

Repeated fines may be imposed against chronic violators to cover costs. Unlike license fees, fines and penalties may exceed the costs to administer the program.



What types of property are covered?

The Municipal Housing Code Avoidance Act, now called “Failure to Comply with a Code Requirement” applies to all residential, commercial, and industrial properties subject to building, housing, or property maintenance codes. The Third Class Cities Escalated Code Citations and Penalties Act applies to all properties subject to building, housing, property maintenance, fire prevention, electrical, or plumbing codes.



What challenges will it solve?

Targeting chronic violators and bringing maximum sanctions to bear—for example, imprisonment and the levy of fines for each violation multiplied for every five days that a violation remains—establishes a context that can bring chronic violators to the table to discuss making their properties code compliant.



Where does it apply?

Any municipality may prosecute under the Municipal Housing Code Avoidance Act. Only third-class cities may use the Third-Class Cities Escalated Code Citations and Penalties Act.



How does it work? What is needed to use this law effectively?

After the requisite number of code violation convictions have occurred under either law, the code official requests prosecution by the assistant district attorney (ADA). The

51. 53 Pa.C.S.A. §6115; Act 34 of 2015. <http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2015&sessInd=0&act=34>.

52. Act 135 of 1998; 53 P.S. § 39131.1.

ADA considers the facts and decides whether to prosecute. The code official conducts periodic inspections to support the prosecution.

Under Failure to Comply with a Code Requirement, a criminal prosecution may be initiated after at least two convictions against the same owner for the same code violation that threatens health, safety, or property where the owner has made no reasonable attempt to abate the violation. A second-degree misdemeanor may be charged when a code violation remains after two summary convictions. A first degree misdemeanor may be charged for three or more summary convictions. Code officials file summary charges as part of routine code enforcement.

Under the Third Class Cities Escalated Code Citations and Penalties Act, if a code violation poses a threat to public health, safety, or property, the code enforcement official may issue a citation with monetary fines every five days. Fines of \$500 to \$1,000 may be imposed for the first two offenses. For the third and subsequent offenses, fines of \$1,000 to \$10,000, imprisonment of up to 90 days, or both fines and imprisonment may be imposed.



What policies and practices will increase our chances of successfully using this tool?

Partnerships between code enforcement agencies (the housing, health, zoning, and building inspection staff found in most municipalities) and law enforcement (police and prosecutors) are crucial for the successful use of these tools. When the agencies and law enforcement work together, a municipality increases its ability to clean up and permanently transform poorly maintained and dangerous properties. Some municipalities may formalize the relationship by establishing an interagency task force for the case management of designated problem properties. Others may seek to pique the interest of the assistant district attorney by prioritizing properties that are hotspots for criminal activity and neighborhood blight.

Effective monitoring and enforcement demands a database with the capacity to track violations, compile property histories, and move violators through an enforcement pipeline, using the statutory authority to levy progressive sanctions that are clear, consistent, swift, and certain. Successful prosecutions should be widely publicized in hopes that a credible threat of prosecution will bring other chronic violators into code compliance.



What legal documents will we need?

Criminal sanctions typically require the involvement of an assistant district attorney or the police, who will have all necessary legal documents.



Who is using the tool now?

The Borough of Pottstown recently took an owner to court on a misdemeanor charge of disorderly conduct for storing more than 50 tires at a property. In June 2012, a Montgomery County Court of Common Pleas judge sentenced the owner to six months' probation for creating a hazardous or physically offensive condition.⁵³



The City of Harrisburg has repeatedly charged property owners of vacant buildings in imminent danger of collapse with misdemeanor public nuisance after beginning condemnation proceedings. David Patton, Harrisburg's deputy director for codes, backs up the charge by sharing photos and records of repeated notifications and inspections with police. Harrisburg's goal is to charge the owner with a misdemeanor and enter the misdemeanor information into the National Crime Information Center database so that if the owner is stopped for a traffic violation or for some other reason, the police can arrest the owner on the misdemeanor charge. Four out of five times, the strategy has worked and the owner has paid to repair or demolish the property. Harrisburg has not used the Municipal Housing Code Avoidance Act, because it requires multiple court judgments, which are very difficult to secure. In fact, no municipality that we know of is using these two laws.⁵⁴



How can we combine this with other strategies?

Criminal sanctions are a last alternative. In addition to prosecution, a municipality may consider asset attachment, the demolition of dangerous structures, or assigning a conservator to bring the property back up to code.

53. Carl Hessler, "Former Pottstown Man Faces Probation for Quality of Life Offense," *The Times Herald* (June 29, 2012), <http://www.timesherald.com/article/20120629/NEWS01/120629422/former-pottstown-man-faces-probation-for-quality-of-life-offense>.

54. Interview with David Patton, Harrisburg's deputy director for codes, November 7, 2013.

Extradition of Out-of-State Property Owners: Asking Pennsylvania's governor to extradite property owners living in other states so that they can be brought for criminal prosecution

Extradition is the process of transferring a person arrested in one state for a warrant issued by another state. The Neighborhood Blight Reclamation and Revitalization Act, Act 90, allows Pennsylvania municipalities to extradite property owners living in other states to face criminal prosecution for criminal property code violations through a costly, difficult process. Under the extradition process, the governor of Pennsylvania must make an official written request for criminal extradition to the governor of the other state. Extradition is rarely used to prosecute a "fugitive from justice" for misdemeanor charges, because the process is resource intensive and costly. To our knowledge, extradition has not been used to prosecute an owner for property code violations.



What does it do?

Municipalities may hold out-of-state property owners liable for code violations that rise to the level of criminal conduct. To extradite, a municipality must provide the owner with a notice of violations, charge the owner with a crime or offense under 18 Pa.C.S., and obtain the governor's signature to require the jurisdiction to detain the owner and physically send him or her to court in Pennsylvania.



How do we pay for it?

The municipality requesting extradition is responsible for costs incurred by Pennsylvania and the other state in extraditing the owner. Even if the owner is found guilty of criminal code violations, the court will not necessarily require the owner to reimburse the municipality for the extradition costs incurred. The municipality must therefore have a plan to pay the costs out of its general budget or from other resources.



What types of property are covered?

Covered properties are those whose owner can be identified and is liable for significant code enforcement fines and penalties. To initiate the extradition, the governor of Pennsylvania must make a written request to the other state's governor to arrest and send the property owner back to Pennsylvania for criminal prosecution.



What challenges will it solve?

The goal is to hold out-of-state owners accountable for their seriously blighted Pennsylvania properties. Unfortunately, given the need for the governor to write a personal written request to each relevant state's governor for each owner facing criminal misdemeanor charges, it will rarely be used.



Where does it apply?

Any Pennsylvania municipality may ask the governor to extradite an owner charged with a crime.



How does it work? What is needed to use this law effectively?

For an out-of-state property owner to be subject to extradition, the owner must be charged with a crime and a warrant must be issued for arrest. Pennsylvania's governor must then make a written request to the other state's governor to arrest and send the property owner back to Pennsylvania for criminal prosecution. The United States Supreme Court has ruled that before extradition may be granted, the requesting state must fulfill four requirements: It must show that the person to be extradited (1) has been charged with a crime; (2) is a fugitive from the requesting state; (3) was present in the requesting state at the time the crime was alleged to have occurred; and (4) is named in the charging documents from the requesting state. The owner can fight extradition to Pennsylvania by contesting the validity of the charge and can petition the court for the issuance of a writ of habeas corpus. A habeas corpus petition requires Pennsylvania to show that it has sufficient evidence to restrain the accused; otherwise, the accused must be released.



What policies and practices will increase our chances of successfully using this tool?

The governor of Pennsylvania will be unlikely to request extradition unless there is an extensive record of criminal violations in a single jurisdiction or multiple Pennsylvania jurisdictions. Local governments must be able to make a strong case for why they are prosecuting the owner under Pennsylvania criminal law and why extradition is necessary.



What legal documents will we need?

An extensive number of documents are required for extradition, including —

- Governor's warrant
- Fugitive affidavit
- Warrant for arrest of the fugitive

The county's assistant district attorney will have access to the documents.



Who is using the tool now?

We are unaware of any jurisdiction that has successfully extradited a property owner for property-related code violations.



How can we combine this with other strategies?

Although it is difficult to hold long-term absentee owners accountable, a municipality can use vacant-property registration laws to require a nonresident owner to appoint someone as the owner's 'duly authorized agent' (also known as a "local agent" or "responsible agent"). The municipality can then treat the agent the same as the owner in terms of legal responsibility. The City of Allentown has taken legal action against agents representing absentee owners of properties that have accumulated code violations. Magistrates have supported the city's actions by imposing fines on the agents as needed to compel the correction of code violations.⁵⁵

55. *Allentown Progress Report*, Fels Institute of Government (April 2009), https://www.fels.upenn.edu/sites/www.fels.upenn.edu/files/Allentown_Progress_Report_0.pdf.

Section 2:

Tools to Address Long-Term Vacant and Abandoned Blighted Properties

Each tool in this section is directed to properties that have been vacant over a long term and endanger the health and safety of their communities. For these most stubborn long-term vacant properties, the tools allow for demolition or the transfer of a property to a responsible new owner.

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Demolition: Removing unsafe structures and preparing properties for reinvestment

Demolition removes unsafe structures and blight and prepares properties for reinvestment. Demolition liens placed on a property give municipalities the opportunity to recover costs when the property is transferred and has sufficient value to cover the demolition liens. Demolishing blighted structures can raise property values in a municipality by millions of dollars.⁵⁶



What does it do?

Demolition eliminates structures that are dilapidated, unsafe, or too expensive to repair. Demolition often lowers the costs of maintaining vacant properties, because vacant lots are less extensive to maintain than blighted properties and can be used temporarily or permanently for small parks, community gardens, or stormwater management. When performed at a larger scale, demolition can remove an oversupply of unmarketable buildings.



How do we pay for it?

A demolition lien, payable when a property is transferred, is placed on the property. In Pennsylvania, a municipal lien generally takes priority over all mortgage claims.⁵⁷ Where Community Development Block Grant (CDBG) funds are used, the municipality typically places a lien on behalf of the county, and Davis-Bacon wage standards apply.⁵⁸

When a property value is less than the cost of demolition, it will be difficult to obtain payment. As a result, it is important that municipalities assess the value of the property 'as is' to determine whether they can recover costs. Cost savings can be substantial where demolitions are planned and contracts are negotiated for multiple buildings as part of a bidding process. Philadelphia lowered costs from \$24,000 to \$13,000 per attached row house by bidding jobs for multiple houses in a single area.⁵⁹

To improve cost recovery, Buffalo, New York posts a city employee outside the courtroom on the single afternoon each month when demolition hearings are scheduled. The purpose is to intercept the owners and establish a payment plan as soon as the court issues a judgment. Buffalo reports that it could collect more money if legal obstacles to serving out-of-state owners and attaching the assets of those owners could be eliminated.⁶⁰ In Ohio, both Cleveland and Cincinnati have adopted ordinances to expand the definition of who is responsible for demolition expenses. The expansion extends responsibility to people who buy a property after it is condemned and before it is demolished.⁶¹ In Pennsylvania, courts have held that demolition liens run with the property.⁶²



What types of property are covered?

Properties that have significantly deteriorated or properties being prepared for redevelopment.



What challenges will it solve?

Demolition is a targeted blight-removal tool. By targeting blight, demolition can reduce the costs of maintaining vacant properties and can raise property values in a municipality.

56. A recent study of Flint, Michigan found that \$3.5 million of demolition activity produced \$112 million in improved property values. Nigel Griswold and Patricia Norris, *Economic Impacts of Residential Property Abandonment and the Genesee County Land Bank in Flint, Michigan*, Land Policy Institute (April 2007), http://www.communityprogress.net/filebin/pdf/new_resrcs/LPI_Genesee.pdf.

57. Section 2 of the Act of May 16, 1923, P.L. 207, as amended, 53 P.S. § 7103.

58. In fiscal year 2011, a total of \$74 million in Community Development Block Grant funds was spent nationally on demolition, with an additional \$32 million going to the closely related activities of relocation and site remediation. Alan Mallach, *Laying the Groundwork for Change: Demolition, Urban Strategy, and Policy Reform*, Brookings Institution (September 2012). <http://www.brookings.edu/~media/Research/Files/Papers/2012/9/24%20land%20use%20demolition%20mallach/24%20land%20use%20demolition%20mallach.pdf>.

59. Joseph DiStefano, "How Philly L&I Says It Cut Home Demolition Costs in Half," *Philadelphia Inquirer* (March 19, 2010). http://www.philly.com/philly/blogs/inq-phillydeals/How_Philly_LI_cut_home_demolition_costs_in_half.html.

60. Sarah Lyons, *Buffalo's Demolition Strategy, Partnership for Public Good* (Fall 2009), <http://www.ppgbuffalo.org/wp-content/uploads/2010/06/Bufalos-Demolition-Strategy-1.pdf>.

61. Codified Ordinances of Cleveland, § 3103.09 (k)(2), adopted November 14, 2011. Cincinnati Municipal Code § 1101-57.7. The 'person in control' addition was made in October, 2010.

62. *City of Philadelphia v. Philadelphia Transload & Logistics*, Commonwealth Court of Pennsylvania (opinion not reported), February 14, 2012. <http://statecasefiles.justia.com/documents/pennsylvania/commonwealth-court/884-c-d-2011.pdf?ts=1331824444>.



Where does it apply?

Any county or municipality may demolish a property.



How does it work? What is needed to use this law effectively?

Municipalities need a property maintenance code, or a set of ordinances, that (1) clearly establishes the right to demolish a property that is unsafe or unhealthy and (2) authorizes the imposition of a lien to recover costs. Municipalities will also be well served by a written process for demolition that satisfies local, state, and federal requirements. When a public agency demolishes multiple one- to four-unit residential properties, the EPA has concluded that EPA regulations require an asbestos survey.⁶³ The contractor and the property owner will be fined if no asbestos survey is completed.



What policies and practices will increase our chances of successfully using this tool?

The first step is to collect and maintain accurate data on vacant and deteriorated buildings. The data can provide extensive information to the code official, court, or review board that decides whether demolition should be permitted, and it allows for the planned and simultaneous demolition of multiple buildings to reduce costs. The second step is to create a local demolition strategy that prioritizes the demolition of properties in areas where other investments can be leveraged, thereby pursuing goals for economic development and community stabilization. Finally, working with the county and the redevelopment authority can help ensure that high-priority structures for demolition are included in lists for demolition.



What legal documents will we need?

- Property maintenance code or ordinance that provides a clear process for demolishing unsafe structures and that includes the right to recover costs through a demolition lien

When signing contracts with demolition contractors, a municipality should require the contractors to obtain all needed permits, perform an asbestos survey, remove and dispose of asbestos, remove debris (including below-grade foundations), restore shared walls, and grade and seed the lot.⁶⁴



Who is using the tool now?

The City of York, as part of its property maintenance code, has a detailed demolition process that incorporates portions of the ICC International Property Code. The process has been reviewed by the courts.⁶⁵ Westmoreland County funds its countywide demolition program using Community Development Block Grant (CDBG) dollars. Typically, the Redevelopment Authority of Westmoreland County completes 25 projects annually for approximately \$250,000. To fund the demolition, Westmoreland requires a private match from the municipality, owner, or other stakeholder. Westmoreland ranks the applications by overall reinvestment impact, including the level of reinvestment and jobs the demolition will attract and whether it will comply with the county's comprehensive plan. Westmoreland works with a nonprofit to salvage reusable items such as doors, windows, and bricks from properties before demolition and uses the money obtained to fund affordable-housing initiatives. The redevelopment authority cannot tear down a structure without the owner's permission or court-ordered action.⁶⁶



How can we combine this with other strategies?

Demolition should be one part of a larger revitalization strategy. A database of vacant properties is beneficial for rental registration, vacant-property registration, land banking, and demolition. A land bank can carry out demolitions. For more information on demolition strategies, go to <http://www.brookings.edu/~media/Research/Files/Papers/2012/9/24%20land%20use%20demolition%20mallach/24%20land%20use%20demolition%20mallach.pdf>.

63. The National Emission Standards for Hazardous Air Pollutants (NESHAP) standards for asbestos exclude residential buildings having four or fewer dwelling units. However, USEPA considers the demolition of more than one residential property an urban renewal project and subjects it to the NESHAP standards. Mallach, p.19.

64. Alan Mallach, *Laying the Groundwork for Change: Demolition, Urban Strategy, and Policy Reform*, Brookings Institution (September 2012), <http://www.brookings.edu/~media/Research/Files/Papers/2012/9/24%20land%20use%20demolition%20mallach/24%20land%20use%20demolition%20mallach.pdf>.

65. *City of York v. Norma Stough*, Commonwealth Court of PA, (opinion not reported), September 8, 2008. http://statecasefiles.justia.com/documents/pennsylvania/commonwealth-court/106cd08_10-23-08.pdf.

66. E-mail messages from April Kopas, executive director of the Redevelopment Authority of the County of Westmoreland, to Karen Black, dated May 30, 2013, May 31, 2013, and July 30, 2013.

Blight Fund:

Establishing a fund with tax revenue to address blight and dangerous conditions

A blight fund creates a dedicated source to finance blight elimination efforts and makes clear that addressing blight is a key municipal priority. Blight funds can be funded by tax revenue, fees, fines, or property sales.



What does it do?

A blight fund creates a source to pay for programs that eliminate blight and improve properties that pose a health and safety risk.



How do we pay for it?

When it creates a blight fund, a municipality must identify a sustainable source of funding that will provide sufficient revenue to finance the implementation of many of the tools described in this manual. Revenue from taxes, fees, fines and penalties, property sales, or other resources can by law or policy be directed into the fund.



What types of property are covered?

Blighted and dangerous properties.



What challenges will it solve?

A blight fund helps eliminate blight by creating a dedicated pot of money.



Where does it apply?

Any community may create dedicated funding for a blight fund.



How does it work? What is needed to use this law effectively?

A blight fund is created through a law or policy enacted by local government.



What policies and practices will increase our chances of successfully using this tool?

Municipalities can prepare residents and elected officials to approve a small tax increase or dedicate fees, fines, or penalties to a blight fund by documenting the costs that the municipalities incur from the presence of blighted properties, as well as the costs that surrounding homeowners incur, such as depressed property values and reduced quality of life. To promote transparency and accountability, municipalities will want to report to the public on how the blight funds are used.



What legal documents will we need?

Municipalities can create a blight fund as part of their budget or laws.



Who is using the tool now?

In November 2013, Mahanoy City, a borough northwest of Reading in northern Schuylkill County, adopted an operating budget that includes a two-mill increase in the real estate tax to create a blight fund. The fund will be used solely to address blight and dangerous conditions that arise in the borough. The median value of a two-mill increase in Mahanoy County is \$17.39. The tax increase will dedicate approximately \$47,000 annually to the blight fund.



How can we combine this with other strategies?

A blight fund can be used to finance each of the strategies outlined in this manual.

Opening estates of deceased property owners to transfer vacant property to new owners

Where a vacant property's owner had died without a will and the estate remains unopened, the 2006 Redevelopment Authority Estate Administration Law⁶⁷ allows an estate attorney to open and administer the estate on behalf of a redevelopment authority. The purpose is to transfer title of the real estate to a new owner. To qualify, the property must be owned solely in the deceased owner's name.⁶⁸

**What does it do?**

If a decedent made no will, held real property in his or her name only, and had no heir or personal representative to open the estate, an attorney who practices estate administration may become the agent of a creditor to administer the decedent's estate. As agent for a redevelopment attorney, the attorney may open the estate as early as 30 days after death to "return such property to productive use, and upon payment of fair market value of the property in its current state, to the estate."⁶⁹

**How do we pay for it?**

An estate attorney's reasonable legal fees are included in the estate's liabilities and are among the highest-priority items paid out of the estate. The attorney will be paid only after the real estate is sold.

**What types of property are covered?**

Property that is titled in the name of a decedent, where no one has been appointed to administer the decedent's estate.

**What challenges will it solve?**

Someone who dies without a will often leaves his or her property "orphaned" —that is, it has not gone through probate, because no heir existed or because an heir had no reason to open the estate. Such properties may sit empty for years until they become tax delinquent and a taxing jurisdiction initiates a tax foreclosure action. Estate administration allows for earlier intervention after the owner's death to prevent property deterioration and the narrowing of prospective purchasers.

**Where does it apply?**

Everywhere in Pennsylvania.

**How does it work? What is needed to use this law effectively?**

The redevelopment authority petitions the probate clerk and the county register of wills for letters of administration. If the letters of administration are granted, the redevelopment authority identifies and retains an interested estate attorney to perform the estate administration legal work, including a search for heirs, assessing assets and liabilities, and explaining to heirs that they may renounce the role of administrator but still receive estate assets, if any. Typically, an estate attorney will send letters to neighbors and family members, hold conversations with them, and review all mail sent to the estate, looking for assets and debts.

**What policies and practices will increase our chances of successfully using this tool?**

Because one goal of estate administration is to transfer the property of the deceased to a responsible new owner, the redevelopment authority may want to reserve its use to properties that have potential buyers.

**What legal documents will we need?**

An estate attorney must file appropriate documents with the probate clerk and county register of wills. The attorney's legal work for a redevelopment authority is essentially the same as the work would be for an executor, an heir, or a creditor. Estate attorneys have the relevant Pennsylvania documents required to open an estate.

67. 20 Pa. C.S.A. § 3155, 3311; Act 171 of 2006.

68. Ibid.

69. Ibid.



Who is using the tool now?

George J. Pettrone, Esq., as agent and counsel for the Wilkinsburg Redevelopment Authority in Allegheny County, completed several estate administrations that transferred real estate to a new owner. The legal documents he used are available in the online appendix.



How can we combine this with other strategies?

A municipality can use proactive and progressive code enforcement to ensure that when an estate is opened, the municipality can collect not only taxes owed but also municipal liens and claims for any code violations.

Conservatorship:

Appointing a third party to enter onto someone else's property and complete the improvements needed to make it safe

Conservatorship allows a third party appointed by the court to enter an owner's property and make repairs to bring it up to code. Under Act 135, the Blighted and Abandoned Property Conservatorship Act⁷⁰ enacted in 2008, a neighbor, nonprofit organization, municipality, school district, or redevelopment authority petitions a judge to appoint a responsible party to bring a neglected property into compliance with code standards. An owner can step in at any time to terminate the conservatorship, but the owner must reimburse the conservator for all costs incurred before regaining control of the property. Once the property has been rehabilitated, if the owner has not approached the court to regain possession after paying all costs, the conservator may seek the court's permission to sell the property. **The Housing Alliance Conservatorship Handbooks offer extensive information and sample documents on using conservatorship to eliminate blight.** The 2008 Pennsylvania Conservatorship law was amended in 2014 under Act 157. Additional information about these amendments at <http://www.housingalliancepa.org/node/1940>.

**What does it do?**

The conservatorship process offers the individuals or organizations most adversely affected by a property a court-supervised method to enter onto that property and complete the improvements needed to make it safe. Under the law, a court may appoint a third party to take possession and control of a property in order to make needed repairs and bring the property back into productive reuse. The court appoints the conservator after a formal process and hearing, including notice to the owner(s) and others who have an interest in the property. The conservator has the power to borrow money against the value of the property to finance repairs and improvements, purchase materials needed for rehabilitation, take over existing leases and enter into new leases for up to one year, receive public grants or loans, and sell the property with clear and marketable title. A conservator has super-priority status over other lien holders so that the conservator can obtain adequate compensation for the improvements made. Conservatorship can also be used to clear title where a tangled title issue prevents the property from being transferred to a responsible buyer.

**How do we pay for it?**

Conservatorship includes a need to pay for the expenses involved in petitioning a court to have a conservator named and for the rehabilitation or demolition of the property. To ensure that resources exist to pay the expenses, some jurisdictions have petitioned for conservatorship only after they have identified a buyer for the blighted property, so that they can provide marketable, clear title to the buyer and be certain to recover costs incurred. Other possible funding sources include Community Development Block Grant, HOME, Neighborhood Assistance Program tax credits, and other state and federal funds. Although conservatorship is more expensive than basic code enforcement because of the legal work involved, it is much less expensive and faster than eminent domain. Conservatorship has the added benefit of not saddling a municipality with owning the property; the process conveys only the right of possession.

To cover the costs of rehabilitating a vacant building, the conservator has several options. The conservator can finance the rehabilitation by borrowing against the property and obtaining a super-priority lien sufficient to cover the cost of rehabilitation. Where the property has insufficient value to cover the cost of rehabilitating it, public or private funding sources and any income from the property's rental or sale may be necessary to fund the rehabilitation. Some private conservators have used their own funds or hired self-financed contractors to perform the work.

70. Abandoned and Blighted Property Conservatorship Act, Act of Nov. 26, 2008, P.L. 1672, No. 135. Cl. 68.



What types of property are covered?

Any building that has (1) not been legally occupied for at least 12 months, (2) not been marketed in the 60 days before the conservatorship petition was filed, (3) has not been acquired by the owner in the previous six months, except for related transfers, (4) is not already in foreclosure proceedings, and (5) has at least three violations contained in the Act 135 list of nuisances and code violations. As amended, vacant lots are also covered as long as a building once stood on the lot, as are two adjacent properties if owned by the same owner and used for the same purpose.



What challenges will it solve?

Where code enforcement has failed to motivate an owner to take action or there is no owner present against which to enforce the codes, conservatorship allows for the rehabilitation of a property and transfer of title in a way that will contribute to the health of the community. Conservatorship does not require local government to take ownership of blighted properties.



Where does it apply?

Any Pennsylvania party of interest—including lienholders, residents or business owners within 2,000 feet of the property, or a nonprofit corporation (including a redevelopment authority, a municipality, or a school district)—may file for conservatorship.⁷¹



How does it work? What is needed to use this law effectively?

The conservatorship process begins with the filing of a petition by a party of interest. The owner, all lienholders, and the local and county governments receive notice of the action, of the hearing date, and of their right to intervene. The court sets a hearing date within 120 days of the filing of the petition. At the hearing, the court receives evidence on why a conservator should be appointed. Before appointing a conservator, the court must be satisfied that the building meets all of the following criteria:

- It has not been legally occupied for the previous 12 months.
- It has not been actively marketed for the previous 60 days at a price which reflects circumstances and market conditions.
- It has not been sold within the previous six months. Sales to family members or related corporations do not meet this exemption.
- It is not subject to an existing foreclosure action. This does not include tax sales.
- The vacancy is not due to the owner's being away on active duty military service.
- It meets at least three of the indicia of blight listed in the conservatorship law.

After determining that a conservator should be appointed, the court looks for a competent individual or entity to serve, considering the following in sequence: the senior nongovernmental lienholder, a nonprofit or governmental entity, or an individual (or other entity). The conservator takes possession of the property (but not title to it) and has all the powers of the owner. For the purposes of applying for funds, approvals, and permits, the conservator is considered to be the owner. The actual property owner, however, retains liability, including the obligation to pay taxes and assessments. After being appointed, the conservator must submit a plan to the court and to all parties, including a cost estimate, a financing plan, and a description of the work to be done. When the work is completed, the conservator submits a final accounting to the court.

71. Nonprofits must have as one of their purposes: blight remediation, community development, economic development, historic preservation, or affordable housing. In Philadelphia, nonprofit corporations must be working within a five mile radius of the property.



What policies and practices will increase our chances of successfully using this tool?

Sometimes an owner appears in court to defend against conservatorship and promises to improve the blighted property. When that happens, it is advisable to keep the conservatorship petition active (rather than to dismiss it) until the owner brings the property up to code. In recent cases where the owner failed to take action, keeping the petition active allowed the court to retain oversight over the case. If the owner does repair the property, the petitioner can be reimbursed for the cost of bringing the lawsuit, according to the 2014 amendments.

Where the conservator needs financing, Act 135 requires the conservator to approach the senior lienholder for financing. If the existing mortgagee provides additional financing, the first mortgage is increased to cover it. If the first mortgagee declines, the conservator can approach a different lender and offer a priority lien.



What legal documents will we need?

A full set of all needed documents is available in the 2011 Regional Housing Legal Services [Conservatorship Implementation and Best Practices Manual](#).



Who is using the tool now?

Across the state, conservatorship has been used in a variety of ways. Here are just a few examples.

The first case was filed in St. Clair Borough, Schuylkill County. The borough was appointed as conservator and used conservatorship to clear title and transfer the property to a next-door neighbor. The neighbor tore down the structure and use the land as a side yard. Under this model, the municipality finds a buyer before filing for conservatorship and uses the process to transfer clear title. The borough's solicitor has used the same model to file many more conservatorship cases with various municipalities as plaintiff and conservator.



Soon after the St. Clair case, the Redevelopment Authority of the County of Butler used Act 135 to gain control of five properties. The properties were demolished and the land sold for development. The Columbia County Redevelopment Authority used conservatorship to transfer a property to a new owner who agreed to rehabilitate it. The court kept the case open until the rehabilitation was completed. In Northumberland County, the municipalities of Coal Township and Shamokin were appointed conservators for a total of fourteen properties, all owned by the same owner.



In Philadelphia, a number of private individuals and nonprofit organizations have filed conservatorship actions. Early on, the Ogontz Avenue Revitalization Corporation (OARC) filed under Act 135 to repair a blighted property on a commercial strip. OARC had tried to acquire the property from the owner but his asking price was too high. The court ordered an appraisal of the property and the owner ended up selling it to OARC at the lower fair market price. Even though a conservator was never appointed, this was an effective use of the law.



Shortly thereafter, a private individual was appointed conservator of a long abandoned VFW post. Because the building was owned by a nonprofit corporation whose board members had all died, the case included the Pennsylvania Attorney General and Orphan's Court. Eventually the conservator rehabilitated the property with his own funds and sold it. He then formed a nonprofit organization named after the VFW post, Scioli Turco, which has now done more than two dozen conservatorship actions.



How can we combine this with other strategies?

Conservatorship builds on other tools, especially code enforcement, to prod reluctant owners into fixing up their properties. If an owner fails to respond to code enforcement efforts, conservatorship is a good and effective option.

Condemnation: Condemning Properties Using Blighted Property Review Committee

Under Pennsylvania law, a redevelopment authority may use the power of eminent domain to take individual abandoned properties. Condemnation is a powerful and controversial tool. Fortunately, the threat of condemnation is a powerful motivator, and chronically unresponsive owners often bring their properties up to code or to sell them during the 12- to 18-month condemnation process.



What does it do?

For a redevelopment authority to acquire a blighted, vacant property under the Urban Redevelopment Law, it must appoint a Blighted Property Review Committee (BPRC) to evaluate whether the property meets the definition of blight, based on the criteria in the statute. If the owner refuses to make corrective repairs on a property identified as blighted, the redevelopment authority may proceed to condemn the property after conferring with the appropriate planning commission and the blighted-property review board. The BPRC, with representation from the county commissioners or city council, the mayor, the planning commission, and the redevelopment authority, is responsible for determining and certifying properties as blighted, making them eligible for redevelopment authority acquisition. The state defines 11 criteria as blight, and a property needs to meet only one condition to qualify as blighted.

Under 35 P.S. § 1712.1(c), a blighted property in Pennsylvania must meet 1 of the following 11 criteria:

1. Public nuisance
2. Attractive nuisance to children
3. Accumulation of trash and debris or haven for vermin
4. Unfit for human habitation
5. Fire hazard
6. Lack of water, gas, or other utilities
7. Tax delinquent for two years and vacant
8. Vacant and not code compliant within a year of receiving notice of violations
9. Abandoned property with municipal liens exceeding 150% of value
10. Defective or unusual condition of title
11. Environmentally hazardous conditions or contamination



How do we pay for it?

Condemnation can be funded through Community Development Block Grant funds if the acquisition of the property will address a serious public health or safety issue, or through general operating budget funds.

The latter stages of eminent domain are costly. Early hearings and notice to owners are not. But for the tool to be used effectively, the redevelopment authority must be prepared to follow through and to complete the condemnation when the owner fails to take action.



What types of property are covered?

Any property that is blighted under the definition of the Pennsylvania Urban Redevelopment Law (P.L. 991, May 24, 1945).



What challenges will it solve?

This tool allows a redevelopment authority to gain clear title and control of blighted properties where blight negatively affects surrounding communities. Although eminent-domain power should be used sparingly because of its high cost and its relative unpopularity with the public, it has been very effective in motivating the owners of blighted properties to make corrective repairs. The process provides owners with multiple notices of potential condemnation and almost a year to retain their properties by bringing them up to code. When the fear of losing a property is not sufficient incentive to bring a property up to code, the redevelopment authority will pay fair market value for the property based on an appraisal.



Where does it apply?

Any jurisdiction with a redevelopment authority. State law allows all cities and boroughs with a population of over 10,000 to form a redevelopment authority.



How does it work? What is needed to use this law effectively?

The process to condemn a property takes 12 to 18 months from initial identification.⁷² After a municipality decides that a property may meet the definition of blight, it sends a warning letter to the owner. If the owner fails to respond adequately, a notice of determination hearing is sent to the owner. At the hearing, the municipality presents evidence of blight to the blighted property review committee, and the owner may respond. The BPRC then holds a blight determination vote. If the BPRC determines that the property is blighted, a determination order is sent to the owner, saying that a certification hearing will be held within 60 days. At the hearing, the BPRC will vote to decide whether to certify the property as blighted. If the property is declared blighted, a certification order is sent to the owner. Next, the redevelopment authority issues a declaration of taking and a statutory offer to pay a specific amount for the property. The property owner has 20 days to object. If the owner offers no objection, the redevelopment lawyer goes to court to pay the just compensation or the fair market value of the property and is granted a writ of possession. If the owner objects at this point, the case moves to the county court of common pleas. If the owner does not object, the municipality owns the property once the check is sent to the property owner. If the owner objects at this late date, the complaint goes to the board of views, but the owner may dispute only the fair market value of the property.



What policies and practices will increase our chances of successfully using this tool?

Provide repeated notice to the owner at each stage in the process so that the owner has every opportunity to come forward and care for the property or transfer it to a responsible owner. In the few cases where it is necessary to complete the condemnation process, it is essential to condemn the property and incur the costs in order to create a clear and consistent threat that will compel other owners to be accountable. Once properties are condemned, they should be transferred to a responsible new owner and rehabilitated or redeveloped.

Acquisition is costly, so condemnation must be deployed strategically. Allentown and its redevelopment authority devote priority attention to (1) properties that have been declared unfit for human habitation, (2) properties located in

Allentown's central-city neighborhoods, adjacent to or near downtown, and (3) properties located in areas where city inspectors are conducting inspections (so that redevelopment authority acquisitions can complement the inspection process as needed).⁷³



What legal documents will we need?

The redevelopment authority has all legal documents and notices required to condemn a property.



Who is using the tool now?

In Cumberland County, the threat of eminent domain has motivated many owners of blight-certified properties to bring their properties up to code. Between 2000 and 2008, municipalities referred more than 100 vacant properties to the Redevelopment Authority of Cumberland County (RDACC) for condemnation, and only 5 were taken through the entire eminent domain process and condemned.⁷⁴ After 2008, the number of eminent domain actions brought by the RDACC decreased dramatically—to approximately 20 between 2008 and 2013. Four of those failed to motivate the owners and went through the eminent domain process.⁷⁵ The significant reduction in the use of eminent domain is in large part due to the institution of a new practice that requires municipalities to pay for both RDACC legal fees and just compensation to the owner. Before 2008, the RDACC funded all aspects of the eminent domain process. In addition, before 2008, Cumberland County had in-house counsel, who shepherded the cases through the process. Today the RDACC contracts out for legal services.⁷⁶



How can we combine this with other strategies?

This tool should only be used after code enforcement and other less costly tools have failed to bring the properties up to code. Allentown used eminent domain in conjunction with its hall of shame.

72. <http://www.readingpa.gov/content/blighted-property>.

73. *Allentown Progress Report*, Fels Institute of Government (April 2009), <https://www.fels.upenn.edu/sites/www.fels.upenn.edu/>.

74. Interview with Chris Gulotta, former executive director of the Redevelopment Authority of Cumberland County, August 15, 2013; *Northumberland County Comprehensive Blight Prevention/Remediation Program* (July 2012).

75. Interview with Ben Laudermilch, Ed LeClear, and Tricia Naylor, JD at the Redevelopment Authority of Cumberland County, August 14, 2013.

76. Interview with Chris Gulotta, former executive director of the Redevelopment Authority of Cumberland County, August 15, 2013.

A land bank is a governmental entity that works solely to return vacant, abandoned, tax-delinquent, and foreclosed properties to productive use. Pennsylvania passed enabling legislation—PA Act 153, signed by Governor Corbett on October 24, 2012, and effective December 23, 2012—that allows any municipality with a population of 10,000 or more to establish a public agency land bank. Smaller municipalities may join together to form a land bank. A full summary of the state law is at <http://www.housingalliancepa.org/sites/default/files/resources/PALandBankLawAct153summary.pdf>.

The most common goals of a land bank are to—

1. Eliminate the harm caused by vacant, abandoned, and tax-delinquent properties
2. Eliminate the barriers to returning properties to productive use
3. Convey properties to new owners for productive use
4. Hold properties for future use

Municipalities across Pennsylvania are creating land banks. See the Housing Alliance of Pennsylvania's Land Bank Headquarters at <http://www.housingalliancepa.org/node/1360> for up-to-date information.



What does it do?

A land bank is a special-purpose entity whose sole purpose is to address blighted and vacant properties. It is not a redevelopment authority, zoning, or planning entity. A land bank may obtain properties by donation, transfer, foreclosure, or purchase, from municipalities, redevelopment authorities, private owners, or tax claim bureaus. A land bank has the authority to design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property. A land bank must create a public inventory of its real property and maintain its real property to code standards. A land bank is able to extinguish property tax liens and claims subject to school district permission. In Pennsylvania, a land bank does not have the power of eminent domain.



How do we pay for it?

To support their operations, most land banks use a mix of funding streams. Because land banks deal with properties that no one else wants, it is rare that they are completely self-financing. Funding for a land bank can come from sales of higher-value properties, rents, and leasehold payments, grants and loans from public and private sources, general operating support, and income from investments. When necessary, a land bank may borrow money to cover its initial operating costs.

A land bank may also collect a portion of real estate taxes on the properties it conveys under an agreement with the relevant

municipality(ies) and/or school district(s). The tax recapture mechanism, explicitly permitted by state law, redirects a portion of the property taxes generated by land bank – owned properties to finance land bank operations. The portion of taxes may not exceed 50% of aggregate tax revenues and may continue for up to five years. The reasoning behind tax recapture is that the properties reactivated by the land bank did not provide tax revenue to the municipality or the school district before acquisition; typically, they imposed costs. By funding its operations through targeted tax recapture, the land bank can return properties to the tax rolls and reduce public expenditures for code, fire, and police protection, while raising the values of surrounding properties and the tax revenues those properties produce.



What types of property are covered?

Unoccupied, foreclosed, vacant, and abandoned properties. Occupied properties may be transferred to a land bank under limited conditions. Land bank property is tax exempt but must be maintained in accordance with local law.⁷⁷ The disposition of properties may be subject to a locally determined set of priority uses.



What challenges will it solve?

The creation of a single entity to address vacant property is crucial to eliminating blight. A land bank is designed to make it faster, easier, and cheaper for interested and responsible new

77. A land bank must pay taxes on a property only after its fifth year of continuous lease to a for-profit third party.

owners—whether they are developers, community groups, neighbors, farmers, or gardeners—to purchase blighted, abandoned properties and return them to productive uses that generate taxes for the city, county, state, and school district. Land banks can acquire foreclosed properties at tax sale through a negotiated intergovernmental transfer for minimal cost. They are also patient landholders when there is no market demand for a property, and they can provide clear, marketable title to interested buyers. A land bank allows Pennsylvania communities to ensure that blighted properties are sold or developed with the long-term interest of the community and surrounding property owners in mind.⁷⁸



Where does it apply?

A land bank can be created by a single municipality or a group of municipalities with a population of more than 10,000. Municipalities that will most benefit from a land bank are those that have a large, fragmented inventory of long-term tax-delinquent substandard properties that have housing and building code violations.



How does it work?

To reduce liability and negative impacts on neighborhoods and local governments, a land bank acquires and maintains properties for which there is no current demand. A land bank clears title to a property and then transfers it to a new owner, sometimes attaching conditions on use to ensure that the property meets local priorities. The governance of the land bank is defined by statute. A land bank must be established as a public agency but does not need to have its own offices or staff, because a land bank can contract for the use of current municipal employees. The land bank staff can make decisions about the transfer of properties valued at less than \$50,000. The sale or lease of any property valued at more than \$50,000 is subject to approval by the land bank board.



What policies and practices will increase our chances of successfully using this tool?

By statute, a land bank must be transparent and accountable in its practices and policies. A land bank must have an accurate inventory of properties available for public review, must keep

minutes of its proceedings, and must submit an annual audit of income, expenditures, and activities. A land bank is subject to the Right to Know Law.

Having the support of local elected officials, school boards, and the public will greatly increase a land bank's effectiveness. To gain that support, it is important to make the costs of doing nothing evident so that everyone can understand that it is preferable to use money now spent addressing blighted properties to create well-maintained land reserves.

The land bank will benefit if the jurisdiction it covers understands the land bank's goal, whether the goal is blight remediation and the priority is maintenance, the creation of affordable housing, or revenue generation through the sale of properties to the highest bidder. A land bank can sell properties for market value or transfer those properties for minimal consideration. The land bank may also establish priorities for buyers and refuse to sell to buyers who have serious code violations or taxes owed.

The land bank should coordinate the disposition of property with adopted land use plans so that reactivated properties help revitalize the area.

A land bank typically seeks to sell vacant properties with some guarantee that the owner will quickly improve the property. The land bank can do this through "clawback provisions," which return ownership to the land bank if the buyer fails to fulfill contractual commitments. The land bank may require that title under all conveyances revert to the land bank if construction or rehabilitation does not begin within a predetermined number of years of the conveyance. A deed containing a condition allowing the original grantor the right to enter and regain the property is a "fee simple on a condition subsequent," with the grantor having a "right of re-entry." Note, however, that land banks are generally reluctant to terminate all of the transferee's rights, and courts are not eager to enforce a property forfeiture. Clawback provisions may also create an obstacle to a buyer attempting to obtain financing to redevelop the property. Other methods to ensure that a buyer invests in the property as promised include development agreements between the land bank and the buyer that specify precise commitments about the nature of the expected investment or development and the time frame within which it must occur.

78. For Allegheny County only, a land bank may obtain property for less than the upset price at upset sale only pursuant to agreement with municipalities whose claims comprise the upset price.



What legal documents will we need?

- Local ordinance that establishes the land bank and that includes the name of the land bank, members of the initial board of directors, methods of community input, and policies for owner-occupied properties

To ensure accountability and transparency, the state land bank law imposes many specific procedures and requirements on local land banks. Certain matters are subject to approval by the entire board. The board must have an odd number of members between 5 and 11. The board can include public officials but must include one member who is a resident—not a public official or employee—and a member of a civic organization.

When two or more jurisdictions jointly establish a land bank, they may also need an intergovernmental cooperation agreement (ICA) between them and an agreement with their school district to agree to waive taxes due. An intermunicipal agreement between the city and the county may also be needed.



Who is using the tool now?

Philadelphia, Dauphin County, and Westmoreland County have established land banks by local ordinance since the state enabling legislation was passed. Information about land banks continues to grow. Please go to the Housing Alliance of Pennsylvania Land Bank Headquarters at <http://www.housingalliancepa.org/node/1360> for up-to-date information.



How can we combine this with other strategies?

To eliminate blight and bring properties back into productive reuse, a land bank should use as many of the tools described in this manual as possible.

The Housing Alliance of Pennsylvania has created this manual to be a living document that will be relevant to Pennsylvanians interested in addressing blighted property for many years to come. We encourage you to go to www.housingalliancepa.org and click on PA BLIGHT LIBRARY or PA LAND BANK HEADQUARTERS to check for regularly updated content and to use our library of sample documents so that you can effectively implement these tools in your jurisdiction.



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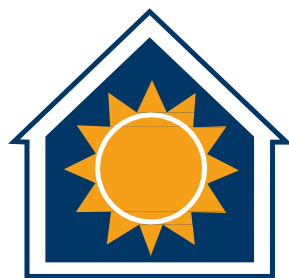
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