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STUDENT NOTES

SECOND CHANCES FOR THE SECOND CITY'S VACANT PROPERTIES: AN ANALYSIS OF CHICAGO'S POLICY APPROACHES TO VACANCY, ABANDONMENT, & BLIGHT

ELIZABETH BUTLER

"We shape our buildings, and afterwards, our buildings shape us."¹

"At least we're not Detroit."²

INTRODUCTION

"[W]hat we're seeing are the effects of something much larger than the Great Chicago Fire . . . It's like we are standing there on the day after (the fire) and everyone's waking up and saying, 'OK, how do we rebuild in this new world. . . ?'"³ Chicago urban planner Marshall Brown appropriately compares the extent of the vacancy and abandonment crisis in Chicago to one of the most devastating disasters in American history.⁴ After the fire, Chicago was rebuilt and grew into one of America's largest, most vibrant and economically important cities. Today, vacancy and abandonment have wrought devastation on Chicago's neighborhoods on a much greater scale than did the Great Fire.⁵ However, with creative and aggressive policies the region will again reemerge and rebuild.

1. Winston Churchill, Speech at the London House of Commons: A Sense of Crowd and Urgency (Oct. 28, 1943).

2. Whet Moser, *Why Chicago Isn't Detroit: More Theories*, CHI. MAG.: POL. & CITY LIFE (Feb. 27, 2012), <http://www.chicagomag.com/Chicago-Magazine/The-312/February-2012/Why-Chicago-Isn't-Detroit-More-Theories/> (arguing that the casual use of the phrase "at least we're not Detroit" as an answer to questions regarding Chicago's finance, employment, crime, and public transportation-related challenges is letting Chicago off the hook for not being as bad off as what the author calls "the 21st century's crucible for urban failure").

3. Alby Gallun & Micah Maidenberg, *Will the Foreclosure Crisis Kill Chicago?*, CRAIN'S CHI. BUS. (Nov. 9, 2013), <http://www.chicagobusiness.com/article/20131109/ISSUE01/311099980/will-the-foreclosure-crisis-kill-chicago>.

4. *Id.*

5. Antonio Olivo et al., *Vacant Homes Keep Englewood in a Downward Spiral*, CHI. TRIB. (June 23, 2011), http://articles.chicagotribune.com/2011-06-23/news/ct-met-englewood-20110623_1_vacant-homes-housing-crisis-englewood-and-west-englewood ("What we're looking at is a national crisis, for which we have few tools and resources. To have neighborhoods that continue to suffer the way Englewood and others have because of what we have

The housing boom of the late 1990's and early 2000's ushered in predatory lenders who proffered volatile subprime mortgages.⁶ Those mortgages led to a high rate of foreclosures in the late 2000's.⁷ During that period, bank foreclosures forced families out of their homes and many already absentee landlords lost their properties to foreclosure or simply abandoned them.⁸ Thus, the foreclosure crisis has resulted in an unprecedented number of vacant and abandoned properties throughout the United States.⁹ In Chicago, Illinois, one survey indicated that as many as 33,902 homes stood vacant in June of 2013.¹⁰ In some Chicago neighborhoods, as many as one in six homes are vacant.¹¹ Properties in neighborhoods with strong housing markets may become reoccupied quickly but in many neighborhoods in Chicago, the properties remain vacant for long periods. Vacant structures then deteriorate to an extreme state of disrepair. The buildings turn into targets for vandals resulting in increased crime rates. Decreases in property values often follow, resulting in a downward spiral for neighborhood stability.

The question of how to address the externalities of vacancy and blight is a major challenge for the Chicago metropolitan area. Moreover, this crisis has amplified the region's entrenched socioeconomic divisions. While neighborhoods on the south and west sides of Chicago struggle with blight, neglect, and abandonment, downtown Chicago and northern neighborhoods and suburbs experience much stronger market conditions.¹² Even so, the vacancy problem burdens

inherited this decade hurts the city as a whole.") (quoting Andy Mooney, commissioner for Community Development in Chicago).

6. *Id.*

7. *Id.*

8. *Id.*

9. U.S. CONFERENCE OF MAYORS, IMPACT OF THE MORTGAGE FORECLOSURE CRISIS ON VACANT AND ABANDONED PROPERTIES IN CITIES: A 77-CITY SURVEY 5 (2010), <http://us-mayors.org/publications/2010%20VAP%20Report.pdf>.

10. Gallun & Maidenberg, *supra* note 3. However, given the nature of vacant buildings, this number is constantly in flux and may be much higher than this study indicates.

11. Susana Vasquez, *To Rebuild in This New World, Start with the Neighborhoods*, CRAIN'S CHI. BUS. (Dec. 30, 2013), <http://www.chicagobusiness.com/article/20131230/OPINION/131219781/to-rebuild-in-this-new-world-start-with-neighborhoods>.

12. Dawn Turner Trice, *Trice: Chicago's Blight Extends Far Beyond the Trump Sign*, CHI. TRIB. (June 20, 2014), http://articles.chicagotribune.com/2014-06-20/news/ct-trump-sign-trice-talk-0620-20140620_1_chicago-lawn-austin-neighborhood-trump-tower.

the entire region by perpetuating a cycle of poverty, violence, and physical and social disorder, all of which tarnish Chicago's image.¹³

This Note is comprised of four parts. Part I outlines Chicago's vacant property challenge by discussing the history of urban decline in Chicago. It examines factors that led to a high level of vacant and abandoned properties, namely, long-term trends of declining population, suburbanization, and deindustrialization, in addition to the foreclosure crisis of recent years. Part II assesses the impacts of concentrated vacancy and blight. Part III analyzes the legal and policy approaches taken by local government in the Chicago area and finds this legal regime insufficient. Finally, Part IV proposes that while Chicago-area local governments have been innovative and proactive in their approaches to addressing the problems associated with vacancy and blight, they must enhance existing programs in order to drive revitalization efforts. Part IV proceeds with recommendations for legislation that will allow Chicago to more aggressively manage and reutilize the region's vacant land and abandoned building stock. "It's a daunting situation, but foreclosures won't kill Chicago. We are a city of deal-makers and innovators. We can address this problem by re-envisioning how to keep our whole city strong and 'rebuild in this new world.'"¹⁴

I. HISTORICAL CONTEXT OF CHICAGO'S VACANCY & BLIGHT

A. *History of Urban Decline in the Chicago Region*

The challenges caused by a glut of vacant and abandoned properties in Chicago and Cook County have risen to the forefront of public consciousness in recent years. Policymakers, the media, and the broader public have come to recognize the external costs of foreclosure, vacancy, and abandonment. Research ties widespread vacancies to long-term population loss.¹⁵ While the recent increase in

13. Olivo et al., *supra* note 5 ("People in the north Loop should care about what's going on here because, eventually, it all seeps . . . into the fabric of the city, and it makes a difference") (quoting a veteran neighborhood activist).

14. Vasquez, *supra* note 11 (quoting Marshal Brown of the Illinois Institute of Technology).

15. Stephan Whitaker & Thomas J. Fitzpatrick IV, *The Impact of Vacant, Tax-Delinquent, and Foreclosed Property on Sales Prices of Neighboring Homes*, 8 (Fed. Reserve Bank of Cleveland, Working Paper, No. 11-23R, 2012), <https://www.clevelandfed.org/newsroom-and-events/publications/working-papers/2012-working-papers/wp-1123r2-the-impact-of-vacant-tax-delinquent-and-foreclosed-property-neighboring-homes.aspx>.

abandoned properties has exacerbated the challenges posed by vacancy and blight,¹⁶ the trend of population loss in urban centers is not a new one.

Rust Belt cities have seen dramatic declines in their population over the course of the last half-century.¹⁷ Chicago's population reached its peak in 1950 at 3.62 million.¹⁸ Since that time, the city has experienced a steady decline in population.¹⁹ After World War II, federal policies had the effect of subsidizing outmigration of an affluent, white, middle-class population from central cities to the suburbs.²⁰ The advent of the interstate highway program created access to inexpensive land on the urban periphery.²¹ Concurrently, federal housing policy and federal dollars favored new construction.²² Like many other urban centers, Chicago experienced a dramatic post-war depopulation trend due to suburban growth and white flight.²³ Between 1950 and 1990, the city's population declined by 837,000 people.²⁴ Englewood, a neighborhood on the south side of Chicago, has lost two-thirds of its residents since 1950.²⁵

A dramatic loss of employment opportunities in the Rust Belt further exacerbated population decline.²⁶ The process of deindustrialization began to affect Chicago in the 1980's.²⁷ Before that time, Chicago stood as the archetype of the American industrial city.²⁸ Soon, however, the city transformed to the Rust Belt's epicenter of

16. KATIE BUITRAGO, WOODSTOCK INST., DECIPHERING BLIGHT: VACANT BUILDINGS DATA COLLECTION IN THE CHICAGO SIX COUNTY REGION 3 (2013), http://www.woodstock-inst.org/sites/default/files/attachments/decipheringblight_buitrago_june2013.pdf.

17. *Smaller is More Beautiful*, ECONOMIST (Oct. 22, 2011), <http://www.economist.com/node/21533417> (discussing the decline of Rust Belt cities over the last fifty years and on going problems resulting from the decline).

18. Kevin Helliker, *Chicago Population Sinks to 1920 Level*, WALL ST. J. (Feb. 16, 2011), <http://online.wsj.com/articles/SB10001424052748703312904576146741729857936>.

19. *Id.*

20. John Accordino & Gary T. Johnson, *Addressing the Vacant and Abandoned Property Problem*, 22 J. URB. AFF. 301, 301-02 (2000).

21. *Id.* at 302.

22. *Id.*

23. Ben Austen, *The Death and Life of Chicago*, N.Y. TIMES MAG. (May 29, 2013), http://www.nytimes.com/2013/06/02/magazine/how-chicagos-housing-crisis-ignited-a-new-form-of-activism.html?pagewanted=all&_r=0.

24. *Id.*

25. Gallun & Maidenberg, *supra* note 3.

26. *Smaller is More Beautiful*, *supra* note 17.

27. Marc Doussard et al., *After Deindustrialization: Uneven Growth and Economic Inequality in "Postindustrial" Chicago*, 85 ECON. GEOGRAPHY 183, 183 (2009).

28. THE NEW CHICAGO: A SOCIAL AND CULTURAL ANALYSIS 100 (John P. Koval et al. eds., 2006).

deindustrialization.²⁹ Chicago suffered the painful economic and population decline that came along with that transformation.³⁰ Many of the city's major employers ceased operations at their manufacturing plants.³¹ This resulted in city unemployment figures that soared above the national average.³² Employers were abandoning the inner city and moving on to greener pastures in the suburban periphery.³³ This shift ultimately resulted in a massive erosion of the city's economic base.³⁴

Once deindustrialization ran its course, however, Chicago's economic base managed to break away from its reliance on the manufacturing sector. Consequently, Chicago's economy experienced a resurgence. The region evolved from one dependent upon factories and mills, i.e. a manufacturing based economy, to one focused on serving the global financial markets, tourism, transportation hubs, and management-consulting services.³⁵ By 2006, many lauded Chicago's downtown renaissance as a success story.³⁶ The city's revival served as an example for other floundering cities in the Rust Belt region on how to adapt and re-create after the painful decades of deindustrialization.³⁷

B. The Foreclosure Crisis and Today's Challenges

America's Rust Belt cities have long been plagued by vacant and abandoned properties, a result of population decline. However, the enormous increase in foreclosures after the recession has compounded the problem. Though Chicago's economy and housing market appeared robust when it re-emerged as a post-industrial city, the recession exacerbated the ongoing trend of outmigration of Chicago's population. During the first decade of the 2000's, the city's population

29. Doussard et al., *supra* note 27, at 184.

30. *Id.*

31. *Id.*

32. *Id.*

33. See generally *id.* (mentioning that U.S. Steel Corporation, Beatrice Foods, Nabisco, Campbell Soup, Schwinn, Playskool, Stewart Warner, General Mills, Swift & Co., and Sunbeam closed major facilities in this era).

34. See generally *id.* at 185.

35. See generally *id.* at 186; see also Austen, *supra* note 23.

36. *A Success Story*, ECONOMIST (Mar 16, 2006), <http://www.economist.com/node/560143>

37. *Id.*; see also Austen, *supra* note 23 (quoting Rahm Emanuel as saying, "[t]he city is no longer a place to get on a plane and go to the coasts, but a place to stay and call home").

declined by approximately 200,000.³⁸ Cook County, the county within which the city of Chicago is located, experienced a 3.4% decline in population during the same period.³⁹

The foreclosure crisis spurred a significant rise in vacant and abandoned residential properties. One study revealed a 33% increase in vacant and abandoned buildings in seventy-seven cities nationwide as a result of foreclosures.⁴⁰ Consider that at the beginning of the foreclosure crisis in 2008, 44,568 homes in the Chicago six-county region were vacant for less than six months, while 23,990 were vacant for more than two years.⁴¹ Contrast this with circumstances at the end of 2012 when 19,833 properties in the Chicago six county region were vacant for less than six months, while 69,275 properties were vacant for more than two years.⁴² Since the start of the foreclosure crisis, 338,661 foreclosures were filed in the Chicago six-county region.⁴³ Only 136,800 of those foreclosures have gone to auction.⁴⁴

Estimates for the exact numbers of vacancies in Chicago and Cook County today vary. One study shows a 22% increase in vacant homes since 2010 with 33,902 vacant residential units.⁴⁵ Vacancies in suburban Cook County have jumped 79% since the end of 2010 with 21,479 vacant homes.⁴⁶

C. *The Unique Challenges of Zombie Properties*

“Zombie property” is the term given to vacant and abandoned properties that result from unresolved foreclosures.⁴⁷ Properties become zombies when a foreclosure action commences but has not been resolved because neither the borrower nor the servicer has clear control of the property.⁴⁸ In such a situation, neither party has

38. Greg Hinz, *Is Chicago's Population Growing Again?*, CRAIN'S CHI. BUS. (May 21, 2014), <http://www.chicagobusiness.com/article/20140521/BLOGS02/140529935/is-chicagos-population-growing-again>.

39. Helliker, *supra* note 18.

40. U.S. CONFERENCE OF MAYORS, *supra* note 9.

41. BUITRAGO, *supra* note 16.

42. *Id.*

43. *Id.*

44. *Id.* (noting also that auction is the point in the foreclosure process where the servicer or third party takes ownership of the property).

45. Gallun & Maidenberg, *supra* note 3.

46. *Id.*

47. SPENCER COWAN & MICHAEL AUMILLER, WOODSTOCK INST., UNRESOLVED FORECLOSURES: PATTERNS OF ZOMBIE PROPERTIES IN COOK COUNTY 2 (2014).

48. *Id.*

the incentive to assume responsibility for maintaining and securing the property.⁴⁹ As a result, zombie properties pose a threat to the stability of the communities they sit in because they tend to become distressed and then become targets for crime.⁵⁰ More than 17% of Chicago-area homes in the foreclosure process are zombies.⁵¹

II. IMPACTS OF BLIGHT AND VACANT AND ABANDONED PROPERTY

Vacant and abandoned properties are more than just a symptom of foreclosure, population loss, or broader scale economic forces. Rather, these distressed properties create destabilizing spillover effects on their communities,⁵² which make them problematic in and of themselves. Therefore, while a high rate of foreclosure is itself a problem, policymakers have begun to recognize resulting vacancies as a separate and independent problem. Vacancy has been associated with an increase in crime⁵³ and a plunge in surrounding property values.⁵⁴ Lowered property values result in loss of property tax revenue for local governments. Reductions in revenue to municipalities are coupled with escalating costs related to code enforcement, maintenance, and increased demand for police and fire services.⁵⁵ The combination of these impacts contributes to overall community decline and disinvestment.⁵⁶

Vacant properties are more likely to become distressed than occupied properties because responsible parties do not maintain them as well or as frequently.⁵⁷ When the property owner does not reside on the premises, or title to the property is clouded or ownership un-

49. See generally *id.*

50. *Id.*

51. Gallun & Maidenberg, *supra* note 3.

52. BUITRAGO, *supra* note 16.

53. LAWYERS' COMM. FOR BETTER HOUS., VACANT PROPERTIES: HAVENS FOR CRIME IN A CITY PLAGUED BY VIOLENCE (2013), <http://lcbh.org/sites/default/files/resources/2013-LCBH-Vacant-Properties-and-Crime-Report.pdf> (indicating that geographic areas of elevated crime rates overlap substantially with areas of elevated vacant-building rates and concluding that the presence of vacant properties is inextricably linked to community deterioration and crime).

54. GEOFF SMITH & SARAH DUDA, WOODSTOCK INST., LEFT BEHIND: TROUBLED FORECLOSED PROPERTIES AND SERVICER ACCOUNTABILITY IN CHICAGO 3–4 (2011), <http://www.woodstock-inst.org/research/left-behind-troubled-foreclosed-properties-and-servicer-accountability-chicago>.

55. BUITRAGO, *supra* note 16, at 3–4.

56. Accordino & Johnson, *supra* note 20, at 303.

57. Whitaker & Fitzpatrick, *supra* note 15, at 3.

clear (as is often the case with zombie properties), there is less opportunity or incentive to maintain the structure and premises to the same standard or quality as if the owner occupied the property.⁵⁸ Cold weather climates like Chicago's also exacerbate the problem. If responsible parties do not actively maintain properties, a single season can cause extensive damage to a structure.⁵⁹ Worse, one vacant and abandoned property may lead to a block of distressed properties. It is widely believed that blight is contagious.⁶⁰ The "Broken Window Theory" holds that one broken window, if left unrepaired, leads to more broken windows and more blight.⁶¹ Untended properties cause a breakdown of community controls allowing one blighted property to create a ripple effect wherein nearby buildings begin to deteriorate as well.⁶²

This Part will describe a variety of impacts related to vacancy and abandonment that policymakers must take into account. First, it will discuss the devastating economic impacts that vacancy and abandonment have on property values, communities, and local government. These economic impacts are closely tied with the deterioration of social ties, the rise of social disorder, and the breakdown of communities. Finally, this Part will discuss the public health and safety consequences correlated with the spread of excessive vacancy, blight and abandonment.

A. Economic Impacts on Property Values, Communities and Local Government

Foreclosures have economic consequences for the broader community beyond the scope of the individual household impacted by the foreclosure. The creeping blight associated with vacant, abandoned and distressed properties has obvious costs for both those residents who remain in the communities and for the municipalities charged with responding to vacant buildings. Considerable research efforts

58. *Id.* at 3, 5.

59. *See id.* at 4–5.

60. Olivo, *supra* note 5 ("Buildings become vacant. Then, that leads to a perception among residents and outsiders that the community is in decline, which then feeds actions which reinforce that very vulnerability.") (quoting Robert J. Sampson of Harvard University, who oversaw a project on impoverished Chicago neighborhoods for fifteen years); *see also* George L. Kelling & James Q. Wilson, *Broken Windows*, ATLANTIC (Mar. 1982), <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

61. Kelling & Wilson, *supra* note 60.

62. *Id.*

have indicated that blighted and distressed properties have a demonstrable, negative impact on surrounding property values.⁶³ In high-poverty neighborhoods, the sale price of a home is 1.6% lower with each additional delinquent home within 500 feet.⁶⁴ Medium-poverty areas tend to suffer even greater negative impacts of between 1.5 and 3% reductions of home sale prices near vacant homes.⁶⁵

Additionally, high vacancy and abandonment create fiscal stress on units of local government. Local governments rely on revenue generated from property taxes for a substantial portion of their budgets.⁶⁶ Property tax revenues are correlated with the value of residential and commercial property.⁶⁷ Given the preceding discussion of reduction in property values caused by abandonment, there has been a corresponding reduction in assessed and collected property taxes by many municipalities and local governments.⁶⁸ The reduction in collected property taxes means an overall decline in municipal revenues and local government coffers.⁶⁹

A recent report shows that property tax revenues dropped nationwide in 2012 and were projected to decline further in 2013.⁷⁰ Local governments across the country face these fiscal challenges,⁷¹ and Chicago is no exception. The mainstream media has thoroughly documented Chicago's fiscal and budget challenges.⁷² There are likely a number of causes for these problems. Prominent among those causes are foreclosures, the depressed housing market and associ-

63. Whitaker & Fitzpatrick, *supra* note 15, at 10 (employing a hedonic regression analysis to demonstrate that foreclosures indeed have an impact on property values of surrounding homes).

64. *Id.* at 19.

65. *Id.* at 31.

66. MICHAEL A. PAGANO & CHRISTIANA K. MCFARLAND, NAT'L LEAGUE OF CITIES, RESEARCH BRIEF ON AMERICA'S CITIES: CITY FISCAL CONDITIONS IN 2013 3 (2013), http://www.nlc.org/Documents/Find%20City%20Solutions/Research%20Innovation/Finance/Final_CFC2013.pdf.

67. *Id.*

68. *Id.*

69. *Id.* at 3–4.

70. *Id.*

71. *Id.*

72. Becket Adams, *The Next Detroit? Chicago's Financial Problems are Pretty Serious*, BLAZE (Aug. 6, 2013), <http://www.theblaze.com/stories/2013/08/06/the-next-detroit-chicagos-financial-problems-are-pretty-serious/> (discussing Chicago's unfunded public pension crisis and the impacts of the economic downturn on the city's financial state); see also Monica Davey & Mary Williams Walsh, *Chicago Sees Pension Crisis Drawing Near*, N.Y. TIMES (Aug. 5, 2013), http://www.nytimes.com/2013/08/06/us/chicago-sees-pension-crisis-drawing-near.html?page-wanted=all&_r=0 (discussing Chicago's financial troubles related to crushing pension liabilities).

ated vacant and abandoned properties. In 2013, city officials nationwide reported signs of improvement in a number of local drivers of fiscal health.⁷³ Notably, this survey indicated that improvements in inactive properties were not as pronounced.⁷⁴ In fact, the majority of city officials say that commercial and residential property vacancies continue to be a problem for their communities' fiscal health.⁷⁵

In addition to causing a reduction in revenues by virtue of impacting property taxes, high levels of vacancies and abandonments cause local governments to expend more money on municipal services than they otherwise would if the properties were occupied and well-maintained. For example, cities must incur costs related to additional fire and police protection, enhanced maintenance activities, code enforcement, and trash collection.⁷⁶ In Chicago, vacant and abandoned properties have been found to cost the city up to an estimated \$20,000-\$34,000 per vacant property.⁷⁷ Given the City's weakened revenue position, it is highly likely that diverting resources towards these pressing issues will diminish the performance of other services and programs.

B. Social Costs of Vacancy and Blight

Vacant and abandoned buildings create significant social costs to communities. While foreclosure inevitably results in upheaval in the lives of the families or individuals who lose their homes, the resulting long-term vacancies create secondary externalities that can affect the stability of a neighborhood and the quality of life in a community. Physical deterioration of buildings and grounds signals a degree of complacency among neighborhood residents about social disorder.⁷⁸ An increase in residential turnover and lack of social engagement can weaken the informal social infrastructure in a neighborhood.⁷⁹ Community residents affected by high levels of vacancy tend to perceive

73. PAGANO & MCFARLAND, *supra* note 66, at 9.

74. CHRISTIANA K. MCFARLAND & J. KATIE McCONNELL, NAT'L LEAGUE OF CITIES, RESEARCH BRIEF ON AMERICA'S CITIES: 2013 LOCAL ECONOMIC CONDITIONS SURVEY 2 (2013) (noting only 27% reported improvement in this area).

75. *Id.*

76. BUITRAGO, *supra* note 16, at 3-4.

77. *Id.* at 4.

78. INGRID GOULD ELLEN ET AL., FURMAN CTR. FOR REAL ESTATE & URBAN POLICY, DO FORECLOSURES CAUSE CRIME? 2 (2011), http://furmancenter.org/files/publications/El-len_Lacoe_Sharygin_ForeclosuresCrime_June27_1.pdf.

79. *Id.*

adverse impacts on neighborhood vitality, commercial district vitality, crime prevention efforts, and overall quality of life.⁸⁰ Some go further and assert that the devastation wrought by abandonment has an impact on the very psyche and soul of the residents and communities that have been left behind.⁸¹ Blight affects the way these communities define themselves and their prospects for future vitality and prosperity.⁸²

C. Public Health and Safety Consequences of Vacancy, Blight & Abandoned Buildings

Aside from demonstrated social and economic impacts, abandoned buildings pose imminent threats to public health. While secured and well-maintained properties that are unoccupied generally do not pose a threat to public safety, distressed and abandoned structures are dangerous.⁸³ These structures pose threats to public health and safety wherever they exist.⁸⁴ For example, uninhabited buildings that are open to unauthorized entry are vulnerable to intentional arson.⁸⁵ Squatters may invade the building and set indoor fires to keep warm.⁸⁶ In fact, the National Fire Protection Association reports that 43% of vacant building fires were intentionally set, compared to 10% of structure fires overall.⁸⁷

80. Accordino & Johnson, *supra* note 20, at 306.

81. Trice, *supra* note 12.

82. *Id.*

83. See, e.g., Juan Perez, Jr., *Squatter Injured in a Fire at Vacant South Side Building*, CHI. TRIB. (Sept. 12, 2014), <http://www.chicagotribune.com/news/local/breaking/chi-squatter-injured-in-fire-at-vacant-south-side-building-20140912-story.html>. In September 2014, a squatter was injured in a fire in a vacant South Side building. The victim was not burned but he was treated for smoke inhalation. The building was a "Red X" building deemed to have serious structural deficiencies or interior hazards that could pose a threat to first responders.

84. Chris Bentley et al., *Chicago's Red "X": Meaning, Myths and Limitations*, WBEZ91.5 (June 10, 2014), <http://www.wbez.org/series/curious-city/chicagos-red-x-meaning-myths-and-limitations-110315> ("On Dec. 22, 2010, firefighters were searching for squatters inside a burning, long-vacant laundromat on the 1700 block of East 75th Street, in Chicago's South Shore neighborhood. As firefighters continued their sweep of the building, a wall fell and then the roof collapsed, killing firefighters Edward Stringer and Corey Ankum. Nineteen others were injured.").

85. INT'L ASSOC. ARSON INVESTIGATORS INC. & U.S. FIRE ADMIN., *ABANDONED BUILDING PROJECT, MANAGING VACANT AND ABANDONED PROPERTIES IN YOUR COMMUNITY 8* (2006), <https://www.firearson.com/uploads/Background-Paper.pdf> [hereinafter *ABANDONED BUILDING PROJECT*].

86. G. THOMAS KINGSLEY ET AL., *URBAN INST., THE IMPACTS OF FORECLOSURES ON FAMILIES AND COMMUNITIES 16* (2009), http://www.urban.org/uploadedpdf/411909_impact_of_foreclosures.pdf.

87. MARTY AHRENS, *NAT'L FIRE PROT. ASSOC., VACANT BUILDING FIRES* (2009), <http://www.nfpa.org/research/reports-and-statistics/fires-by-property-type/vacant-building-fires>.

Structural degradation due to weather and vandalism presents a slew of challenges to firefighters and emergency first responders.⁸⁸ These buildings frequently contain hazards such as buckling floors, blocked or damaged stairs, broken glass, pits and holes, combustible materials, or maze-like configurations that increase the rate of firefighter injuries.⁸⁹ One report estimates that every year more than twenty civilians die and 6,000 firefighters are injured while fighting fires in this category of properties.⁹⁰

Other dangers lurk in vacant and abandoned buildings.⁹¹ Aside from signaling to criminals that there are fewer “eyes on the street” to monitor behavior, these buildings harbor decay by providing havens for squatters and criminals. There is a documented link between Chicago’s abandoned buildings and crime rates.⁹² In Chicago, there is a substantial overlap between geographic areas with elevated crime rates and those areas with high numbers of abandoned buildings.⁹³ Between 2005 and 2012, the overall crime rate in Chicago dropped 27%.⁹⁴ During the same time, crimes occurring in abandoned buildings and vacant lots increased by 48%.⁹⁵ In 2012 alone, 2,618 crimes occurred in abandoned buildings or vacant lots in Chicago.⁹⁶ Simply put, abandoned buildings attract and enable crime. The crimes most closely correlated with abandoned buildings and vacant lots included arson, burglary, criminal sexual assault, criminal trespass, gambling,

88. ABANDONED BUILDING PROJECT, *supra* note 85, at 15.

89. *Id.*

90. *Id.*

91. Olivo, *supra* note 5 (“These abandoned buildings and houses are very dangerous. They’re more dangerous to me than someone coming up to you with a gun.”) (quoting Andre Holmes, a community activist); *see also* Gallun & Maidenberg, *supra* note 3 (describing how the owner of a business that secures abandoned buildings made a gruesome discovery of a drug addict frozen with a needle stuck in his arm).

92. LAWYERS’ COMM. FOR BETTER HOUS., *supra* note 53.

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

narcotics, and weapons violations.⁹⁷ Certain vacant buildings in Chicago attract gang activity and violence⁹⁸ and serve as storage for illegal weapons.⁹⁹ In a chilling example of vacancy harboring criminal activity, the presence of an estimated 8,000 vacant buildings in nearby Gary, Indiana provided the opportunity and concealment which allowed a serial killer to operate undetected for decades.¹⁰⁰

In addition to concealing criminal activity, the buildings themselves become targets for crime. Vandals scavenge for materials and engage in “house stripping” or “urban mining.”¹⁰¹ They steal and resell building components to scrap-metal buyers and second-hand dealers.¹⁰² Thieves gut properties, removing anything of value, from copper piping to hardwood floors and appliances.¹⁰³ Worse yet, thieves steal doors and windows, exposing the structure to the weather and inducing further deterioration.¹⁰⁴ Crime victims are much less likely to report property theft from these buildings than theft from occupied buildings.

III. LEGISLATIVE & POLICY APPROACHES TO BLIGHT IN CHICAGO

Chicago is a vanguard when it comes to addressing the scourge of vacancy, blight and abandoned buildings. In March 2000, former Chicago Mayor Richard M. Daley said, “Vacant buildings are ugly. They attract gangs. They are the most frequent problems encoun-

97. *Id.*

98. Nick Moroni, *Chicago Tears Down Crime-Ridden Abandoned Buildings to Build Safer Communities*, CHI. NOW (July 13, 2012), <http://www.chicagonow.com/chicago-muckrakers/2012/07/chicago-tears-down-crime-ridden-abandoned-buildings-to-build-safer-communities-photos/#image/1>.

99. LAWYERS' COMM. FOR BETTER HOUS., *supra* note 53 (noting also that the vacant building crisis, as described by a retired Chicago police officer, creates so many risks to a neighborhood and can attract murders, attempted murder, rape, and arson).

100. See *Gary's Vacant Buildings Hurt City, Can House Horrors*, CHI. SUN-TIMES (Oct. 25, 2014), <http://chicagosuntimes.com/news/hollowed-out-hazards-garys-vacant-buildings-hurt-city-can-house-horrors/>; see also Justin Glawe, *Gary, Indiana Is a Serial Killer's Playground*, DAILY BEAST (Oct. 22, 2014), <http://www.thedailybeast.com/articles/2014/10/22/gary-indiana-is-a-serial-killer-s-playground.html>.

101. Olivo, *supra* note 5.

102. JON M. SHANE, U.S. DEP'T OF JUSTICE, CMTY. ORIENTED POLICING SERVS., *ABANDONED BUILDINGS AND LOTS 10* (2012), http://www.popcenter.org/problems/pdfs/abandoned_buildings_and_lots.pdf.

103. *Id.*

104. *Id.*

tered by the community policing program and by block clubs and community organizations.”¹⁰⁵ Daley’s comments introduced a proposed city ordinance that Chicago ultimately passed later that year.¹⁰⁶ In September 2000, Chicago became the first city in the country to enact an ordinance aimed at reducing predatory lending.¹⁰⁷ Supporters of that law indicated that its primary purpose was to address abandoned buildings stemming from high-risk loans.¹⁰⁸ Although that ordinance preceded the present foreclosure crisis and its consequences, its passage demonstrates that the City of Chicago has established a precedent for taking proactive approaches to curtailing the ill-effects associated with abandoned and distressed properties.

Chicago is noted for enacting one of the most stringent vacant building ordinances in the country.¹⁰⁹ This law made Chicago the first city to hold mortgage holders responsible for vacant properties even before mortgagees gained title to the properties through foreclosure proceedings.¹¹⁰ Though the law is strict, a vast number of blighted vacancies persist four years after the law was enacted, calling the efficacy of the law into question.

Cook County has also taken legislative measures to address the vacant property challenge in the region. In 2011, the county enacted an ordinance that formed a county-wide land bank authority.¹¹¹ The land bank is in its early days so it is not yet possible to assess its successes and failures. However, it is possible to evaluate the land bank’s potential for success by comparing its legal structure with other established, successful land banks and by making predictions based on its institutional and financial capacity.

Part II will describe Chicago’s Vacant Building Ordinance, Cook County’s newly created Land Bank Authority, and Chicago’s Red X Program. It will evaluate the strengths and shortcomings of each approach. With these policies, local governments in Chicago continue to lead the nation in their approaches to addressing vacant properties.

105. Fran Spielman, *City to Target Hazards of Abandoned Buildings*, CHI. SUN-TIMES, Mar. 15, 2000, at 24.

106. Dan Immergluck & Geoff Smith, *The Impact of Single-family Mortgage Foreclosures on Neighborhood Crime*, 21 HOUSING STUD. 851, 851 (2006), <http://www.prism.gatech.edu/~di17/HousingStudies.pdf>.

107. *Id.*

108. *Id.* at 851–52.

109. See CHI. MUN. CODE § 13-12-126 (2011).

110. *Id.*

111. See COOK COUNTY, ILL., ORDINANCES ch. 102, art. II, §§ 102-2 to -25 (2011).

However, insufficiencies in the city and county's legal regimes indicate that, in order to succeed in combating this problem, they must employ strategies that are more creative, aggressive, and nuanced.

A. Chicago's Vacant Building Ordinance

Local governments employ a variety of strategies to combat the negative effects of vacancy and blight.¹¹² A common approach used by cities around the country is to enact ordinances that require property owners, or in some cases mortgage holders, to register vacant properties with the municipality.¹¹³ As municipalities grappled with responding to the foreclosure crisis, the use of vacant building registration ordinances spread quickly across the nation.¹¹⁴ This strategy encourages owners and mortgage holders to adequately maintain vacant properties and helps the municipality to recoup some of the costs associated with code enforcement and maintenance.¹¹⁵

The City of Chicago has been an innovator among cities with its vacant building ordinance.¹¹⁶ In November 2011, Chicago's City Council made sweeping changes to its ordinance.¹¹⁷ When City Council adopted these changes, commentators lauded it as the toughest law in the country when it came to holding property owners and investors responsible.¹¹⁸

The updated law expanded the class of responsible owners from including just those who held title to the property to include banks and investors even before these lenders acquired ownership through foreclosure proceedings.¹¹⁹ It required this expanded class to follow the

112. BUITRAGO, *supra* note 16, at 2.

113. *Id.*

114. DAN IMMERGLUCK ET AL., GA. INST. OF TECH. SCH. OF CITY & REG'L PLANNING, LOCAL VACANT PROPERTY REGISTRATION ORDINANCES IN THE U.S: AN ANALYSIS OF GROWTH, REGIONAL TRENDS, AND SOME KEY CHARACTERISTICS 12 (2012).

115. BUITRAGO, *supra* note 16, at 2.

116. See CHI. MUN. CODE § 13-12-126 (2011). As of the 2011 ordinance amendment, Chicago's law defined a building as vacant if one or more of the following conditions were present: all lawful business or construction operations had ceased for six months; the building had been declared unfit for occupancy; no construction or repairs had been commenced for six months; doors or windows had been broken or opened; law enforcement officials had received at least one report of trespassers or vandalism within the previous six months; or utilities had been terminated.

117. BUITRAGO, *supra* note 16, at 4.

118. Megan Cottrell, *New Vacant Property Ordinance: Will It Be Effective in Chicago Neighborhoods?*, CHI. NOW (Nov. 3, 2011), <http://www.chicagonow.com/chicago-muckrakers/2011/11/new-vacant-property-ordinance-will-it-be-effective-in-chicago-neighborhoods/>.

119. Angela Caputo, *A City Ordinance is Failing to Keep Owners of Vacant Properties in Check*,

city's existing rules on registering and maintaining vacant properties.¹²⁰ The objective of the new law was to increase the cost to banks of "sitting on" vacant properties.¹²¹ The ordinance would now require mortgagees of vacant buildings to register the building with the City within 30 days of becoming vacant or within 60 days of a default on mortgage payments.¹²² The ordinance imposes a \$500 registration fee and places responsibility for maintenance and security on the owner or mortgagee.¹²³ The Chicago ordinance was one of the first in the nation to hold mortgagees responsible before taking title to the property.¹²⁴ The law went into effect November 2011.¹²⁵ Cook County followed suit by passing a substantially similar ordinance in December 2011.¹²⁶

1. How the FHFA's Successful Legal Challenge Weakened Chicago's Vacant Building Ordinance

Less than one month after the City of Chicago amended its ordinance, the Federal Housing Finance Agency (FHFA)¹²⁷ challenged the new law in federal district court.¹²⁸ The FHFA argued that the federal Housing and Economic Recovery Act of 2008 (HERA) preempted the ordinance.¹²⁹ HERA authorized the FHFA to place Fannie Mae ("Fannie") and Freddie Mac ("Freddie") into conservatorship "for the purpose of reorganizing, rehabilitating, or winding up [their] affairs."¹³⁰ It also empowered the FHFA to "preserve and conserve the assets and properties of [Fannie Mae and Freddie Mac]."¹³¹ As overseer, the

CHI. REP. (Nov. 27, 2013), http://www.chicagoreporter.com/city-ordinance-failing-keep-owners-vacant-properties-check#.VFGsu_TF-2o.

120. *Id.*

121. *Id.*

122. BUITRAGO, *supra* note 16, at 4.

123. *Id.*

124. *Id.*

125. *Id.*

126. *Id.*

127. The FHFA oversees Fannie Mae and Freddie Mac, two of the largest backers of home mortgages. *Fannie Mae & Freddie Mac*, FED. HOUS. FIN. AGENCY, <http://www.fhfa.gov/SupervisionRegulation/FannieMaeandFreddieMac> (last visited Oct. 14, 2015).

128. See generally *Fed. Hous. Fin. Agency v. City of Chi.*, 962 F. Supp. 2d 1044, 1049 (N.D. Ill. 2013); Mary Ellen Podmolik, *City Loses Court Challenge to Vacant Building Registry*, CHI. TRIB. (Aug. 26, 2013), http://articles.chicagotribune.com/2013-08-26/business/chi-chicago-vacant-building-registry-20130825_1_fhfa-federal-housing-finance-agency-fannie-mae.

129. Podmolik, *supra* note 128.

130. 12 U.S.C. § 4617(a)(2) (2015).

131. § 4617(b)(2)(B)(iv).

FHFA directed Fannie and Freddie to implement consistent delinquency-management requirements and authorized them to contract with servicers to perform those activities.¹³² HERA includes a preemption clause stating that the FHFA shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers and privileges of the FHFA.¹³³

The court held that federal law preempted the Chicago ordinance and that the law constituted an impermissible tax against the federal government.¹³⁴ The court also ruled that vacant properties backed by Fannie and Freddie were exempt from the ordinance.¹³⁵ In effect, this created two classes of vacant property in Chicago: those that must comply with the ordinance and those that are not subject to it. This is significant because Fannie and Freddie hold approximately 258,000 loans secured by properties in Chicago.¹³⁶ The ruling is also important because it points to a federalism concern that other local governments with vacant property ordinances must now consider.

In April 2014, the City of Chicago and FHFA reached a settlement agreement.¹³⁷ The terms of the agreement provide that Fannie and Freddie would voluntarily register vacant properties with the city without paying the otherwise required \$500 registration fee.¹³⁸ The settlement also provided that, if the property is not registered voluntarily, the city would not issue a fine.¹³⁹ This agreement would be valid so long as the FHFA is the conservator for Fannie and Freddie.¹⁴⁰ While Freddie and Fannie have their own standards for the maintenance and upkeep of vacant buildings with which they must comply, the ruling removed the system of external accountability imposed by the City's ordinance. Thus, both the lawsuit and the subsequent settlement agreement had the ultimate effect of undermining the City's goal of achieving a complete registry of vacant buildings in Chicago.

132. *Fed. Hous. Fin. Agency*, 962 F. Supp. 2d at 1048.

133. § 4617(a)(7).

134. *Fed. Hous. Fin. Agency*, 962 F. Supp. 2d at 1063.

135. *Id.* at 1064.

136. Podmolik, *supra* note 128.

137. Ben Lane, *FHFA Reaches Settlement with City of Chicago Over Vacant Property Lawsuit*, HOUSINGWIRE (Apr. 8, 2014), <http://www.housingwire.com/articles/29606-fhfa-reaches-settlement-with-city-of-chicago-over-vacant-property-lawsuit>.

138. *Id.*

139. *Id.*

140. Mary Ellen Podmolik, *FHFA, Chicago Settle Vacant Property Dispute*, CHI. TRIB. (Apr. 7, 2014), http://articles.chicagotribune.com/2014-04-07/business/chi-fhfa-vacant-buildings-dispute-20140407_1_fhfa-vacant-building-ordinance-fannie-mae.

2. Other Shortcomings of Chicago's Vacant Building Ordinance

In addition to the blow dealt by the FHFA litigation to the ordinance's legitimacy and effectiveness, the law has other shortcomings. The City's Department of Buildings maintains a Vacant Building Registry, one of the products of the ordinance.¹⁴¹ As of March 2013, the index of vacant properties included approximately 16,000 properties, while the DePaul University's Institute for Housing Studies logged a stunning 34,000 vacant properties.¹⁴² This discrepancy in the number of vacant properties indicates that some owners and lenders are escaping liability for abandoned properties by not registering them with the city. This is problematic because accurate vacancy data is essential for holding parties responsible. If the extent of the problem cannot be identified, it cannot be remedied.

Through the Vacant Building Ordinance, Chicago's Department of Buildings is on the frontline of maintaining order and stabilizing neighborhoods with code enforcement efforts on the ground. As Chicago continues to battle increasing levels of vacancy, the Vacant Building Ordinance remains an important tool for identifying responsible parties for a given property, gaining cooperation from those responsible parties, and enforcing maintenance and security requirements. The ordinance also helps to establish a foothold on the data needed to define the breadth and extent of the vacancy. However, even if Chicago's ordinance were to achieve a complete registry of vacancy in the city, vacant property registration ordinances have inherent flaws. Chicago's ordinance and others in the same category focus on requiring action on unoccupied buildings. While enforcement of code compliance is an important deterrent, it is only a short-term solution. In areas where vacancy is rampant, code enforcement does little to rebuild or revitalize those neighborhoods.¹⁴³

B. The Cook County Land Bank

Vacancy is not just a city problem: Cook County saw a 79% increase in vacancies from the end of 2010 to June 2013.¹⁴⁴ One report

141. Caputo, *supra* note 119.

142. *Id.*

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

144. Gallun & Maidenberg, *supra* note 3.

indicates that there are currently nearly 200,000 housing units standing vacant in Cook County, compared to 14,442 vacant in 2005.¹⁴⁵ No approach to this crisis has appeared more promising than the advent of the Cook County Land Bank Authority.¹⁴⁶ Land banks have enjoyed success in a number of communities nationwide.¹⁴⁷ In 1971, St. Louis initiated the first land bank in the U.S.¹⁴⁸ Since that time, land banking has emerged in Cleveland, Atlanta, Indianapolis, and Detroit, among many other cities.¹⁴⁹

Land banks can be powerful tools for addressing blight in cities that struggle to deal with vacancy and abandonment. Land banks fight urban blight by putting unwanted properties under centralized, local control. In doing so, they allow governments to function like a property clearinghouse. They buy up abandoned properties, demolish some, rehab others, and then transfer them to third party end users.¹⁵⁰ Land banks also may remove some of the legal barriers that impede development by private developers.¹⁵¹ For example, they can expedite the process of clearing and acquiring title to zombie properties in court.¹⁵²

In July 2012, the Cook County Board passed a resolution to establish an Advisory Committee to investigate the establishment of a Cook County Land Bank.¹⁵³ That Committee was composed of a group of industry experts on real estate law, affordable housing, community development, private sector development, urban planners, and leaders from other successful land banks.¹⁵⁴ The Committee convened and developed a number of policy recommendations.¹⁵⁵ Ultimately, the Committee determined that a county-wide land bank

145. URBAN LAND INST., COOK COUNTY LAND BANK TAP 2 (2012), <http://chicago.uli.org/wp-content/uploads/sites/16/2012/03/121171-ULI-CC-Land-Bank-TAP.pdf>.

146. Editorial, *The Promise of a Land Bank*, CHI. TRIB. (Sept. 16, 2013), http://articles.chicagotribune.com/2013-09-16/opinion/ct-edit-landbank-20130917_1_cook-county-land-bank-unwanted-properties-housing-crisis.

147. See generally FRANK S. ALEXANDER, LAND BANK AUTHORITIES: A GUIDE FOR THE CREATION AND OPERATION OF LOCAL LAND BANKS 2 (2005).

148. See *id.* at 6 (“St. Louis Land Reutilization Authority”).

149. See *id.*

150. *Razed in Chicago: The Fight Against Blight*, CRAIN'S CHI. BUS. (Nov. 19, 2013), <http://www.chicagobusiness.com/section/multimedia?project=Latest%20News&title=Razed%20in%20Chicago>.

151. *Id.*

152. *Id.*

153. URBAN LAND INST., *supra* note 145, at 4.

154. *Id.* at 4–5.

155. *Id.* at 5.

would be a powerful tool for addressing the challenge of land assemblage, encumbered titles, and distressed residential, commercial and industrial properties in Cook County.¹⁵⁶

In January 2013, the Cook County Board of Commissioners voted unanimously to pass an ordinance to create the Cook County Land Bank Authority (“CCLBA”).¹⁵⁷ The ordinance establishes the CCLBA as a quasi-governmental entity with a broad authority and general mandate to return vacant, abandoned, and tax delinquent properties to productive use thereby.¹⁵⁸ The CCLBA’s objective is to combat community deterioration, create economic growth and stabilize the housing and job market.¹⁵⁹

The operation of most land banks follows a three-step sequential process in which the land bank: 1) acquires abandoned or vacant property; 2) manages the property, temporarily; and 3) conveys the land to a third party who returns it to productive use. The CCLBA has a variety of general powers given to it by the county that will allow it to follow that same general process. The CCLBA has the power to acquire land by purchase, gift, transfer, and tax-sale purchase.¹⁶⁰ Additionally, the CCLBA has the authority to hold, lease, manage and dispose of property in its inventory.¹⁶¹ The CCLBA also has the power to discharge and extinguish real property taxes that encumber real property owned by the county through the Land Bank.¹⁶² With that authority, the CCLBA can help to provide marketable title to properties that previously may have been impossible to redevelop due to complicated or confused ownership histories.¹⁶³

1. Strengths of the Cook County Land Bank

There are a variety of options from which organizers may select when structuring a new land bank. The CCLBA Advisory Committee focused on three possibilities: 1) use an existing government authority to sponsor the land bank, 2) create a new independent, nonprofit entity, or 3) use the county’s authority as a “home rule” body to create a

156. *Id.* at 6.

157. COOK COUNTY, ILL., ORDINANCES ch. 103, art. I, § 103 (2013).

158. § 103-4.

159. *Id.*

160. § 103-49(a).

161. § 103-41(b).

162. § 103-41(c).

163. *Razed in Chicago*, *supra* note 150 (noting per Commissioner Bridget Gainer that the average time to gain title to property in Cook County is 600 days).

quasi-governmental entity with some delegated powers of the county.¹⁶⁴ Ultimately, the county elected to structure the Land Bank as a quasi-governmental entity.

There are a number of advantages to forming a land bank as a quasi-governmental entity as opposed to forming it as a division of the county or as a nonprofit organization. For example, a nonprofit entity could only maintain its tax-exempt status and hold property tax free if it were ultimately going to put the property to active charitable use.¹⁶⁵ Holding land and being exempt from property taxes is essential to the Land Bank's mission. This would make the non-profit organization form unappealing for the CCLBA's purposes.

Another important feature of the quasi-governmental structure is that while it derives its authority from the county, the organization itself operates outside of and independently from Cook County government. This provides the Land Bank with the ability to function in a more flexible and agile manner than a local government typically would be able to do.¹⁶⁶ Moreover, because the CCLBA has its own staff and independent board, this structure provides stakeholders and the public with assurance that the CCLBA is independent, transparent, and not simply another layer of government.¹⁶⁷ At the same time, the CCLBA retains essential powers of a governmental entity. Thus, as a quasi-governmental entity, the CCLBA can both hold land over time without paying property taxes and still be responsive to market conditions in ways that non-profits and government bodies cannot.¹⁶⁸

2. Shortcomings of the Cook County Land Bank Authority

The strengths of the structure of the CCLBA stand in contrast to potential shortcomings that the entity may suffer from. While the CCLBA is set to be one of the largest land banks in the country, it lacks the financial resources to match the scale of the problem in Cook County. For example, the CCLBA does not have a dedicated

164. URBAN LAND INST., *supra* note 145, at 6. The Housing Authority of Cook County and Cook County itself were considered as options.

165. *Id.* at 7.

166. See BRIDGET GAINER, COOK CTY. BD., COOK COUNTY LAND BANK PROPOSAL 2 (2012), <http://www.bridgetgainer.com/Commissioner%20Bridget%20Gainer%20-%20Cook%20County%20Land%20Bank%20Proposal.pdf>.

167. URBAN LAND INST., *supra* note 145, at 7.

168. *Id.*

source of funding.¹⁶⁹ For this reason, the CCLBA must act slowly and strategically in its acquisition of properties.

The CCLBA has a limited mission. It is meant to be a strategic, collaborative, and proactive catalyst for redevelopment based on local priorities rather than an entity to accept all available properties. The agency plans to focus its efforts in neighborhoods where the private market is still functional as a way to stretch its resources.¹⁷⁰ In theory, this approach maximizes the CCLBA's limited financial and institutional capacity. The opposite argument is that a land bank's mission should be to focus its efforts on those neighborhoods that are suffering the most from blight and vacancy. With such limited resources, the land bank is not capable of conducting the full-scale intervention that some Chicago neighborhoods require.

In addition to making strategic choices about where to spend its limited resources, the CCLBA has asked Fannie Mae and Freddie Mac to assist it in its efforts by making donations of foreclosed homes and then paying to demolish them.¹⁷¹ Relying on donations and the goodwill of these agencies is a problematic strategy for regular operation of the CCLBA. The FHFA seeks to and is charged with the obligation to preserve its own assets, therefore it is unlikely to be willing to part with properties and dollars to cover the cost of demolition. The CCLBA has encountered the same problem in conversations with banks about donating foreclosed properties from their own portfolios.¹⁷² Accepting donations from banks may work in the short-term but is not a long-term sustainable proposition for the CCLBA.

C. Chicago's Red X Program

The Red X Program is one of a slew of approaches implemented by the City of Chicago to respond to the imminent dangers to human life and the devastation of neighborhood and economic stability im-

169. See Gallun & Maidenberg, *supra* note 3 (explaining that in July 2013, the CCLB was awarded a \$6 million dollar grant from State Attorney General Lisa Madigan and that this money is the extent of the agency's budget for the year).

170. See *id.*

171. Mary Ellen Podmolik, *Land Bank Wants Fannie, Freddie to Donate Homes*, CHI. TRIB. (Sept. 25, 2014), <http://www.chicagotribune.com/business/ct-land-bank-deals-0926-biz-20140925-story.html> (noting that Fannie Mae has more than 300 empty lots and homes in Chicago and that the state of Illinois has about 58,000 delinquent loans that are backed by Fannie and Freddie).

172. *Id.*

posed by the increase of vacant, abandoned, and foreclosed commercial and residential properties in the region. The Red X symbol announces danger and hidden threats to health and safety that await those who enter certain vacant structures.

Signs bearing a red "X" have appeared on vacant and abandoned buildings in the City of Chicago since 2012.¹⁷³ Red X's began to appear after two firefighters lost their lives when a vacant building collapsed.¹⁷⁴ The "X"s are the result of a city ordinance passed in June 2012 which requires the city to locate and mark dangerous buildings.¹⁷⁵ The city assigns the mark to vacant or abandoned buildings that are deemed structurally unsound.¹⁷⁶ The objective is to indicate to firefighters and first responders that they must take precautions when responding to emergencies in those buildings.¹⁷⁷ The signs also serve to put potential trespassers on notice of dangerous conditions.¹⁷⁸

The Chicago Fire Department (CFD) is the agency tasked with marking buildings.¹⁷⁹ By June 2014, only 1,800 buildings had been selected and marked; a fraction of Chicago's stock of vacant and abandoned buildings.¹⁸⁰ CFD officials selected properties from a list maintained by the Department of Buildings that were deemed more than 35% deteriorated.¹⁸¹ Criteria used to select buildings to mark include structural damage, rotting, vandalism, previous fires, the overall integrity of the building, whether there are holes in the floor, or a porch or roof in poor condition.¹⁸²

The program suffers from some deficiencies that diminish its efficacy, namely, a lack of communication, clarity, and funding.¹⁸³ The red X symbol is intended to communicate dangerous conditions to the community and thereby save lives. However, there is indication that the Red X Program has caused confusion among those it is intended to protect.¹⁸⁴ The essential communication aspect of the program was

173. Bentley et al., *supra* note 84.

174. *Id.*

175. CHI. MUN. CODE §13-12-148 (2012); Bentley et al., *supra* note 84.

176. Bentley et al., *supra* note 84.

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

184. *Id.*

poorly implemented. Residents say they are unfamiliar with the meaning of the red X's.¹⁸⁵ Some residents believe that the X's are related to ownership of the property or that the buildings are marked for demolition.¹⁸⁶ There is no signage explaining the X. CFD officials said that they left it up to aldermen and their offices to publicize the purpose of the signs.¹⁸⁷ A major failure of this program is that residents do not know what it means.¹⁸⁸ Moreover, once the red X is in place, there may not be any support or planning for the building's future. The building remains stagnant, with a scarlet letter emblazoned upon it.¹⁸⁹

A final blow to the Red X Program is that it is no longer funded.¹⁹⁰ The City received a federal grant in the amount of \$675,000 from the Federal Emergency Management Agency to implement the program.¹⁹¹ All of that money is now gone and the City has not placed any new red X signs since July 2013.¹⁹² Many dangerous buildings remain unmarked and the City has not made efforts to refund the program.¹⁹³

IV. CHICAGO MUST EXTEND EXISTING POLICIES TO AGGRESSIVELY MANAGE AND REUTILIZE THE REGION'S STOCK OF ABANDONED BUILDINGS AND VACANT LAND

The City of Chicago and Cook County have been innovative in their approaches to dealing with vacancy and abandonment; however, according to the metrics discussed in Part II, these local governments are not winning the battle against blight. Local and state governments must develop more comprehensive and creative strategies so that Chicago may more aggressively manage and reutilize the region's vacant land and abandoned building stock.

There are a number of barriers to the effectiveness of existing policy approaches to vacancy and blight. The City of Chicago, Cook County, and the State of Illinois should seek to eliminate or address

185. *Id.*

186. *Id.*

187. *Id.*

188. *Id.*

189. *Id.*

190. Chris Bentley, *Chicago Quietly Phasing Out Red "X" Program*, WBEZ91.5 (Oct. 12, 2014), <http://www.wbez.org/series/curious-city/chicago-quietly-phasing-out-red-x-program-110924>.

191. Bentley et al., *supra* note 84.

192. *Id.*

193. *Id.*

these barriers via strategic legislative changes. First, there is a lack of solid quantitative data about the extent of vacancies and responsible parties. The precise number of vacancies in Chicago and in Cook County is still unknown. Local government must give attention to this dearth of data because identifying the extent of the problem is crucial to addressing it. Identifying responsible parties is also key to remedying the problem.

Second, the Cook County Land Bank may be one of the most powerful tools in the local government's arsenal, but it does not have a dedicated source of funding and exists only pursuant to a locally enacted ordinance. The Illinois General Assembly should seek to enact a state level land-banking enabling act and establish a dedicated funding source for the land bank.

Finally, in neighborhoods where the population is not going to return, the City and the County should engage in large scale area-wide planning, targeted demolition, and creative and adaptive reuse strategies. In the more viable areas of the city and county, local government should identify and accelerate the productive reuse of vacant land in ways that will catalyze development.

A. Chicago Should Modify Its Vacant Building Ordinance to Improve Vacancy Data

Ordinances that create vacant property registries vary in purpose and structure from city to city.¹⁹⁴ What these ordinances share, however, is that they create an opportunity for municipalities to collect, maintain, and use data that may otherwise be impossible to access.¹⁹⁵ This data, which includes statistics of property ownership, the nature of the vacancies, and the condition of the properties, is highly valuable to local governments. Cities can use the data to target programs to alleviate the negative impact of vacant properties, to track trends and identify areas that are highly impacted by vacant properties, to better understand the effects of vacancy, and to assist in long-term planning efforts.¹⁹⁶

Chicago must enhance its vacant property data collection methods, and it must do so by modifying its Vacant Property Ordinance. Chicago's existing vacant building registry has problematic gaps in its

194. BUITRAGO, *supra* note 16, at 2.

195. *Id.*

196. *Id.*

data. Many consider the data that the city collects through its Vacant Building Registry to be incorrect, outdated, and incomplete. For example, the Director of DePaul's Institute for Housing Studies, Sarah Duda, points to the fact that the city's data can be skewed by the fact that multi-family buildings require more permits and inspections than single-family units.¹⁹⁷

Another way that official vacancy data is collected and handled in Chicago is through the United States Postal Service (USPS). The USPS maintains property data on nearly every address in the nation.¹⁹⁸ Mail carriers compile and maintain a data set called the Address Management System that identifies parcel-level vacancies.¹⁹⁹ In 2004, the USPS established a partnership with the U.S. Department of Housing and Urban Development (HUD) to share its vacancy data.²⁰⁰ HUD is the only recipient of this information, but once it is geo-coded to the census block level to protect privacy, HUD shares the data with non-profit and research organizations that apply to access it.²⁰¹ For example, the Institute for Housing Studies at DePaul University receives long term vacancy data collected by the USPS and processed by HUD; the organization then uses the data to research patterns of blight in Chicago.²⁰² The Director of that organization points to the USPS data set as the best available for tracking and evaluating blight in the Chicago area.²⁰³

The City of Chicago must seek to collect and use this vacancy data in a more efficient, effective, and accurate manner in order to improve policy design and implementation. One approach the City could take to enhance its property registry is to model the USPS methodology for data collection. However, that approach is not likely to be feasible considering that the Department of Buildings²⁰⁴ has much

197. Kriston Capps, *USPS Mail Carriers Are Also Collecting Crucial Housing Data*, CITY LAB (May 20, 2014), <http://www.citylab.com/housing/2014/05/usps-mail-carriers-are-also-collecting-crucial-housing-data/371089/>.

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.*

204. The City's Department of Buildings is charged with maintaining the vacant building registry. *Buildings*, CITY OF CHI., <http://www.cityofchicago.org/city/en/depts/bldgs.html> (last visited Oct. 14, 2015).

less manpower than the USPS.²⁰⁵ Instead, the City should seek to integrate the USPS data set with its own property registry.

Additionally, Chicago should modify requirements of the registration ordinance to require owners to report whether a building has been reoccupied or demolished. It should require the data to be updated more frequently, to identify each property uniquely, and that contact information for a responsible party be available for each property. The ordinance could create a mechanism whereby information on a building's condition could be reported using mobile smart phone applications. The City should also create stronger enforcement mechanisms for non-compliance with these requirements.

The data generated by the City's registration requirements can help it monitor the effectiveness of the registry, to identify high concentrations of vacancies and repeat violators, and to understand the spillover effects of vacant buildings. By modifying its ordinance to close the data gaps, Chicago could do a better job at addressing the issues that arise as a consequence of vacant and abandoned properties.²⁰⁶

B. Illinois Should Enact State Level Legislation to Fund & Enable Land Banks

The Cook County Land Bank Authority (CCLBA) was established in 2013 as a tool for addressing vacant and abandoned properties through a regional approach. When the Cook County Land Bank was first proposed, advocates of its creation agreed that the County had the authority to create this entity in the absence of specific state enabling legislation. However, it was noted that it would be ideal for the state to enact state level legislation to firmly establish the state's commitment to land banking.²⁰⁷

The State of Illinois should seek to adopt a state land bank enabling act. State land bank statutes explicitly authorize the creation of local land bank entities and grant them appropriate authority to accomplish state and local policy goals. For example, Michigan created

205. See *Buildings: Leadership*, CITY OF CHI., http://www.cityofchicago.org/city/en/depts/bldgs/auto_generated/bldgs_leadership.html (last visited Oct. 14, 2015) (indicating Chicago's Building Department has a staff of 285 persons); *Size and Scope*, U.S. POSTAL SERV., <https://about.usps.com/who-we-are/postal-facts/size-scope.htm> (last visited Oct. 14, 2015) (USPS employs a staff of over 600,000).

206. BUITRAGO, *supra* note 16, at 8.

207. COMMENT ON COUNTY LAND BANK PROPOSAL (2012), <http://cafha.net/wp-content/uploads/2011/03/CAFHA-Comments-on-Land-Banking-7.30.12.pdf>.

land banks through what is widely considered the strongest state level land bank enabling act.²⁰⁸

To maximize the land bank's impact, provisions in state enabling legislation should provide for a broad range of funding options. As it stands now, CCLBA currently does not have a dedicated funding stream. It has no taxing power or county budget appropriation. The CCLBA relies on revenue from property sales and grant funds to support its operations. Michigan law enables land banks in the state to recapture 50% of the property tax revenues for the first five years after the transfer of land bank-owned property to a private party.²⁰⁹ This approach provides an ongoing income stream to the land bank. Illinois could structure its enabling statute in a similar fashion. The CCLBA and other land banks in the region and state will be more impactful and successful if they have a dedicated funding source. State and local policymakers should explore approaches to creating a sustainable source of funding for the CCLBA and other land banks in the state.²¹⁰

As the new owner of previously abandoned property, land banks must also manage potential liabilities. A state level enabling statute could include provisions immunizing land banks from liabilities that might arise in connection with owning abandoned property. Environmental liability is a particularly thorny issue for land banks and one that could be addressed by state land bank legislation. Many vacant and abandoned properties hold the status of being "brownfield" sites.²¹¹ Brownfields are underused or abandoned properties whose redevelopment or reuse is complicated by the presence or potential presence of hazardous substances, pollutants or contaminants.²¹² Currently, there is no state law that would protect the CCLBA from liability for environmental remediation costs associated with cleaning

208. SMART GROWTH AM., STATE POLICY TOOLKIT: STATE LAND BANK ENABLING LEGISLATION (2008), http://www.smartgrowthamerica.org/documents/sga_statepolicy_toolkit.pdf.

209. Tax Reverted Clean Title Act, MICH. COMP. LAWS § 211.1025 (2015).

210. BUITRAGO, *supra* note 16, at 4; see also Dory Rand, "Zombie" Properties Are On the Rise – But Here's How to Kill the Trend, CRAIN'S CHI. BUS. (Feb. 12, 2014), <http://www.chicagobusiness.com/article/20140212/OPINION/140219928/zombie-properties-are-on-the-rise-but-heres-how-to-kill-the-trend>.

211. See generally *Vacant and Abandoned Properties: Turning Liabilities Into Assets*, U.S. DEP'T OF HOUS. & URBAN DEV. (Winter 2014), <http://www.huduser.org/portal/periodicals/em/winter14/highlight1.html>.

212. *Cleaning Up and Restoring Communities for Economic Revitalization: Hearing Before the Subcomm. on Superfund, Toxics and Environmental Health of the S. Comm. on Environment and Public Works*, 113th Cong. 64 (2013) (statement of Geoff Anderson, President and CEO, Smart Growth America).

up contaminated properties that it acquires. This is a major disincentive for any land bank to take a brownfield site into its inventory. This is problematic because orphan sites are most in need of intervention and redevelopment that a land bank is best equipped to facilitate. A state land bank law could provide expedited liability protection to land banks in the redevelopment or management of brownfield sites. Liability protection or avoidance for land banks in the redevelopment of brownfields would further the mission of utilizing vacant and abandoned land.²¹³

In 2009, Illinois came close to enacting land bank legislation.²¹⁴ A bill made its way through much of the legislative process only to come up short before the legislature's session ended. The time has come for Illinois lawmakers to continue that work.

C. Chicago Should Use Strategic Demolition to Reshape Neighborhoods and Accelerate the Productive Reuse of Resulting Open Land

"For the larger body—the neighborhood—to survive, you have to remove those cancer cells," said Frank Ford, a policy adviser for the Thriving Communities Institute, a Cleveland non-profit.²¹⁵ When residents leave and do not return, cities need to reorganize themselves strategically. Targeted and strategic demolition is an approach that Chicago should use to reshape neighborhoods in those parts of the city where the market has failed and population is not projected to return. Moreover, where rehab costs drastically exceed demolition costs of homes, great weight and consideration should be put towards this approach.

Cleveland provides an instructive example of this approach. It plans to demolish nearly 6,000 abandoned homes and will seek to convert the empty lots into parks, greenhouses, and vineyards.²¹⁶ The city has found this approach to be so effective in eliminating blight that

213. *Id.* at 65–67 (statement of Geoff Anderson). Cleaning up brownfield sites is incredibly beneficial to local economies. Every \$1 invested in brownfields redevelopment leverages \$18 in private investment, and redeveloping one acre of contaminated land creates an average of 10 jobs. Cleanup and redevelopment of brownfields can increase surrounding property values by as much as 15 percent.

214. H.B. 1195, 96th Gen. Assemb., Reg. Sess. (Ill. 2009).

215. Les Christie, *Cleveland's Plan to Destroy Nearly 6,000 Homes*, CNNMONEY (Nov. 13, 2014), http://money.cnn.com/2014/11/13/real_estate/cleveland-destroying-homes/index.html?iid=HP_River.

216. *Id.*

in October 2014, Cuyahoga County²¹⁷ issued a \$50 million bond in order to demolish another 5,000 houses.²¹⁸ Ohio is not alone in applying this approach. Michigan is using \$175 million in federal dollars it received from the Hardest Hit Fund to demolish homes in sixteen cities.²¹⁹ In Detroit, home to approximately 80,000 abandoned properties, 250 homes are being demolished a week.²²⁰ Gary, Indiana plans to demolish 700 of its 8,000 vacant homes and buildings.²²¹

Many cities are employing the strategy of targeted demolition to rid neighborhoods of blighted and distressed properties. However, if this strategy is employed, a plan must be in place for what to do with the vacant land after the structures are removed. While a vacant lot may be better than a dangerous vacant structure, the demolition strategy falls short of returning the property to productive reuse or returning the land to the tax roles.

In other Rust Belt cities that employ targeted demolition, creative strategies are in place to put the properties back in to productive use. For example, Cleveland has promoted reuse of lots as food production facilities or urban farms.²²² Detroit is also conducting numerous experiments to replace vacant buildings and lots with urban farming operations.²²³ Urban farming on vacant land is not new to Chicago. In 2013, the City launched Farmers for Chicago, a program that made five acres of city-owned vacant lots available for urban farming activity.²²⁴ Farming vacant urban land is an important and extremely productive reuse of the land, as food deserts often occur in areas with

217. Cleveland sits in Cuyohoga County.

218. Christie, *supra* note 215.

219. *Hardest Hit Fund*, U.S. DEP'T OF TREASURY, <http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/hhf/Pages/default.aspx> (last visited Oct. 14, 2015). First announced in February 2010, the Hardest Hit Fund is a program of the U.S. Department of Treasury which provided \$7.6 billion in aid for homeowners in the eighteen states hit hardest by the economic crisis. State housing finance agencies have used the fund to develop programs to help stabilize local housing markets and help families avoid foreclosure.

220. Christie, *supra* note 215.

221. *Id.*

222. *Id.* The City offered a three-quarter acre lot to Mansfield Frazier in order for him to found a vineyard. Frazier excavated and planted the land with the help of the community, including residents of a nearby halfway house and college professors from Case Western University. Frazer says that the vineyard has had a positive impact on the neighborhood.

223. Jeremy Allen, *University of Michigan Graduate Student Uses Vacant Detroit House for Urban Shrimp Farming*, MLIVE (Aug. 10, 2014), http://www.mlive.com/news/ann-arbor/index.ssf/2014/08/university_of_michigan_graduat_19.html.

224. Linda Seggelke, *That Land's Not Vacant, It's Fallow: Creating More Community Gardens in Chicago's Food Deserts*, SUSTAINABLE CHI. (Mar. 20, 2013), <http://www.sustainable-chicago.com/2013/03/20/that-lands-not-vacant-its-fallow-creating-more-community-gardens-in-chicagos-food-deserts/>.

many vacant lots.²²⁵ A food desert is an area where access to groceries and fresh food is severely limited.²²⁶ Food deserts plague Chicago's south and west sides.²²⁷ Adopting policies to promote and expand urban farming in Chicago will do double duty in addressing both vacant land and food deserts.

In both Cleveland and Milwaukee, local governments plan to promote the reuse of vacant lots for stormwater management by reusing basements of demolished homes as stormwater cisterns or urban rain gardens.²²⁸ Chicago should strongly consider and study this approach because the city's urban flooding is chronic and costly.²²⁹ In fact, Chicago Public Schools (CPS) in partnership with the Chicago Metropolitan Water Reclamation District (MWRD) and OpenLands, are experimenting with a similarly innovative approach to managing stormwater runoff. CPS plans to convert existing asphalt schoolyards from impermeable surfaces to permeable rain gardens in order to reduce stormwater runoff.²³⁰ Chicago should consider comparable policies throughout city-owned vacant land and abandoned building stock. Demolishing abandoned structures and converting their basements into permeable rain gardens could reduce the flooding burden on occupied homes by directing excess runoff to vacant land, while putting the vacant land to productive reuse.

Chicago's Large Lot Program is another initiative that could put vacant land back into productive use.²³¹ Chicago Mayor Rahm Emanuel launched this initiative in March 2014.²³² It offers city-owned

225. *Id.*

226. *Id.*

227. *Id.*

228. Lorena O'Neil, *Milwaukee Finds a Fix for Stormwater Overflows: Abandoned Basements*, NPR (Aug. 12, 2014), <http://www.npr.org/2014/08/12/339633247/milwaukee-finds-a-fix-for-stormwater-overflows-abandoned-basements>; see also Matt Hickman, *Foreclosed Homes: Stormwater Management's Secret Weapon?* MOTHER NATURE NETWORK (Aug. 27, 2014), <http://www.mnn.com/your-home/at-home/blogs/foreclosed-homes-stormwater-managements-secret-weapon>.

229. CTR. FOR NEIGHBORHOOD TECH., *THE PREVALENCE AND COST OF URBAN FLOODING: A CASE STUDY OF COOK COUNTY, IL* (2014), <http://www.cnt.org/2013/05/14/urban-flooding-is-chronic-and-costly-but-not-correlated-with-floodplains/>.

230. See *Space To Grow Green Schoolyard Partnership*, METRO. WATER RECLAMATION DIST. OF GREATER CHI., <https://www.mwrdd.org/irj/portal/anonymous?NavigationTarget=navurl://4f993c4ebb27f948bfac30f70b0f6a7e> (last visited Oct. 14, 2015).

231. *Mayor Emanuel Introduces Proposal to Approve 320 'Large Lot' Land Sales in Englewood for \$1 Each*, CITY OF CHI. (Oct. 8, 2014), <http://www.cityofchicago.org/city/en/depts/dcd/provdrs/sustain/news/2014/oct/mayor-emanuel-introduces-proposal-to-ap-prove-320-large-lot-land.html>.

232. *Id.*

vacant lots to local residents, block clubs, and community organizations for \$1 per lot.²³³ Due to the abundance of vacant land in the Greater Englewood neighborhood, that neighborhood was selected for the roll out of that program.²³⁴ The City hopes that the program will allow residents to clean up vacant lots and transform them into community assets.²³⁵ Chicago also envisions the Large Lots Program as an opportunity for community groups to create more affordable housing on formerly vacant, city-owned land.²³⁶ The Large Lots Program is a pragmatic strategy on the part of the City of Chicago to get vacant land back into private hands and on city tax rolls. The program should be tracked and evaluated and should be expanded to other neighborhoods in Chicago.

Another option for addressing neighborhoods that suffer from abandonment and shrinking population is to go beyond simply refilling the empty space left after targeted demolitions.²³⁷ The Smooth Growth redevelopment strategy proposes reshaping the urban landscape of neighborhoods that undergo targeted demolition.²³⁸ Chicago urban planner Marshall Brown proposes that the glut of vacant land is in fact an opportunity to bring “country living” to the middle of Chicago.²³⁹ Brown proposes that this leftover land has value, but the urban form must be modified in order to extract that value.²⁴⁰ Smooth Growth involves making physical changes to the landscape to accommodate the lower population density.²⁴¹ He proposes bundling vacant lots on a block so that residents could collectively manage them.²⁴² He also suggests moving away from the traditional street grid that is

233. *Id.* (explaining that applicants were required to own property on the same block as the lot they were purchasing, to be current on property taxes, and have no financial obligations to the city).

234. *Id.* (noting that Englewood has 4,000 city owned vacant lots).

235. *Id.*

236. *Id.*

237. See Natalie Moore, *Smooth Growth: A Challenge to Traditional Urban Redevelopment*, WBEZ91.5 (Oct. 31, 2013), <http://www.wbez.org/news/smooth-growth-challenge-traditional-urban-redevelopment-109053> (describing how Marshall Brown seeks to challenge the conventional ideas that these neighborhoods should seek to repopulate, proposing that there is value in open land if the urban form can be reconfigured).

238. *Id.*

239. *Id.* (explaining that Washington Park, formerly a wealthy enclave, has experienced a decline in population over the past four decades from 46,000 to 12,000 and that the neighborhood is a candidate for the application of smooth growth principles).

240. *Id.*

241. *Id.*

242. *Id.*

now in place and replacing them with curvilinear streets and increased open space, in order to make the land look less empty.²⁴³ Vacant land could be transformed to parks or bicycle lanes. This approach demonstrates that there are other options for vacant land than simply attempting to repopulate. This is particularly useful for neighborhoods that cannot realistically expect or predict population growth.

CONCLUSION

The Chicago region was hit hard by the foreclosure crisis. After residents were forced to leave their homes, banks failed to adequately market, maintain, and secure the vacated structures. Thieves subsequently entered many of these abandoned buildings and stripped them of anything of value. This cycle has left neighborhoods on the south and west sides of Chicago gutted, leading to an increase in crime, a decrease in property values, and an intensification of fiscal stress on local governments.

The City and the County have struggled to address this crisis. Chicago has employed one of the strictest Vacant Building Ordinances in the country. Cook County has enacted an ordinance to establish what will become the largest land bank in the nation. Still, these policies have not yet been successful in stemming the tide of vacancy and abandonment. Local governments in the Chicago region must expand existing policies in order to aggressively manage and reutilize its stock of abandoned buildings and vacant land. The challenge for local government looms large here, but in some ways it presents opportunities for the City to reinvent itself. As Chicago's Mayor Emmanuel has said, "We have challenges in Chicago We can't wish them away [But, e]very challenge offers an opportunity."²⁴⁴

243. *Id.* ("Instead of just looking at these things as liabilities, let's flip it around and say this is the opportunity. If you had all this open space, what would you do with it?") (quoting Bridget Gainer, the Cook County Commissioner who spearheaded the creation of the Cook County Land Bank); see also *Razed in Chicago*, *supra* note 150 (noting per Marshall Brown that this change would require collective management of the land, similar to homeowners associations in the suburbs).

244. Austen, *supra* note 23.

