




## MEMORANDUM

**DATE:** January 18, 2023  
**TO:** Economic and Community Development Committee  
**FROM:** Colin Tarbert, President and CEO   
**POSITION:** Favorable  
**SUBJECT:** Council Bill 22-0135R

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### INTRODUCTION

The Baltimore Development Corporation (BDC) is reporting on City Council Bill 22-135R introduced by Councilmembers Porter, Ramos, Bullock, Stokes, Cohen, and Burnett.

### PURPOSE

FOR the purpose of holding an investigative hearing, specifically with the Department of Housing and Community Development Code Enforcement Division and the Department of Planning Division of Community Planning and Revitalization, regarding vacant, unoccupied and abandoned non-residential properties.

### BRIEF HISTORY

The Baltimore Development Corporation (BDC) strongly believes that commercial areas are the lifeblood of communities. Throughout Baltimore, local commercial areas are where people go to run errands, get haircuts, or spend time with friends and family outside home and work. A strong Baltimore is a city that is made up of rich connections between commercial areas and the surrounding residential neighborhoods that they serve.

A healthy commercial area is primarily defined as one where:

1. The stores are occupied and vacancy is low;
2. A variety of goods and services are available to support the surrounding neighborhoods;
3. The area is clean, safe, and well maintained to attract customers and maintain a positive social environment.

Vacant, unoccupied, and abandoned non-residential properties are one of the most serious degrading influences on commercial areas. While BDC does not collect or keep data on code violations, vacant properties, or other data points requested of the Departments of Housing or Planning, we have begun preliminary work to develop a Commercial Area Needs Assessment framework that can be adopted to communities throughout the City. Non-residential vacancy has quickly emerged as a critical indicator of commercial area health, and as BDC continues to develop this framework, we expect the ongoing work in commercial areas will be a specific focus on strategies to reduce commercial vacancy. In this vein, this investigative hearing by the Council is both timely and welcome.

As the City looks to better understand the current conditions around vacant commercial property, BDC would like to offer a number of reasons that we have seen vacancy emerge and persist in the City.

1. **Cost of Rehabilitation/Insufficient Rents:** For unoccupied buildings in need of significant renovation, it is often the case – especially in commercial areas with insufficient density and customer traffic – that the properties may not be able to command high enough rents after renovation to support the cost of the renovation.
2. **Insufficient Market:** There is an adage that “retail follows rooftops,” the implication being that retail stores locate – and can only succeed – in areas that have sufficient customers to support them. Many of Baltimore’s commercial areas have suffered a similar fate of abandonment to their constituent residential areas and as the customers left the businesses could not sustain operations. Furthermore, as businesses left, the area became less appealing for new residents, leading to a cycle of structural vacancy in both the commercial and residential areas.
3. **Cost of Code Compliance/Permitting Obstacles:** Occupied buildings that are not undergoing renovation are, in many cases, able to occupy the space without the need to comply with current building code requirements. These requirements are in place to protect public health and safety. However, they can also be very expensive and time consuming to comply with, for either a property owner or prospective business (or both). The need to perform required building upgrades serves as a deterrent for currently occupied buildings to take on improvements or new uses, and may also prevent the owner of an unoccupied building from investing the necessary resources into attracting a new occupant.

For businesses, the time and cost of compliance may be a significant barrier to occupancy compared to an alternative location that may be more “move-in ready.” This issue also inhibits the temporary activation of retail storefronts – the ability to place seasonal or temporary “pop-up” stores, is limited to only those spaces that are already fully code-compliant. There is not a mechanism to allow for “temporary” occupancy for commercial spaces that may be good candidates for businesses, but for which the owner has not yet determined if the investment is worthwhile.

4. **Property Speculation and Tax Shelter:** Many owners of vacant properties are able to speculate and/or benefit from, the property’s unoccupied status. Real estate speculation is a long-standing issue where the buyer of vacant property purchases it at a low cost, and with minimal ongoing investment, in anticipation that the neighborhood will “turn around” and that the property will appreciate without any additional investment from the owner. In addition, some owners of vacant property use these speculative purchases as a tax shelter, where they are able to write off the losses associated with these properties to offset gains on other real estate investments. As long as these properties produce an ongoing tax benefit for the owner, there is no incentive to invest in the property or manage it as a functional real estate asset.

Furthermore, many of these properties are owned by single-purpose LLCs, which shield the owners of the property from significant repercussions (consequences that extend beyond the risk of losing control of the property through receivership or other means). It is not uncommon that the value of a property may be so low, that any investment required by the owner to remediate code violations, secure the property, demolish unsafe structures etc., exceeds the value of the property and is not worth doing. It is *more advantageous* for an owner to let the

property be taken away than to improve its condition, in part because beyond taking possession of the property, there is no legal recourse against the property owner for failing to remediate the disrepair.

5. Lender/Capital requirements: Though more common in new developments and less so in the long-term commercial vacancy facing Baltimore, it is new common that lenders on properties expect rents to be in line with the financial projections they used to underwrite the loan. This may restrict an owner from reducing rents on the property to attract a tenant, for fear of it devaluing the property in the eyes of the lender.

Ultimately, commercial areas must be places where businesses can profitably operate. That means that the area must be safe and inviting to a sufficiently large customer base; the rent must be affordable to the business, but high enough to encourage landlord investment; and the burdens of occupancy – the cost and time of complying with permitting and regulatory requirements -- must be able to be absorbed by the business or landlord.

As Baltimore seeks to reduce vacant non-residential space, we will need every legal, legislative/regulatory, and financial tool to try to address these issues in order to incentivize the use and occupancy of vacant space, and to disincentivize or penalize the persistence of their vacancy.

**FISCAL IMPACT [to BDC]**

None.

**AGENCY POSITION**

The Baltimore Development Corporation respectfully requests a **favorable** report on City Council Bill 22-0135R. If you have any questions, please contact Kim Clark at 410-837-9305 or [KClark@baltimoredevelopment.com](mailto:KClark@baltimoredevelopment.com).

cc: Nina Themelis, Mayor's Office of Government Relations  
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