

# A GUIDE TO UNDERSTANDING



# AND ADDRESSING VACANT PROPERTY



# IN THE CITY OF ST. LOUIS

**2018**

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# INTRODUCTION



The City of St. Louis has a serious vacant property challenge. Since the population peak in 1950, the City has experienced a 63% decline in population and now has one of the highest rates of vacancy in the nation.<sup>1</sup> The City has approximately 25,000 vacant properties.<sup>2</sup> Approximately 12,000 of these are owned by the Land Reutilization Authority (LRA) or other public agencies,<sup>3</sup> which means that approximately 13,000 are privately owned. Most of those vacant properties are concentrated in the north and southeast portions of the City.<sup>4</sup> For a city of its size, the City has "an extremely large" number of vacant properties.<sup>5</sup>

Vacant properties are magnets for crime and arson.<sup>6</sup> They lead to neighborhood decline by decreasing property values for neighboring owners,<sup>7</sup> discouraging investment in the community, decreasing tax revenues, and decreasing the quality of life for residents. Maintaining vacant properties is a burden on the annual City budget. For example, in FY2016, the Forestry Division alone spent more than \$5 million on maintaining vacant lots and buildings. Moreover, vacant buildings place a large strain on the resources of the Building Division. Board-ups cost the City over \$200 per building and nearly half a million dollars per year.<sup>8</sup> In addition, the City spends approximately \$1.5 million per year on demolitions.<sup>9</sup> In short, vacancy catalyzes more vacancy, impacts public health and safety (e.g., dumping, arson, theft, crime, firearm violence, and water and sanitation problems),

increases costs for local government (e.g., fire, police, maintenance, demolition), negatively impacts neighborhoods, contributes to market distortions and failures (e.g., decreases property values, contributes to lost tax revenue), and contributes to blight.<sup>10</sup>

There are a variety of factors that have contributed to the current vacancy challenge, including population loss, weak real estate markets in many neighborhoods, an aging housing stock, significant sprawl, detrimental public policies such as redlining, predatory or negligent investors, the foreclosure crisis, and other forms of disinvestment.<sup>11</sup>

Vacancy affects all of us on personal, local, and regional levels. When a group of St. Louis residents was asked about how vacancy affects them on a personal level, a number of respondents reported feeling unsafe and uneasy around vacant property, a lack of neighborhood pride, a frustration with declining property values, and a variety of negative psychological effects (e.g., fear, depression, hopelessness).<sup>12</sup> Moreover, vacant property is often directly connected to tragic injuries and deaths. For example, the body of Eric Bearden, who died of acute fentanyl intoxication, was found in an abandoned building in the 3400 block of South Grand in January 2016.<sup>13</sup> A July 5, 2017, fire in a vacant building in Gravois Park led to the death of a City fire department captain.<sup>14</sup>

## Purpose

This Guide is intended to help local government officials, neighborhood associations, community-based nonprofits, residents, business owners, and other stakeholders better understand how to work together to use existing tools to address vacant property in the City of St. Louis.

Since 1876, St. Louis has been an independent city, which means that it is not part of any county. Therefore, it operates as both a city and a county. St. Louis is the only city in Missouri that operates its own county offices. This unusual structure means that effectively addressing the vacant property challenge requires coordination not only across City departments, but also across city and county functions.

There are a variety of legal tools and enforcement strategies to address vacancy, and using these tools and strategies effectively requires a coordinated effort from a variety of local government and private actors. Reducing the negative impact of vacancy is like a complex puzzle, requiring coordination and collaboration among the public sector, private stakeholders, and neighborhood leaders to achieve a shared vision.



## Context and Background

Property can become vacant for a wide variety of reasons, including:

- **Incomplete Foreclosure:** The record owner abandoned the property based on a belief that he or she no longer owns the property because he or she received a foreclosure notice, but the lender never completed the foreclosure proceedings (which is especially likely to happen in markets where the property has a very low value).<sup>15</sup>
- **Bankruptcy:** The record owner abandoned the property based on a belief that he or she "gave it up" as part of a bankruptcy proceeding, but the property was ultimately not taken by the lender despite the lift of the automatic stay that is triggered by the bankruptcy case.<sup>16</sup>
- **Prolonged Probate or Lack of Proper Probate:** The record owner died and a probate case has been opened, but the proceedings are drawn out due to an inability to locate heirs, the presence of heirs who are minors, or creditor issues. Or, the record owner died and no probate case was ever opened, leaving the property in uncertain ownership status until certain legal procedures are followed to clarify legal ownership.
- **Outside Investor:** The record owner (who typically does not live in the neighborhood) obtained the property as an "investment," but has done little to improve the property and has little incentive to care about surrounding properties or residents; therefore, the property remains vacant.<sup>17</sup>



- **Judgment Proof Owner:** The record owner is a corporation or other business entity (such as an LLC) that holds no assets other than the vacant property, or which has functionally dissolved, allowing the owner to neglect the property with impunity due to its functional judgment proof status.<sup>18</sup>
- **Bank Ownership:** The record owner is a lender that has come to own the property through foreclosure and prefers to simply keep the property boarded and minimally maintained until it can sell the property.<sup>19</sup>
- **Lack of Resources:** The record owner has retained ownership of the property for many years with a dream of rehabilitating it (perhaps due to an emotional connection with the property or the neighborhood), but lacks financial resources or the requisite skill to carry out the dream.<sup>20</sup>
- **Lack of Value:** The property has liens that exceed its market value, providing little incentive for the owner to invest in or sell the property.
- **Sprawl and Weak Markets:** The property is located in an area with weak market demand in a region where potential buyers have many other options. For example, in the decade from 2000 to 2010, there were 1.4 new housing units built for every 1 new household in the St. Louis metropolitan area, leading to an excess supply of housing, falling occupancy rates, and increased vacancy (especially in older neighborhoods).<sup>21</sup>

There is no single, agreed upon meaning for the term "vacant property." In this Guide, the term generally refers to real property that is unoccupied. It includes lots with structures on them and without, and it includes both privately owned and publicly owned property. This Guide generally does not use the term "abandoned property" or "nuisance," except where necessary to describe certain legal tools. Some of the tools described in this Guide rely on specific definitions, and those definitions are noted where applicable.

Importantly, the mere fact that a property is vacant does not necessarily mean that the property is violating any law or otherwise presenting a problem for the neighborhood in which it is located. However, without constant maintenance and security measures, a vacant property typically will deteriorate to a state of abandonment that poses threats to public safety and neighborhood quality of life.<sup>22</sup>







# LOCAL GOVERNMENT TOOLS





# CORE CODE ENFORCEMENT FIRST RESPONDERS

Given the nature of the activities they oversee, certain City departments are key players in the effort to address vacancy through identifying and investigating code violations and related activities. These include the Neighborhood Stabilization Team, the Building Division, the Department of Health, and the Forestry Division. The Neighborhood Stabilization Team functions as a coordinator to help the Building Division, Department of Health, and Forestry Division utilize their respective code enforcement tools.

As is typical for most local governments, the City's core code enforcement first responders tend to collect and organize data in ways that advance their own particular missions but which make it challenging to share data across departments or to integrate available data to get a complete snapshot of any given vacant property.<sup>26</sup>

While code enforcement tools can be an effective means of combating the problems associated with vacant property, there are challenges to using the tools effectively. For example, property owners can ignore administrative citations (especially when fines are relatively low), and it can be difficult to hold corporate property owners accountable. Moreover, code enforcement agencies typically are designed to be reactive and accountable for a single function; they usually lack the resources needed (e.g., data, staffing) to make strategic decisions or enact proactive policies.<sup>27</sup>

Because the organizational structures and enforcement methods most code enforcement first responders have inherited are no match for the modern challenges they face (i.e., more and faster deterioration of housing stock, rising maintenance costs, permanently lost equity, unmarketable houses, contagious vacancy, and new unconventional land

Core Code Enforcement Tools	
Tool	Description of Tool
Administrative Citation	<p>If an inspector finds a code violation, the inspector provides notice of the violation to the property owner and a description of the repairs or improvements needed to bring the property into compliance. If the violation is not corrected within a certain period of time, the inspector may issue an administrative citation that includes a fine against the owner and an order prohibiting the continuation or repeated occurrence of the code violation. If a subsequent citation is issued for the same violation within a 12-month period, the fine doubles. Any unpaid fines incur a penalty of the amount of the original fine.</p> <p>This kind of financial penalty can be thought of as one that attaches to the property owner (and not to the property itself).</p>
Abatement and Special Tax Bills	<p>If the property owner does not correct a code violation after receiving notice of it (including any extensions of time the department may grant), the relevant department may correct it and then charge the property owner for the cost to correct the problem. Under certain circumstances, the cost to correct the problem can become a lien against the property and may become a "special tax bill."</p> <p>This kind of financial penalty can be thought of as one that attaches to the property itself in addition to attaching to the property owner.</p>
Referral to City Counselor for Prosecution in Municipal Court	<p>A department may refer the property to the City Counselor's Office to prosecute a code violation in municipal court. In practice, this typically happens only for properties with serious or repeated code violations. The court can order a variety of remedies.</p>



uses), some local governments are starting to change from reactive code enforcement programs to systems with capacities for strategic targeting and data sharing.<sup>28</sup> Code enforcement can become a much more effective tool when used proactively.<sup>29</sup>

Notably, it is not illegal to own a vacant property in the City. In other words, the mere fact that a property is unoccupied cannot form the basis for taking enforcement action against the property owner. Rather, it is the presence of ordinance violations that form the basis for any enforcement action. Missouri law permits the City to include certain costs related to property maintenance and nuisance ordinance enforcement in the annual real estate tax bill for that property. This is called a "special tax bill." The costs may be collected using the same procedure used for collecting real estate taxes.<sup>30</sup> The Collector of Revenue collects and processes all special tax bills for property in the City.<sup>31</sup>



## Neighborhood Stabilization Team

The City's Neighborhood Stabilization Team (NST) is a division of the Department of Public Safety, which reports to the Mayor. The most relevant functions of the NST for purposes of this Guide are:

**Citizens' Service Bureau (CSB):** The CSB provides a customer service function for the City by registering and routing service requests, answering citizen requests for information, and providing data to other City departments.

**Neighborhood Improvement Specialist (NIS):** Each City ward is intended to have an assigned NIS who is charged with identifying and addressing neighborhood issues in cooperation with aldermen, the neighborhood (residents, groups, and block units), and City departments. In practice, some of these NIS positions can remain unfilled for periods of time for a variety of reasons.

One primary function of the NST is to route issues related to possible ordinance violations. This typically happens in one of two ways:

**CSB Citizen Complaint:** If the CSB receives a citizen request concerning a possible code violation at a vacant property, the CSB routes the issue to the appropriate department. For example, if the CSB receives a complaint about a vacant building that is not properly boarded up, it routes the request to the Building Division. The Building Division may then follow up with an inspection to determine whether to take action. Or, for example, if the CSB receives a citizen request concerning overgrown vegetation on a vacant property, the CSB routes the issue to the Forestry Department for possible action.

**Action by NIS:** The NIS may make a direct request to the appropriate department concerning a possible code violation at a vacant property since identifying and monitoring vacant properties is part of the NIS's job duties.<sup>32</sup> As part of this process, the NIS can identify the

property as vacant in the NST system, request an exterior inspection by the Building Division, and refer it to the City Counselor's Office's Vacant Building Initiative. In this way, the formal identification of vacant properties can begin with a NIS identifying the property as such. However,

because the process of cataloging properties in the NST system is largely reactive and because priorities and workloads can vary from one ward to another, the NST system provides only a partial inventory of vacant properties.

## Building Division

The Building Division enforces the City's ordinances (i.e., rules) related to the location, construction, use, maintenance, and demolition of buildings. This collection of ordinances is commonly referred to as the "Building Code." As part of its work, the Building Division also issues building permits, conducts building inspections, demolishes vacant buildings, boards up vacant buildings, and enforces zoning ordinances.<sup>33</sup> Like NST, it is a division of the Department of Public Safety and reports to the Mayor.

The most relevant function of the Building Division for purposes of this Guide is its Building Code enforcement function. The Building Division inspects property for compliance with the Building Code. As part of the City Counselor's Vacant Building Initiative, one Building Division code inspector is assigned to work directly with the City Counselor's office on inspections related to vacant buildings.

Tool	Details and Examples
Administrative Citation	<p><b>Amount:</b> With some exceptions, the administrative citation fee generally is \$25 per violation.<sup>34</sup></p> <p><b>Time:</b> In practice, property owners typically are given approximately 90 days to bring the property into compliance after the notice is provided and may be given additional extensions of time to complete the required work. Violations that involve more immediate threats to safety may be given shorter compliance timeframes.</p>
Abatement and Special Tax Bills	<p><b>Example:</b> If the Building Division orders a building demolished, repaired, boarded up, or cleaned up as a result of a Building Code violation, the cost of the abatement may be charged to the owner and added to the special tax bill.<sup>35</sup></p> <p><b>Example:</b> If a structure is damaged by fire or other casualty and is condemned by the Building Division as a public nuisance, the Building Division may order the owner to demolish or secure the building. If the owner does not do so, the Building Division can abate the nuisance and include the costs in the special tax bill.<sup>36</sup></p> <p><b>Vacant Building Registration Fee:</b> The Building Division may assess a \$200 fee up to two times per year to the owner of any property with a residential structure that has been vacant for at least the prior six month period and which has one or more Building Code violations.<sup>37</sup> If this fee is not paid for one year, it can be added to the special tax bill.<sup>38</sup></p>
Referral to City Counselor for Prosecution in Municipal Court	<p>The Building Division can refer matters to the City Counselor for prosecution. Given the high volume of Building Code violations in the City and limited resources, in practice, municipal court enforcement efforts tend to focus on the most serious cases (e.g., properties endangering the public safety or which have not been responsive to the administrative citation process).</p>





## Department of Health

The Department of Health is responsible for a variety of services related to protection and promotion of the public's health. The Department of Health reports to the Mayor. The most relevant function of the Department of Health for purposes of this Guide is its function of enforcing the City's ordinances (i.e., rules) designed to protect health and ensure safety. This collection of ordinances

is commonly referred to as the "Health Code."

The portions of the Health Code most relevant to vacant property include rules related to rat control, litter on vacant property, snow and ice removal, unsanitary standing water, garbage, animals, and hazardous waste.<sup>39</sup>

Tool	Details and Examples
Administrative Citation	<p><b>Amount:</b> With some exceptions, the administrative citation fine generally is \$100 per violation.<sup>40</sup></p> <p><b>Time:</b> In practice, property owners typically are given approximately two weeks or less to bring the property into compliance after the notice is provided.</p>
Abatement and Special Tax Bills	<p><b>Example:</b> A health inspector may enter and inspect a building to examine its sanitary condition and discover and abate a nuisance. If the inspector finds a nuisance such as garbage or unsanitary pools of standing water on vacant property, the health inspector may abate the nuisance and add the fee to the special tax bill after providing any required notices.<sup>41</sup></p>
Referral to City Counselor for Prosecution in Municipal Court	<p>The Department of Health can refer matters to the City Counselor for prosecution.</p>



## Forestry Division

The Forestry Division's Weed Control Section maintains the vegetation growing on City property and on privately owned vacant property. The Forestry Division is a division of the Department of Parks, Recreation, and Forestry and reports to

the Mayor. The most relevant City ordinances for purposes of this Guide that the Forestry Division enforces are those that relate to prohibitions on weeds and debris<sup>42</sup> and graffiti.<sup>43</sup>

Tool	Details and Examples
Abatement and Special Tax Bills	<p><b>Example:</b> If a property owner does not correct a code violation related to weeds or debris of insubstantial value after receiving notice, the Forestry Division may correct it and then add the fee to the special tax bill.<sup>44</sup></p> <p><b>Example:</b> If a property owner does not remove graffiti after receiving notice, the Forestry Division may remove it and then add the fee to the special tax bill.<sup>45</sup></p>

## CITY COUNSELOR'S OFFICE

The City Counselor's Office is the legal counsel for the City, and the City Counselor is appointed by the Mayor. The most relevant function of the City Counselor's Office for purposes of this Guide is the Problem Properties Section. Among other tasks, the Problem Properties Section represents the City in prosecuting code violations related to vacant properties. The Problem Properties Section primarily relies on two enforcement tools:

□ **Municipal Court:** The code violation may be prosecuted in municipal court. This typically happens for properties with serious or repeated code violations. The goal is to get compliance

from the property owner to remedy the code violations.

□ **Special Tax Sale:** Through its Vacant Building Initiative, the Problem Properties Section coordinates with the Building Division, NISs, and other relevant departments to try to reduce the number of vacant properties. The City Counselor's Office can cause particular vacant properties with substantial outstanding code violations and delinquent special tax bills to be included in a "special tax sale." (See page 17 of this Guide.) The goal is to transfer the property to new responsible ownership.

## HOUSING COURT

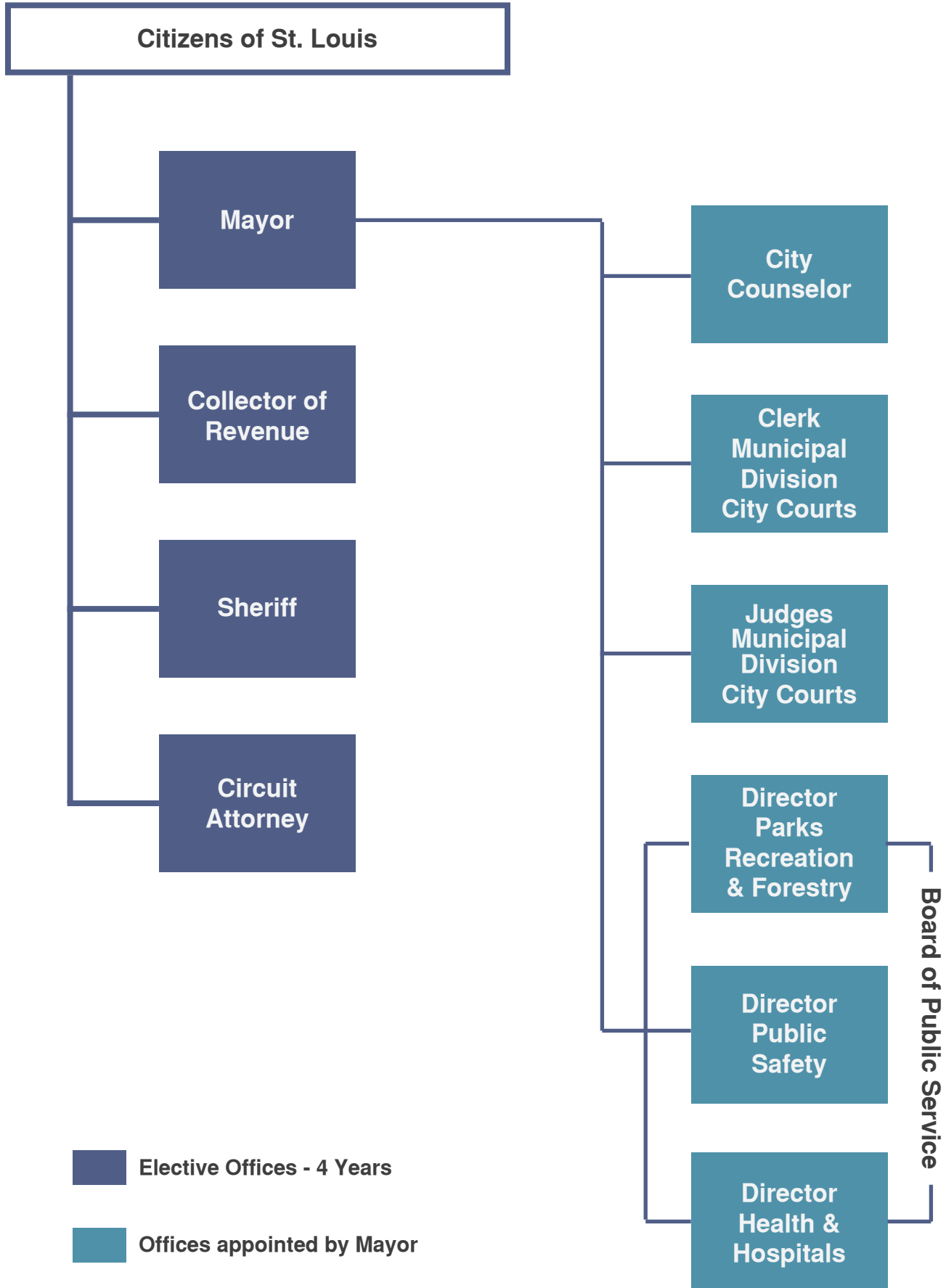
The Municipal Court has jurisdiction to hear and decide City ordinance violation cases.<sup>46</sup> Pursuant to City ordinance, Municipal Court judges are appointed by the Mayor and serve four year terms.<sup>47</sup> The Municipal Court function most relevant for purposes of this Guide is the Problem Properties/Health Docket in Division 3, which is also known as "Housing Court."

In Housing Court, the judge has authority to take a variety of actions, including

□ imposing a fine of up to \$500 per violation;<sup>48</sup>

- sentencing a defendant to up to 90 days in jail;<sup>49</sup>
- suspending imposition of sentence or pronouncing sentence and suspending its execution;<sup>50</sup>
- issuing fines of up to \$500 for defendants who fail to appear;<sup>51</sup>
- ordering a fine or imprisonment for contempt of court;<sup>52</sup> and
- granting a continuance, for example, to allow the property owner more time to complete necessary repairs.<sup>53</sup>

# ORGANIZATION CHART FOR CITY OF ST. LOUIS GOVERNMENT



# COLLECTOR OF REVENUE AND SHERIFF'S OFFICE

In the City, the Collector of Revenue is responsible for collecting real estate taxes, personal property taxes, earnings taxes, and water bills. The Collector of Revenue is an elected official and is part of the City of St. Louis "county" government. The most relevant function of the Collector of Revenue for purposes of this Guide is the collection of real estate taxes.

The Sheriff's Office is responsible for providing various services to the Circuit Court of St. Louis, including conducting tax sales. Like the Collector of Revenue, the Sheriff is an elected official and is part of the City of St. Louis "county" government.

## “Regular” Tax Sales

In the City, most property owners are required to pay property taxes. If an owner fails to pay the required property taxes, the unpaid taxes become a lien against the property that can be foreclosed through a public auction process. In other words, by law, the property can be sold to pay the delinquent taxes plus interest, penalties, and related costs. In Missouri, real estate taxes are tied to the property itself; an individual property owner is not personally liable for paying the taxes.<sup>54</sup> Therefore, the property may be sold to satisfy a delinquent tax bill.

Since the Missouri legislature passed the Municipal Land Reutilization Law (MLRL) in 1971, the City has followed a tax sale procedure that differs from the procedure used in most other parts of the state. The MLRL has three main features:

- **No Right of Redemption:** The MLRL simplified the tax sale process by eliminating the concept of a redemption period following the sale. Unlike most other parts of Missouri, a delinquent taxpayer cannot "redeem" (i.e., pay money to take back the property) once the property is sold.<sup>55</sup>
- **Creation of LRA:** The MLRL created the Land Reutilization Authority (LRA), one of the first "land banks" in the country.<sup>56</sup> If a property does not sell at a tax sale for the opening bid (i.e., the amount of delinquent taxes), ownership is transferred to the LRA to hold for future sale or development.<sup>57</sup>

- **Streamlined Tax Sale Process:**<sup>58</sup> The MLRL set up a process that involves four main steps:

- The Collector of Revenue (the entity which is owed the delinquent taxes) files a lawsuit in the Circuit Court of St. Louis against the property to foreclose the tax lien. This is similar to the way a bank might initiate foreclosure proceedings for failure to pay back a loan.
- The Collector of Revenue advertises the property for sale, and the Sheriff offers the property for sale at a public auction. The MLRL requires that there be at least six months between the time the Collector of Revenue files suit and the time of the sale. These "regular" tax sales typically occur four times per year (in May, June, July, and August).
- The successful bidder asks the court to "confirm" the sale, which involves the court approving the purchase price and finding the sale was valid. The sale wipes out all interests other than public utility easements and federal tax liens.
- If there is a structure on the property, the purchaser must apply for an occupancy permit within ten days after the court confirms the sale. The Sheriff's Office then issues a deed to the purchaser, which transfers record title to the purchaser. The deed contains a provision requiring the tax sale purchaser to obtain an occupancy permit prior to any subsequent transfer of the property. The Sheriff may file a lawsuit to collect \$5,000 if the purchaser does not obtain the required occupancy permit.

Importantly, the property owner or other interested party has the opportunity to fight the tax sale in at least three ways:

- **Pay Delinquent Taxes:** At any point in the process up to the time of sale, the owner (or someone paying on behalf of the owner) can pay the delinquent taxes and related costs and penalties. Taking this action will stop the sale.



□ **Redemption Contract:** The Collector of Revenue may permit the owner to enter into a payment plan (which is called a "redemption contract") to pay back the delinquent taxes over time. Under the MLRL, the Collector of Revenue must make redemption contracts available to property owners who are occupying the property as a homestead and who have not previously defaulted on a redemption contract. Under the MLRL, absent unusual circumstances, redemption contracts generally may not have more than twelve scheduled payments and may not be longer than 24 months.<sup>59</sup> Entering into a redemption contract will stop the sale.

□ **Attempt to Set Aside the Sale:** While the former property owner has no right of redemption following the sale, that former owner may nonetheless file a lawsuit claiming that the sale should be "set aside" and that the property should be returned to him or her. Generally, the former owner has up to two years following the sale to file this kind of lawsuit. To set aside the sale, the former owner must take the steps necessary to file a proper lawsuit and prove that there was some irregularity with the sale serious enough to warrant voiding the sale.

Under the MLRL, the Collector of Revenue can start tax lien foreclosure proceedings as early as January 1 of the year following the failure to pay.<sup>60</sup> However, in practice and absent unusual circumstances, the Collector of Revenue generally does not begin the process until taxes are delinquent for at least three years. Therefore, in practice, a property owner with multiple years of delinquent taxes typically can prevent his or her property from going to tax sale by paying just one year of those delinquent taxes.

Since the time the MLRL was enacted, some court cases have questioned whether statutes such as the MLRL provide for constitutionally adequate notice to

affected property owners. Because of these cases, it can be difficult to find a title insurance company willing to provide title insurance for tax sale properties. This can create barriers to obtaining financing to redevelop the property or selling the property to a new buyer who desires title insurance. Changing some processes or updating the MLRL might help to reduce these barriers.<sup>61</sup> (See page 34 of this Guide for a recommendation from the Center for Community Progress on this topic.)

## “Special” Tax Sales

In addition to foreclosing for delinquent "regular" real estate taxes, the Collector of Revenue can also foreclose against a property on the basis of delinquent special tax bills. These special tax bills typically are foreclosed at the "special" tax sale that takes place each October. Certain costs that the City incurs to abate problems associated with vacant property that the owner has refused to correct can be added to the tax bill associated with the property. These special tax bill charges can include, for example, money the Building Division, Department of Health, and Forestry Division have spent on abatement activities (e.g., mowing, board-ups, and vacant building registration fees). (See pages 10-14 of this Guide.)

Unlike real estate taxes (which may only become a lien against the property), special tax bills have the added power of being both a lien against the property and a debt personal to the property owner.<sup>62</sup>

In practice and absent unusual circumstances, the City's general practice is to begin the special tax sale process only after the real estate taxes are delinquent for at least one year, the property has been vacant for at least one year, and the property has at least \$1,000 in delinquent special tax bills.

## Publicly Owned Vacant Property

A little less than half of the vacant property in the City of St. Louis is publicly owned. The vast majority of that publicly owned property is owned by the Land Reutilization Authority (LRA) and related entities. Public agencies such as the LRA can help to reduce vacancy through strategies such as

- strategic acquisition and disposition,
- strategic maintenance and demolition, and
- targeted marketing of vacant property.<sup>63</sup>

The LRA is a state agency created to serve as a land bank for the City. It is controlled by a board composed of three commissioners (one appointed by the Mayor, one appointed by the Comptroller, and one appointed by St. Louis Public Schools). Among other activities, the St. Louis Development Corporation (SLDC) staffs the LRA. SLDC is an umbrella nonprofit corporation whose mission is fostering economic development and growth in the City. As such, SLDC is governed by its own board of directors. As part of its mission, SLDC manages, maintains, markets, and sells property acquired in the name of the LRA.<sup>64</sup>

The LRA typically takes title to property in one of two ways:

- **Tax-Delinquent Properties:** The LRA serves as the owner of last resort for tax-delinquent property not bid on at tax sales. (See page 16 of this Guide).
- **Property Donations:** The LRA receives donated property from individuals or organizations desiring to donate their property to the City.

For property that becomes owned by the LRA, the SLDC Real Estate Department is responsible for assembling, managing, and disposing of it. To encourage productive reuse of property it receives, the property may be

- offered for sale;
- offered for lease for a nominal fee through the Garden Lease Program; or
- offered for sale to a neighboring homeowner for a small fee through the Mow to Own Program.





**PUBLICLY OWNED  
VACANT PROPERTY**



# NEIGHBORHOOD TOOLS





## Neighborhood Tools to Address Privately Owned Vacant Property

Local government alone cannot adequately address the vacancy challenge in the City of St. Louis. Neighborhood leaders and other private stakeholders can help to slow the flow of privately owned vacant property by

- placing vacant property back into reuse as residential, commercial, or green space;
- working to prevent vacancy from occurring;
- collaborating with relevant City agencies and advocating for neighborhood planning processes and engagement;<sup>65</sup> and
- using grassroots community activism strategies such as press events, social media, and print media (including community newsletters) that draw attention to problem properties and their owners.

Like the other tools described in this Guide, the neighborhood-based tools described in this Section work best when they are used in strategic ways. For example, these tools can be used

- to motivate existing owners of vacant properties to reinvest in them and cause them to be reoccupied;
- to permit a neighborhood organization to acquire, rehabilitate, and repurpose vacant properties;
- to target a specific geographic area;
- to target owners of multiple vacant problem properties;
- in conjunction with one another and by both individuals and neighborhood organizations; and
- to make an impact on high-visibility, longstanding neighborhood eyesores.<sup>66</sup>

In 2015, Kansas State University graduate students worked with the City and other agencies to produce a set of tools intended to be used by both local residents and policy makers working to address the vacant property challenge. Their observations and the tools were produced in a report called "Parcels and Peppers: Savory Ideas for Addressing Vacancy in St. Louis" (2015). While a full summary of their observations and recommended tools is beyond the scope of this Guide, some key observations relevant for neighborhoods include:

- **Vacancy Opportunities:** Single and small groupings of vacant parcels provide affordable opportunity sites for neighborhood organizations dedicated to improving existing conditions in a way that is sensitive to local residents.<sup>67</sup>
- **Conceptual Framework:** An essential first step to enhancing or redeveloping vacant property must include a careful evaluation of the property that includes an evaluation of the parcel (i.e., site-specific conditions and how the property relates to its immediate surroundings), the structure (i.e., the size and type of the existing structure), and the location (i.e., a larger scale view of characteristics affecting the property).<sup>68</sup> This information can then be used to match the vacant property with appropriate enhancement or redevelopment strategies.<sup>69</sup>
- **Opportunity Mindset:** Instead of viewing high levels of vacancy as a liability, neighborhoods can choose to see it as an opportunity for new forms of recreation, entertainment, job opportunities, and transportation options.<sup>70</sup>



# NEIGHBORHOOD LITIGATION TOOLS

Neighborhoods can use certain litigation-based tools to create leverage with existing property owners or to take control of or title to vacant property. Neighborhoods that want to use these tools should carefully consider both the benefits and challenges that come with using the tools. While the tools can provide a good opportunity for neighborhoods to reduce vacant properties, interested groups must have the organizational and financial capacity to take on one or more vacant properties and determine how to manage the related financial resource and risk questions.<sup>71</sup> Strong and committed leadership is important.

The four litigation tools described in this Guide are the Abandoned Housing Act, common law and statutory nuisance, zoning violation civil actions, and receivership. In most cases, a multi-pronged strategy that includes all available legal claims as well as non-legal actions (such as putting public pressure on the property owner) is likely to lead to better outcomes. Moreover, market conditions in any given neighborhood may impact these strategic decisions and the relative effectiveness of the tools.

## The Abandoned Housing Act (*Mo. Rev. Stat. 447.620 et seq*)

The Abandoned Housing Act is a tool that permits a qualified neighborhood organization to ask a court to grant it possession, and then ownership, of a vacant property that meets certain conditions.

**Qualified Neighborhood Organization:** The neighborhood organization must be a Missouri nonprofit whose purpose includes the provision or enhancement of housing opportunities in its community and which has been incorporated for at least six months.<sup>72</sup> Examples of organizations that may potentially satisfy this requirement include community development corporations and neighborhood associations.

**Remedy:** The neighborhood organization must intend to cause the property to be rehabilitated (either by doing the work itself or by contracting with someone else) and should be able to demonstrate it has the ability and resources to cause the work to be done.<sup>73</sup> In essence, the neighborhood organization asks a court to declare the property abandoned and to give temporary possession to the neighborhood organization to abate the problems (i.e., rehabilitate the property). The neighborhood organization then submits a rehabilitation plan for court approval. Once the neighborhood organization completes the court-approved rehabilitation plan, it can request that the court transfer ownership to it.

**Other Relevant Requirements:** Anyone with an interest in the property must receive notice of the lawsuit. However, unlike the statutory nuisance tool described in this Section, no notice prior to filing the lawsuit is required. In addition, the neighborhood organization must establish that the property meets certain requirements, including that it (i) has been continuously unoccupied for at least six months prior to filing the lawsuit, (ii) has unpaid property taxes, and (iii) meets the statutory definition of a "nuisance."<sup>74</sup>

## Abandoned Housing Act Example (Distressed Neighborhood)<sup>76</sup>

Linda Brown is a lifetime resident of the Blue Hills neighborhood in Kansas City, Missouri. She owns and operates the Luv Does Matter daycare at 55th and Woodland Avenue. For years, her daycare was surrounded by abandoned houses owned by out-of-state investors.

In early 2013, Linda attended a Blue Hills Neighborhood Association meeting where she learned about the Abandoned Housing Act and the free legal assistance provided to Blue Hills through Legal Aid of Western Missouri.

For the next four years, Linda funded four separate Abandoned Housing Act lawsuits brought by Blue Hills to get control of the abandoned properties closest to where the children played. One by one, she acquired each vacant home, rehabbing it and renting it to the families whose children stayed at the daycare.

Today Linda owns all four of the once vacant properties. All are occupied and nicely rehabbed. Linda's little corner of the world is dramatically better as a direct result of the Abandoned Housing Act.

Some organizations choose to use this tool in partnership with non-profit or for-profit rehabbers or homesteaders. For example, after identifying a property to target with this tool, a neighborhood organization can

- contract with another person or entity to take on some or all of the risks, financial obligations, and other responsibilities associated with the rehabilitation obligation in exchange for a \$0 purchase price;
- include certain provisions in the contract that are intended to help stabilize the neighborhood, such as requirements concerning future code compliance, minimum rehabilitation standards, attendance at homeownership or property management seminars, or education of future tenants or buyers about the activities of the local neighborhood association; and
- transfer ownership to the other person or entity after the court-approved rehabilitation plan is complete, thereby causing that other person or entity to become the record owner with the right to occupy, sell, or rent the property.<sup>75</sup>

Because the neighborhood organization is only granted temporary possession during the course of the lawsuit and cannot request that the court transfer title to it until after the work specified in the rehabilitation plan is completed, most organizations will not be able to obtain traditional financing to finance the rehabilitation

work (i.e., because the organization does not own the property and therefore cannot use it as collateral for a loan). Therefore, some organizations choose to conduct the rehabilitation in two phases: (i) the minimum work required to abate the nuisance and satisfy the court for purposes of the rehabilitation plan (the self-financed phase), and (ii) the additional (usually interior) work that will be completed after receiving title to the property (the traditional financing phase).

Importantly, during the process of the lawsuit, the owner may ask the court to give possession of the property back to the owner. If the court determines possession should be restored to the owner, the owner is required to fully compensate the neighborhood organization for its expenses related to any work it already completed.

Though this tool can lead to a transfer of legal control and ultimately title, courts are protective of owners' property rights. Therefore, it is typically worthwhile to utilize this tool for properties that show multiple strong indicators of abandonment (e.g., deceased owners, defunct corporations, multiple years of delinquent taxes, etc.) and to bring these actions with additional counts for nuisance. While these lawsuits can lead to a change of ownership where property is truly abandoned, these actions also can act as leverage to compel property owners to bring their vacant property into code and tax compliance, both of which are positive ends in themselves.

## Statutory and Common Law Nuisance (82.1025 et seq)

Problems associated with vacant property typically require the balancing of two conflicting rights. On one hand, a property owner has a right to control and benefit from his or her own land. On the other hand, the public and neighboring owners have a right to prevent unreasonable use of that land that impairs their right to use and enjoy their own land or that interferes with common community rights. Statutory and common law nuisance actions are separate, but related, legal tools that can provide an avenue for neighborhoods to stop a property owner from using property in ways that cause harm to a specific resident or to the neighborhood.

Statutory nuisance is a tool that permits a qualified property owner or neighborhood organization to ask a court to order the owner of a "nuisance" property to take certain actions.

**Qualified Property Owner or Neighborhood Organization:** If the lawsuit is brought by a property owner, that owner must own property within 1,200 feet of the property that is the subject of the lawsuit.<sup>77</sup> If the lawsuit is brought by a neighborhood organization, the organization must (i) be a member-based Missouri nonprofit corporation organized for the "preservation and protection of residential and community property values," (ii) have geographic boundaries that include no more than two adjoining neighborhoods, (iii) be open to all neighborhood property owners and residents, (iv) charge membership dues of \$25 or less per year, (v) permit only members who own property or reside in the neighborhood to serve as directors and elect directors,<sup>78</sup> and (vi) not have any directors who own any interest in any property with delinquent real estate taxes or open code violations.<sup>79</sup>

**Remedy:** A property owner can ask the court to order the owner of the nuisance property to take action to remedy the problem<sup>80</sup> and can also ask the court to order the owner to pay money damages for the diminished property value.<sup>81</sup> A neighborhood organization can ask the court to order the owner to take action to remedy the problem, but does not have the option of requesting money damages.<sup>82</sup>

**Other Relevant Requirements:** Before filing the lawsuit, the property owner or organization planning to file the lawsuit must first provide certain notices in the manner specified by statute.<sup>83</sup> In addition, the property owner or neighborhood organization must establish that the property meets certain requirements, including that it has open code violations and satisfies the statutory definition of a "nuisance."<sup>84</sup> Unlike the Abandoned Housing Act tool described in this Section, there is no requirement that real estate taxes be delinquent.

In establishing the statutory nuisance tool, the Missouri legislature specifically stated its intention not to do away with the previously existing concept of common law nuisance. Under common law nuisance, a property owner can bring a lawsuit against an owner whose property is a "nuisance."

**Qualified Property Owner:** A property owner may bring a common law nuisance claim if the condition of, or activity at, the property that is the subject of the lawsuit substantially impairs his or her use of his

or her own property (e.g., depreciation in market or rental value)<sup>85</sup> or interferes with a right common to the general public.<sup>86</sup>

**Remedy:** The property owner bringing the lawsuit may request that a court issue an order requiring the owner of the nuisance property to take certain actions to remedy the problem (e.g., abate the nuisance conditions or sell the property to a buyer who can abate the nuisance conditions) or that the court award monetary damages.<sup>87</sup>



Because money damages can be a remedy in both common law nuisance claims and in statutory nuisance claims brought by a property owner, these types of claims tend to be more effective in compelling an owner to act. For example, money damages can result in judgment liens against the property and could even potentially compel a foreclosure sale if properly pled. While there can be value to neighborhood organizations seeking injunctive relief under statutory nuisance, these types of lawsuits are more likely to be ignored by a non-responsive property owner because there is no threat of money damages. As a result, statutory nuisance lawsuits for injunctive relief

tend to be most effective when brought as secondary counts to other causes of action such as receivership claims or claims under the Abandoned Housing Act. Those types of lawsuits, which can result in the owner losing control of or title to the property, are more effective at getting an owner to respond. The secondary count for injunctive relief then can be used to enforce local housing code standards. Moreover, as a legal strategy, it may be more beneficial for the neighborhood organization to bring claims for money damages itself (when possible) or recruit residents who reside near the nuisance property as co-plaintiffs so that money damages may be sought.<sup>88</sup>

### Statutory Nuisance Example One (Middle Market Neighborhood)

Tower Grove Neighborhoods Community Development Corporation (TGNCDC) has worked for decades addressing vacancy and blight in the South St. Louis City neighborhoods of Shaw, Tower Grove South, and Southwest Garden. Through an extensive vacant property database of owners, addresses, and photographs, they are committed to pressuring long-term vacant and nuisance property owners in middle market neighborhoods to improve or sell properties. TGNCDC identified two vacant property owners: one at 3708/3710 Bamberger and one at 3451 S. Grand.

The first attempt to use the statutory nuisance tool was against the owner of 3708/3710 Bamberger. TGNCDC assembled a group of neighbors within 1,200 feet of the nuisance property, including itself (TGNCDC owns property within 1,200 feet); the group decided to file suit as property owners. With pro-bono legal work provided by the law firm of Beck Ostrom Sweet, the plaintiffs (as property owners) brought statutory nuisance claims for both injunctive relief and monetary damages against the owner of the nuisance property. The case successfully influenced the owner to make improvements to the property, including fresh paint, new windows, new doors, new trim, and related improvements. It was evident that the threat of the lawsuit (i.e. the statutorily required notice letter) was enough to motivate the start of construction. The result is two improved facades, the removal of blight, and a reduction of the perception of neighborhood disinvestment.



3708 Bamberger and 3710 Bamberger

## Statutory Nuisance Example Two (Middle Market Neighborhood)

The second attempt to use the statutory nuisance tool was against the owner of 3451 S. Grand. This time, TGNCDC decided to form an overlay neighborhood association that met the definition of a qualified neighborhood organization under the statute; the overlay organization served as the plaintiff in the lawsuit. With pro-bono legal work provided by the law firm of Stinson Leonard Street, the overlay organization filed a statutory nuisance suit against the owner of 3451 S. Grand to request injunctive relief only (since monetary damages are not an option when suit is brought only by a neighborhood organization). This lawsuit is still in process. As of December 2017, the owner has not responded to the statutorily required letter requesting improvements and threatening suit, nor has he responded to the petition filed in court for equitable relief. There is a court date set for January 19th requesting a default judgement that potentially could lead to a contempt of court, depending on the ruling. In the end, the lawsuit against the owner of 3451 S. Grand will likely result in a judgment against the owner, but without monetary damages. The result of this lawsuit is less satisfactory because, to date, it has not led to the desired outcome. TGNCDC learned that it is essential to have a multi-pronged strategy and that a strategy that lacks the threat of a monetary judgment is much easier for a property owner to ignore. This example also highlights that, at least in middle market neighborhoods, there may need to be different or enhanced private legal action options that include significant financial penalties or loss of the property.



## Zoning Violation Civil Actions (Mo. Rev. Stat. 89.491)

A zoning violation civil action is a tool that permits a qualified individual or neighborhood organization to ask a court to order the owner of a property in violation of a zoning ordinance to take certain actions.

**Qualified Individual or Neighborhood Organization:** The lawsuit may be brought by an individual or a neighborhood organization harmed by a violation of a zoning ordinance on the property that is the subject of the lawsuit.<sup>89</sup> If the lawsuit is brought by a neighborhood organization, the organization must "perform community services or economic development activities" in Missouri and meet at least one of the following conditions: (i) have an IRS determination letter recognizing the organization as exempt from income tax, or (ii) be a Missouri nonprofit corporation organized under Chapter 355 of the Revised Statutes of Missouri, as amended, or (iii) be designated as a community development corporation pursuant to Title VII of the Economic Opportunity Act of 1964.<sup>90</sup>

**Remedy:** The individual or organization can ask the court to enforce the ordinance, order the owner to take action to correct the violation, and impose any monetary penalty provided for the violation.<sup>91</sup> In addition, the court may award the costs of litigation (including reasonable attorney's fees) to the prevailing party.<sup>92</sup>



## Receivership (441.500 et seq)

Receivership is a tool that permits a county, a municipality, and certain neighborhood organizations to ask a court to appoint a receiver to eliminate a "nuisance" with respect to property that "constitutes a threat to the public health, safety or welfare."<sup>93</sup>

**Qualified County, Municipality, or Neighborhood Organization:** The lawsuit can be brought by any county in Missouri, any municipality in Missouri, a local housing corporation that is a Missouri nonprofit organized for the purpose of "promoting housing development and conservation within a specified area of a municipality or an unincorporated area," or a neighborhood association that is organized "for the sole purpose of improvement of a particular geographic area having specific boundaries within a municipality . . . [and] is recognized by the municipality as the sole association for such purpose within such geographic area."<sup>94</sup>

**Remedy:** The entity bringing the lawsuit may request that a court issue an order appointing a receiver to take temporary possession of the property and eliminate the nuisance. If appointed, the receiver has the power to take possession of the property to fix the problems, use income from the property to pay certain fees, borrow against the property,<sup>95</sup> and ultimately become the owner of the property if the owner does not take action to regain possession within two years.<sup>96</sup>

**Other Relevant Requirements:** Before filing the lawsuit, the entity planning to file the lawsuit must first provide certain notices to the property owner and other interested parties in the manner specified by statute.<sup>97</sup> In addition, the entity must establish that the property has open code violations.<sup>98</sup> Unlike the Abandoned Housing Act tool described in this Section, there is no requirement that real estate taxes be delinquent.

During the course of the litigation, the property owner may fix the problems and ask the court to discharge the receiver. The court may do so if the owner reimburses the receiver for certain unpaid costs or expenses the receiver has incurred.<sup>99</sup>

While receivership can be an important tool, the fact that the property owner has up to two years to move to regain possession can be problematic where the goal is to quickly transfer the property to responsible ownership. In addition, the statute specifically provides that the court can allow the owner "reasonable time" to correct the deficiencies before appointing a receiver, which can add to the timeframe for eliminating the problems. Financing rehabilitation under receivership can also be challenging. While the statute specifically authorizes the receiver to borrow against the property, most traditional lenders will likely be uncomfortable financing the rehabilitation when a receiver does not yet have title to secure the loan.



# VACANCY PREVENTION TOOLS

In addition to understanding tools that can be used to address existing vacant properties, a key strategy for reducing vacancy is to prevent it from occurring in the first place. While a full exploration of vacancy prevention is beyond the scope of this Guide, the four vacancy prevention tools included in this Guide are (i) clearing title "clouds," (ii) beneficiary deeds, (iii) the Missouri Property Tax Credit, and (iv) home repair programs.

Other vacancy prevention tools not specifically highlighted here include helping lower-income homeowners challenge tax assessments, deal with utility problems that can threaten the ability to remain in their homes, and connect to foreclosure prevention resources.

## Clearing Title "Clouds"

In general, a piece of real property has the greatest value for its owner if there is no reasonable doubt that the owner is the sole owner of the property and that that owner's interest is not diminished by possible third-party claims. Therefore, any document, claim, unreleased lien, or other encumbrance that might negatively affect the title to the property can create what is commonly referred to as a "cloud" on the title. Common "clouds" on title include unreleased deeds of trust, judgment liens, tax liens, fraudulent prior transfers, undisclosed marital interests, deceased owners with ownership interests that potentially have passed to heirs, missing or misrecorded information, and issues related to prior tax foreclosures.<sup>100</sup>

A related issue also can arise in situations where the record owner has died and a relative or friend of that person continues living in (or moves into) the home without taking any of the required legal steps to become the legal owner of the property. When this occurs, the person living in the property may sincerely believe that he or she is the owner of the property and that he or she has the right to sell and borrow against the property. However, without certain legal steps, the person has no such power.

□ **Negative Effects of Clouded Title for Sellers:** Clouded title can cause a property owner to have significant problems selling his or her property. Most property sales "close" through a title company that examines the title and insures the title (i.e., promises to defend the buyer from any adverse claims against title). The title company will not insure a clouded title. Without insurable title, a seller may not be able to sell the property at all, or may be able to sell it for only a fraction of its value.

□ **Negative Effects of Clouded Title for Borrowers:** Clouded title can cause an individual attempting to borrow money using the property as collateral to be unable to obtain the necessary loan. Most lenders require a title examination before making a loan for which the property will be used as collateral. The title examination allows the lender to ensure its lien will be enforceable and that no other liens or ownership interests could adversely affect the lender's ability to market or collect its loan. If there is a cloud on the title, the lender will not make the loan until the issue is resolved.

□ **Negative Effects of Clouded Title for Neighborhoods:** Clouds on title can be a disincentive for the property owner to make any further investment in the property, causing the property to further deteriorate and negatively affect neighboring owners.

Clouds on title can range from relatively minor to serious, and the tools to address clouded title likewise range from more simple to more complex.

□ **More Simple:** In some instances, the issue can be resolved with a simple request that a lienholder release its lien, that an individual with a potential ownership interest in the property sign a quit claim deed, or that other third parties sign affidavits or waivers.<sup>101</sup> Depending on the circumstances, the lienholder or individual (i) may be more responsive if the request comes from a title company, an attorney, or some relevant stakeholder group (e.g., neighborhood association or other community organization) and (ii) may be willing to sign only in exchange for some negotiated amount of money.



□ **More Complex:** More serious title problems are typically resolved through a litigation tool known as an action to quiet title.<sup>102</sup> An action to quiet title is a lawsuit brought in a court having jurisdiction over the property to establish a person's title to real property, thereby "quieting" any challenges or claims to the property and removing the cloud on the title.

Resolving clouds on title can help to stop the further deterioration of property and prevent vacancy from occurring. For example, a property owner without resources to invest in the property can be enabled to

## Beneficiary Deeds

A beneficiary deed is a simple document that operates as a non-probate transfer of title to real estate. This type of deed permits an existing property owner (or owners, if the property is owned by more than one person) to name an individual, individuals, or an organization to become the owner of the property when the existing owner dies.<sup>103</sup> The deed does not take effect until the existing owner dies. The existing owner can change or revoke the designation at any time prior to his or her death.<sup>104</sup>

In addition to its estate planning benefits, a beneficiary deed is a simple and low-cost tool for preventing vacancy. Homes often sit vacant because the owner died without a will or beneficiary deed, leaving ownership of the property unclear until certain legal actions are taken. In the meantime, the property often

sell the property to a new owner who can make those investments. Or, a property owner who is able to use the property as collateral can get access to capital that can be used to improve a deteriorating property. In this way, the property can be sold or improved rather than being abandoned and left to deteriorate.

Importantly, local governments such as the City can play a role in clearing some potential title clouds by releasing certain existing municipal liens to incentivize individuals and organizations to take title to vacant properties and put them back into productive use.

deteriorates, loses value, and creates problems for the neighborhood. A beneficiary deed can prevent such problems because ownership automatically transfers at the time of death.



## Missouri Property Tax Credit

In Missouri, low-income property owners who are over 65 or who are fully disabled may be eligible for the Missouri Property Tax Credit for a portion of the real estate taxes paid for the year. For owner-occupied properties, the credit is based on the amount of real estate taxes actually paid and total household income. Eligible property owners can receive up to \$1,100 for the tax credit.<sup>105</sup> The tax credit can help offset the property taxes for the home, which helps to prevent vacancy by lessening the real estate tax burden associated with the property. Such individuals also may qualify for free tax preparation assistance (including claiming the credit) from organizations such as Volunteer Income Tax Assistance (VITA).<sup>106</sup>

## Home Repair Programs

In the City of St. Louis, certain homeowners may be eligible for a home repair program that can assist with making home repairs. These kinds of programs can enable low- and moderate-income homeowners to make repairs that allow them to remain in their homes, thereby preventing vacancy.

Home Repair Programs		
Program Name	Contact Information	Eligibility
<p>Healthy Home Repair Program (administered by City of St. Louis Community Development Administration)</p> <p><i>Assistance is provided in the form of a forgivable loan.</i></p>	<p>314.657.3888</p> <p><i>Given the high demand and the limited resources devoted to the program, the program has a waiting list. In addition, the program's eligibility requirements present challenges for some homeowners.</i></p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> City resident for at least two years</li> <li><input type="checkbox"/> have clear title to the home</li> <li><input type="checkbox"/> be current on real estate taxes and any mortgage</li> <li><input type="checkbox"/> have homeowner's insurance</li> <li><input type="checkbox"/> be low- or moderate-income (less than 80% of Area Median Income)</li> </ul>

Due to high demand, the Healthy Home Repair Program often has long wait lists. Local nonprofit organizations often operate similar programs. CDA can provide information about the programs in your area. Moreover, some banks and credit unions also offer low-interest home repair loan products for this purpose.

Importantly, an individual who wants to take advantage of this type of program must be the record owner of the property. If the individual is not the record owner, the individual may need to take one or more of the title cloud clearing steps described on pages 28-29 of this Guide before receiving assistance.







# NEXT STEPS





## Next Steps

While a comprehensive description of current vacancy-related initiatives is outside the scope of this Guide, it is important to note that significant work has already been done to lay the groundwork for the next steps in addressing the vacancy challenge in the City of St. Louis. The City has benefited

from the work of two major reports, both of which contain recommendations and ideas for meeting the challenge. In addition, many neighborhood leaders, nonprofit organizations, and City officials not only recognize the challenge, but are already working to meet it.

# CENTER FOR COMMUNITY PROGRESS RECOMMENDATIONS

In 2015, the Center for Community Progress selected the LRA for its Technical Assistance Scholarship Program, a competitive program that provides technical assistance related to large-scale vacancy and abandonment. The LRA requested support in evaluating the policies and systems impacting its inventory. In connection with this work, the Center for Community Progress produced "Developing a Shared Vision and Strategies to Address Vacancy and Abandonment in the City of St. Louis" (June 2016) (the "CCP Report").

While a full summary of the CCP Report is beyond the scope of this Guide, some key recommendations from that report relevant to this Guide include:

- **Create a task force and commit to the elimination of vacancy and abandonment:** Convene a group of local government and community stakeholders to coordinate initiatives, increase communication among all stakeholders, develop a common understanding of the problem, and create quantifiable goals to support vacancy reduction.<sup>107</sup> Use this structure as a means to engage the larger community through a combination of neighborhood-based dialogues and a dedicated webpage to share information and ways to get involved.<sup>108</sup>
- **Improve delinquent property tax enforcement process:** The process should be modified to (i) begin priority enforcement proceedings for vacant properties at the earliest possible date to shorten the time frame for transferring ownership of property to responsible ownership, (ii) include constitutionally adequate notice so that the new owner receives marketable and insurable title, and (iii) use the tool to strategically target priority properties and reduce inventory of privately owned vacant property.<sup>109</sup>
- **Expand the use of Special Tax Bills:** Expand the use of this tool to (i) target more privately owned properties, (ii) increase the City's cost recovery for public expenditures related to vacant property, including boarding, mowing, and trash removal, and (iii) use it to strategically target priority properties and reduce inventory of privately owned vacant property.<sup>110</sup>
- **Create disincentives to keeping properties vacant and boarded:** Consider new ordinance requirements related to boarding that feature progressively increasing boarding fees and a higher standard for secure and attractive boarding.<sup>111</sup>
- **Increase the total acreage devoted to green space:** Reuse vacant property as productive green space.<sup>112</sup>





# ASAKURA ROBINSON COMPANY RECOMMENDATIONS

After the CCP Report, the LRA was the subject of an additional and much more extensive engagement commissioned by the U.S. Environmental Protection Agency. The EPA engaged a community development consultant, Asakura Robinson Company, to provide recommendations concerning the LRA's operations and national best practices. In connection with this work, Asakura Robinson Company produced "St. Louis Land Bank Assessment: Final Report" (February 2017) (the "AR Report").

While a full summary of the AR Report is beyond the scope of this Guide, some key recommendations from that report relevant to this Guide include:

- **Incorporate new approaches to vacancy that have been established as national best practices:** This includes, for example, using vacant land for community greening and food access activities; stormwater management; intentional mixed-income housing; art and community activities; mothballing, stabilization, and deconstruction; and low-cost sale to neighbors.<sup>113</sup>
- **Redefine the CCP Task Force:** Build on the CCP recommendation to create a task force by creating a structure that includes both internal meetings with city staff to administer ongoing vacancy initiatives and external meetings with community stakeholders to gather feedback and help communicate with the public.<sup>114</sup>
- **Manage vacant properties comprehensively:** In addition to the CCP recommendations concerning tax-delinquent properties and continuing the Mow to Own and MSD programs, define strategic maintenance and demolition programs, facilitate alternative land uses, define strategic redevelopment areas, and create more small-scale redevelopment opportunities that local residents and small developers can access.<sup>115</sup>
- **Foster clear communication and transparency:** Clarify and publicize LRA decision-making systems and create clear understanding about LRA inventory, programs, and requirements.<sup>116</sup> Conduct outreach seminars to help neighborhood residents participate in purchasing and redeveloping LRA owned properties.<sup>117</sup>
- **Recognize the LRA's deep resource constraints and need for partnerships:** Hire additional staff, increase the LRA's revenue, work to ensure multiple sources of data related to vacancy can be reliably accessed and utilized with a single database, especially among the Forestry Division, Problem Properties Section, Municipal (Housing) Court, the CSB, and the Building Division.<sup>118</sup>

As detailed throughout this Guide, there are a variety of legal tools and enforcement strategies to address vacancy. Using these tools and strategies effectively requires a coordinated effort from a variety of local government and private actors. It requires collaboration among the public sector, private stakeholders, and neighborhood leaders. By building on existing efforts and working together, these stakeholders can reduce the negative impacts of vacancy.

## END NOTES

<sup>1</sup> Tyler Swehla et al., Kan. State Univ., Dep't of Landscape Architecture and Reg'l & Cmty. Planning, *Parcels and Peppers: Savory Ideas for Addressing Vacancy in St. Louis* xix, 7 (Tyler Swehla ed., 2015), [http://krex.k-state.edu/dspace/bitstream/handle/2097/20390/Book\\_Parcels%26Peppers\\_FINAL\\_reduced%20digital.pdf?sequence=1&isAllowed=y](http://krex.k-state.edu/dspace/bitstream/handle/2097/20390/Book_Parcels%26Peppers_FINAL_reduced%20digital.pdf?sequence=1&isAllowed=y).

<sup>2</sup> *Id.* at 7. Importantly, these numbers are approximations because there is no single method for measuring and tracking vacant property.

<sup>3</sup> Alexandra Miller et al., Asakura Robinson Co., *St. Louis Land Bank Assessment: Final Report* 18 (Feb. 2017), <https://www.stlouis-mo.gov/government/departments/sldc/documents/upload/St-Louis-Land-Bank-Assessment-Final-Report-February-2017-Document.pdf>.

<sup>4</sup> Swehla et al., *supra* note 1, at 8; *see also* Miller et al., *supra* note 3, at 18.

<sup>5</sup> Miller et al., *supra* note 3, at 6.

<sup>6</sup> For example, studies have found that violent crime increases by more than 15% within 250 feet of a vacant property. *See* Max Weinstein et al., Mass. Office of the Att'y. Gen. Foreclosure Impacts Task Force, *Final Report of the Foreclosure Impacts Task Force of the State of Massachusetts* 41 (2014).

<sup>7</sup> *See* GAO-12-34 U.S. Gov't Accountability Office, *Vacant Properties: Growing Number Increases Communities' Costs and Challenges* 45 (2011); Nigel G. Griswold & Patricia E. Norris, The MSU Land Policy Institute, *Economic Impacts of Residential Property Abandonment and the Genesee County Land Bank in Flint, Michigan* 4 (2007).

<sup>8</sup> Jonah Klein-Barton, *Vacancy in St. Louis* (Mar. 11, 2017) (unpublished economics research, Washington University) (on file with author).

<sup>9</sup> *Id.*

<sup>10</sup> Charlie Foley, Strong Cities, Strong Communities, Presentation at the Vacancy Property Summit: Legal Tools to Spur Renewal of Privately Owned Vacant Property, Challenges and Solutions and Case Study: Vacant and Abandoned Property in Kansas City, at slide 4 (October 20, 2016) (transcript available at <http://law.slu.edu/event/vacant-property-summit-legal-tools-spur-renewal-privately-owned-vacant-property>) (on file with author); Peter Hoffman, Legal Aid of W. Mo., Presentation at the Vacancy Property Summit: Legal Tools to Spur Renewal of Privately Owned Vacant Property, The Abandoned Housing Act & The Community Development Toolbox, at slide 3 (October 20, 2016) (transcript available at <http://law.slu.edu/event/vacant-property-summit-legal-tools-spur-renewal-privately-owned-vacant-property>) (on file with author); Kermit Lind, Vacant Property Research Network, *Data-Driven Systems: Model Practices & Policies for Strategic Code Enforcement* 4 (2016); Dan Immergluck, *The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs* 1 (2015) (asserting vacancy reduces nearby home values and vacant properties are associated with higher crime rates); Charles C. Branas et al., *Urban Blight Remediation as a Cost-Beneficial Solution to Firearm Violence*, 106 Am. J. Pub. Health 2158, 2158, 2161 (2016) (finding abandoned building remediation significantly reduced firearm violence by 39%); Editorial Board, *When Property Neglect Leads to Tragedy, Who Holds Owners Accountable?* St. Louis Post Dispatch, July 27, 2017, at A10 (stating abandoned properties pose threats to first responders).

<sup>11</sup> *See* Center for Community Progress, *Developing a Shared Vision and Strategies to Address Vacancy and Abandonment in the City of St. Louis* 6 (2016). *See also* Foley, *supra* note 10, at slide 4.

<sup>12</sup> Stacy Ross, *Working Together: The St. Louis Vacancy Summit Final Report* 3 (February 24, 2017) (on file with author).

<sup>13</sup> Jesse Bogan, *A Mass Killer: St. Louis Heroin Deaths Hit New High*, St. Louis Post Dispatch, Feb. 20, 2017, [http://www.stltoday.com/news/local/metro/a-mass-killer-st-louis-heroin-deaths-hit-new-high/article\\_2fd6130c-3c35-524a-891e-e51eff2e40b4.html](http://www.stltoday.com/news/local/metro/a-mass-killer-st-louis-heroin-deaths-hit-new-high/article_2fd6130c-3c35-524a-891e-e51eff2e40b4.html).

<sup>14</sup> Editorial Board, *supra* note 10, at A10.

<sup>15</sup> Steven E. Barlow, Daniel M. Schaffzin, & Brittany J. Williams, *Ten Years of Fighting Blighted Property in Memphis: How Innovative Litigation Inspired Systems Change and a Local Culture of Collaboration to Resolve Vacant and Abandoned Properties*, 25 J. of Affordable Housing 347, 367 (2017) (noting that this can happen if the lender does not record the deed once the foreclosure is completed or if the lender decides to merely “charge off” the debt rather than pursuing foreclosure, and therefore does not release its lien).

<sup>16</sup> *Id.* at 366 (explaining that, while the debt is discharged in bankruptcy, “if there is no voluntary transfer of the property to the lender (in a “deed-in-lieu of foreclosure” transaction) or foreclosure sale once the stay is lifted, the title remains in the name of the debtor”).

<sup>17</sup> *Id.* at 370-71.

<sup>18</sup> *Id.* at 371.

<sup>19</sup> *Id.*

<sup>20</sup> Barlow et al., *supra* note 15, at 372.



- <sup>21</sup> Hank Webber and Todd Swanstrom, Center for Social Development: George Warren Brown School of Social Work, *Rebound Neighborhoods in Older Industrial Cities: The Story of St. Louis* 8 (2014).
- <sup>22</sup> Lind, *supra* note 10, at 7.
- <sup>23</sup> Foley, *supra* note 10, at slide 20. See also Barlow et al., *supra* note 15, at 351 (noting that streamlined property tax foreclosure and enhanced code enforcement were the principal strategies Memphis used to address its vacant property problem).
- <sup>24</sup> Lind, *supra* note 10, at 2.
- <sup>25</sup> *Id.* at 8.
- <sup>26</sup> *Id.* at 10-11.
- <sup>27</sup> *Id.* at 2.
- <sup>28</sup> *Id.* at 2, 8.
- <sup>29</sup> Lind, *supra* note 10, at 8-9.
- <sup>30</sup> Mo. Rev. Stat. § 67.451 (2016).
- <sup>31</sup> St. Louis, Mo., Rev. Code of Ordinances 5.08.060 (1994).
- <sup>32</sup> City of St. Louis Dep't of Pub. Safety, 622-028 (Rev. 2/14), Neighborhood Improvement Specialist (2014), <https://www.stlouis-mo.gov/government/departments/public-safety/neighborhood-stabilization-office/documents/neighborhood-improvement-specialists.cfm>.
- <sup>33</sup> St. Louis-Mo Government, *Building Division*, <https://www.stlouis-mo.gov/government/departments/public-safety/building/index.cfm> (last visited Oct. 6, 2017).
- <sup>34</sup> St. Louis, Mo., Rev. Code of Ordinances 25.33.040 (1994).
- <sup>35</sup> *Id.* at 25.64.010-.020.
- <sup>36</sup> *Id.* at 25.66.010-.020.
- <sup>37</sup> *Id.* at 25.01.030, § 109.2.12.
- <sup>38</sup> *Id.* at 25.01.030, § 119.13.2 and § 119.5.
- <sup>39</sup> *Id.* at 11.08.370 (rats), 11.18.040 (litter on vacant property), 11.18.210 (snow and ice removal), 11.58.240 (unsanitary standing water), 11.58.270 (garbage), 10.20 (animals), 11.64 (hazardous waste).
- <sup>40</sup> St. Louis, Mo., Rev. Code of Ordinances 11.95.050 (1994).
- <sup>41</sup> *Id.* at 11.58.030-.120.
- <sup>42</sup> *Id.* at 11.04.130.
- <sup>43</sup> *Id.* at 15.77.040.
- <sup>44</sup> *Id.* at 11.04.090, 11.04.110.
- <sup>45</sup> *Id.* at 15.77.040-.050.
- <sup>46</sup> Mo. Rev. Stat. § 478.230 (2016).
- <sup>47</sup> St. Louis, Mo., Rev. Code of Ordinances 3.08.070 (1994).
- <sup>48</sup> *Id.* at 1.12.010.
- <sup>49</sup> *Id.*
- <sup>50</sup> *Id.* at 1.12.050.
- <sup>51</sup> *Id.* at 3.08.420.
- <sup>52</sup> Mo. Rev. Stat. § 479.070 (2016).
- <sup>53</sup> St. Louis, Mo., Rev. Code of Ordinances 3.08.140 (1994).
- <sup>54</sup> Mo. Rev. Stat. § 140.640 (2016).
- <sup>55</sup> *Id.* § 92.750.2.
- <sup>56</sup> *Id.* § 92.875.
- <sup>57</sup> *Id.* § 92.830.
- <sup>58</sup> *Id.* §§ 92.700-.930. See also Dale Sweet, "A User's Guide to Sheriff's Real Estate Tax Sales in the City of St. Louis" (unpublished, April 2013) (on file with author).
- <sup>59</sup> *Id.* § 92.815.1.
- <sup>60</sup> Mo. Rev. Stat. § 92.720.1 (2016).
- <sup>61</sup> See Peter Hoffman et al., Urban Neighborhood Initiative, *Stimulating Redevelopment by Clearing Tax Sale Titles: A Collective Impact Report by the Urban Neighborhood Initiative of Kansas City, Missouri* 15 (May 2017) (on file with author).
- <sup>62</sup> Mo. Rev. Stat. § 67.451 (2016).
- <sup>63</sup> Foley, *supra* note 10, at slide 20.
- <sup>64</sup> St. Louis-Mo Government, *About SLDC*, <https://www.stlouis-mo.gov/government/departments/sldc/about-sldc.cfm> (last visited Oct. 10, 2017).
- <sup>65</sup> Foley, *supra* note 10, at slide 21.

## END NOTES (CONTINUED)

<sup>66</sup> Hoffman, *supra* note 10, at slide 14.

<sup>67</sup> Swehla et al., *supra* note 1, at 8.

<sup>68</sup> *Id.* at 35.

<sup>69</sup> *Id.* at 19. A worksheet intended to guide neighborhoods through this evaluation is included at pages 36-39.

<sup>70</sup> *Id.* at 83.

<sup>71</sup> Barlow et al., *supra* note 15, at 372-74.

<sup>72</sup> Mo. Rev. Stat. § 447.620(5) (2016).

<sup>73</sup> *Id.* § 447.622.

<sup>74</sup> The statute defines “nuisance” as “any property which because of its physical condition or use is a public nuisance or any property which constitutes a blight on the surrounding area or any property which is in violation of the applicable housing code such that it constitutes a substantial threat to the life, health, or safety of the public.” *Id.* at § 447.620(4).

<sup>75</sup> Hoffman, *supra* note 10, at slide 19.

<sup>76</sup> This example was provided by Peter Hoffman, a staff attorney in the Economic Development Unit of Legal Aid of Western Missouri.

<sup>77</sup> Mo. Rev. Stat. § 82.1025.2 (2016).

<sup>78</sup> *Id.* § 82.1027(2).

<sup>79</sup> *Id.* § 82.1029.7.

<sup>80</sup> *Id.* § 82.1025.3.

<sup>81</sup> *Id.* § 82.1025.2.

<sup>82</sup> *Id.* § 82.1029.1.

<sup>83</sup> Mo. Rev. Stat. §§ 82.1025.2, 82.1029 (2016).

<sup>84</sup> *Id.* §§ 82.1025.2, 82.1027(3).

<sup>85</sup> Frank v. Environmental Sanitation Management, Inc., 687 S.W.2d 876, 880 (Mo. 1985); Hulshof v. Noranda Aluminum, Inc., 835 S.W.2d 411, 418 (Mo. Ct. App. 1992); Peters v. ContiGroup, 292 S.W.3d 380, 385 (Mo. Ct. App. 2009).

<sup>86</sup> City of St. Louis v. Varahi, Inc., 39 S.W.3d 531, 535 (Mo. Ct. App. 2001).

<sup>87</sup> Cook v. DeSoto Fuels, Inc., 169 S.W.3d 94, 106-07 (Mo. Ct. App. 2005).

<sup>88</sup> This litigation strategy explanation was developed in consultation with Peter Hoffman, a staff attorney in the Economic Development Unit of Legal Aid of Western Missouri.

<sup>89</sup> Mo. Rev. Stat. § 89.491.1 (2016).

<sup>90</sup> *Id.* § 32.105(13).

<sup>91</sup> *Id.* § 89.491.3.

<sup>92</sup> *Id.* § 89.491.4.

<sup>93</sup> Mo. Rev. Stat. § 441.510.1 (2016).

<sup>94</sup> *Id.* § 441.500(5), (9), (10), (11).

<sup>95</sup> *Id.* § 441.590.

<sup>96</sup> *Id.* § 441.641.

<sup>97</sup> *Id.* § 441.510.2.

<sup>98</sup> *Id.* § 441.510.1.

<sup>99</sup> Mo. Rev. Stat. § 441.600 (2016).

<sup>100</sup> Hoffman, *supra* note 10, at slide 30.

<sup>101</sup> *Id.* at slide 31.

<sup>102</sup> Mo. Rev. Stat. §§ 527.150-.180 (2016).

<sup>103</sup> *Id.* § 461.025.

<sup>104</sup> *Id.* § 461.033.

<sup>105</sup> Missouri Department of Revenue, *Property Tax Credit*, <http://dor.mo.gov/personal/ptc/> (last visited Oct. 10, 2017).

<sup>106</sup> St. Louis-Mo Government, *Volunteer Income Tax Assistance*, <https://www.stlouis-mo.gov/government/departments/treasurer/Volunteer-Income-Tax-Assistance.cfm> (last visited Oct. 10, 2017).

<sup>107</sup> Center for Community Progress, *supra* note 11, at 9.

<sup>108</sup> *Id.* at 16.

<sup>109</sup> *Id.* at 10-11, 13, 16.

<sup>110</sup> *Id.* at 12, 13, 16.

<sup>111</sup> *Id.* at 15.

<sup>112</sup> *Id.* at 15. *See also* Swehla et al., *supra* note 1, at 15.



<sup>113</sup> Miller et al., *supra* note 3, at 8.

<sup>114</sup> *Id.*; See also Swehla et al., *supra* note 1, at 151.

<sup>115</sup> Miller et al., *supra* note 3, at 9, 21.

<sup>116</sup> *Id.* at 10.

<sup>117</sup> *Id.* at 56.

<sup>118</sup> *Id.* at 11, 62.

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