



## MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council  
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Housing Commissioner

Date: July 11, 2023

### **Re: City Council Resolution 23-0153R Investigative Hearing - Vacant Building Water Shut Offs**

The Department of Housing and Community Development (DHCD) has reviewed City Council Resolution 23-0153R for the purpose of inviting representatives from the Department of Public Works, the Department of Housing and Community Development, and the Department of Real Estate, the Baltimore Fire Department, and the Office of the City Administrator to report on why Section 116.4.6 of the Baltimore City Building Code, which requires the Department of Housing and Community Development to inform the Department of Public Works that there is a vacant building and that the water must be shut off, is not being implemented, the impact of not implementing this section of the Building Code, and a path toward implementation.

DHCD is pleased to participate in an Investigative Hearing on the existing processes and procedures for the water turn off to vacant buildings as well as recommendations for a path towards implementation.

#### **Existing Law**

Section 116.4.6 of existing law requires Notice to Public Works whenever the Building Official determines a structure to be vacant, the Building Official must promptly notify the Director of Public Works of that determination. On receipt of the notice, the Director of Public Works must proceed to cut off water service, as provided in City Code Article 24, § 2-3 {"Cut-off for nonpayment"}.

Article 24 prescribes that if a structure for which a bill is in arrears is a vacant structure, as defined in Baltimore City Building Code § 116.4 {"Vacant structures"}, the Department shall proceed as follows:

- (i) for a structure that has an accessible water meter, the Department shall cut off the water to the premises; or
- (ii) for a structure that does not have an accessible water meter, the Department shall cut off the water to the premises if damage to adjacent property is imminent or demolition of the property is planned.

### **Current Practice**

DHCD's current practice for referral to DPW varies on a case-by-case basis. There are some cases where an immediate water cut-off is not warranted, for instance, if a property is newly vacant and the notice is likely to be abated quickly, the water cut off could delay the rehabilitation of a property. There are other cases where an expeditious cut off is necessary such as when we become aware of a water leak, burst pipe, squatter issue or other hazards. In those cases, we typically contact DPW's Waste Water Division directly.

The existing processes and procedures around vacant cut offs are a challenge on many levels including our legal authority to do so and in what circumstances. While we have the authority to turn the water off to a vacant property, we do not have the authority to go in and remove the meters. As a result, it is fairly easy for someone with basic knowledge of meter vaults to turn the water back on at any time and turning off the utility alone won't necessarily make the property un-inhabitable.

Cutting off water prematurely could also impact DHCD's Development work. The accumulation of various liens, including water liens can help make a property eligible for Tax Sale or In Rem Tax Foreclosure. Additionally, you wouldn't want to create a barrier or punishment for someone winterizing their home or in the process of active redevelopment.

### **Cross-agency Water Shut-offs at Vacant Properties Workgroup**

DHCD is working in ongoing coordination with the Mayor's Office, DPW and the Law Dept to develop a strategic approach to shutting off the water to vacant homes. Agency partners began meeting in 2022 in an informal *Cross-agency Water Shut-offs at Vacant Properties Workgroup* to develop a proposed tiered methodology to address water cut-offs to vacant properties in a systematic and structured approach. Some of the objectives of the working group are to discuss ways to:

1. Prevent water damage to existing vacant structures due to burst pipes
2. Decrease the risk of water damage to next door neighbors
3. Decrease the risk of attracting squatters by cutting off the water

### **Methodology**

The tiers were created with the goal of not impeding rehabilitation of vacant properties. For example, properties that are scheduled for demolition are not going to be rehabbed so they are included in Tier 1 which is the first group for cut-off. On the other hand, vacant buildings with open permits are likely being rehabbed so those properties will not be considered for cut-off until all the other tiers are processed.

### **Review of tiers –**

- 1 - Demolition Pipeline
- 2 - VBN Issued > 10 Years ago; no open permits; deed date > 1 year old
- 3 - VBN Issued > 5 Years ago; no open permits; deed date > 1 year old



4 - VBN Issued less than 5 years ago; no open permits; not in DHCD project area (Impact Investment Area, Major Redevelopment Area, Community Development Zone, Development Division Project)

5 - All remaining VBNs

Priority	Council District														Total
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	
1				1	2	52	55	3	249	7	12	50	46	21	498
2			1	4	38	334	541	19	1519	90	188	595	345	101	3775
3	1	12	5	21	43	221	426	80	879	146	110	339	234	82	2599
4	84	65	62	107	36	96	608	199	1286	299	45	217	285	90	3479
5	62	53	22	54	112	532	472	76	824	272	182	722	811	303	4497

### Conclusion

DHCD is committed to working with the Department of Public Works and the Administration to continue to discuss how to lessen the risks vacant properties may pose by a coordinated response to water shut-offs. We are pleased with this opportunity to consider any proposed revisions to the rules or regulations to give us more authority to address this persistent problem.

DHCD **does not object** to the passage of City Council Resolution 23-0153R.

AK/sm

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