



MEMORANDUM

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

From: Alice Kennedy, Acting Housing Commissioner ak

Date: June 22, 2021

Re: City Council Resolution 21-0037R – Informational Hearing – Studying Options to Rid Baltimore City of Vacant Properties

The Department of Housing and Community Development (DHCD) has reviewed City Council Resolution 21-0037R, for the purpose of inviting representatives from Baltimore City Law Department, DHCD, and the Department of Health to discuss the feasibility of certain specific recommendations to more efficiently and rapidly improve the ability of Baltimore City to remedy vacant dwellings.

The City of Baltimore has around 15,400 vacant buildings, approximately 1,300 of which are city-owned. Vacant properties are a hazard to communities' wellbeing and hinder neighborhood growth and revitalization. DHCD has multiple tools to address vacant properties, catalyze development, and combat blight. Using the tools laid out below, DHCD is proactively addressing vacant properties using our Community Development Framework, which identifies Impact Investment Areas in Baltimore that have a high need for intervention. It is vital to recognize that vacant properties are concentrated in historically disenfranchised neighborhoods and continue to serve as a reminder of the systemic racism faced by our city's Black residents and homeowners.

DHCD Tools to Address Vacant Properties

Demolition - In most cases, DHCD opts to stabilize properties instead of demolishing them to allow for future development and maintain Baltimore's unique building façades. When necessary, DHCD leverages funding from the State's Project CORE to accelerate the pace of demolition. The City conducted 257 demolitions in 2015 and that number rose to 1097 in 2020. Under Project CORE, the State has committed \$75 million and the City has committed \$18.5 million to demolish blighted properties and help catalyze future development.

Code Enforcement & Receivership - is a tool to hold owners of vacant properties accountable and compliant with City code. When an owner fails to make their vacant property code-compliant by demolishing or rehabilitating, DHCD can utilize receivership by which the courts transfer the properties to a 3rd party receiver. The receiver conducts public auctions, where pre-approved bidders bid on properties with intent to bring properties back to productive use.

Receivership is not a Community Development tool; it is a blight elimination tool that is appropriate for some privately-owned vacant properties. When a property meets the statutory

Brandon M. Scott, Mayor • Alice Kennedy, Acting Housing Commissioner

417 East Fayette Street • Baltimore, MD 21202 • 443-984-5757 • dhcd.baltimorecity.gov



definition of a vacant, the City can sue the owner to have the property appointed to a receiver who will sell, rehab, or demolish the property. The City does not control the process, nor does the City at anytime take ownership to a property during the receivership process. It is important to note that DHCD works with affected communities to identify properties suitable for receivership but does not control who is appointed as receiver and what is done with the property.

- The typical time frame for a property to be successfully transferred to a new owner is 240 days.
- The data below demonstrates the receivership pipeline from receiverships filed to U&O permits filed on the property. When a U&O permit is filed on a property, it is assumed that the property is ready to be occupied.

	Receiverships filed	Sold at auction
CY 2016	460	180
CY 2017	452	191
CY 2018	464	171
CY 2019	477	165
CY 2020	90	197

	Work permits on properties “received”	U&O permits on “received” properties
CY 2016	53	138
CY 2017	106	115
CY 2018	97	74
CY 2019	79	72
CY 2020	81	63

Tax Sale – DHCD can acquire titles to vacant lots and buildings by foreclosing on the tax lien certificates that the City holds. In accordance with Maryland law, the Department of Finance holds an annual Tax Sale, in which investors may purchase tax lien certificates and ultimately, the right to collect from owners. If the owner doesn’t pay, the certificate can be foreclosed, and the purchaser can obtain the title. Many private sector investors buy tax lien certificates every year, and sometimes file foreclosure cases if the owners don’t pay the liens. Many certificates to vacant buildings have a high lien to value ratio and thus are not purchased by investors at tax sale. In this case, the City becomes the holder of the certificate, and can file a foreclosure case to obtain the title to the vacant property in the name of the Mayor and City Council. DHCD only forecloses on vacant buildings and lots, and is careful to consult with communities to avoid affecting long term homeowners. While this tax sale foreclosure tool is a cost-effective way to obtain title to vacant properties, the timeline can be long. In foreclosure cases, the certificate holder must go through an extensive notification process to owners and other interest holders,

and the City's foreclosure cases are just a fraction of a very large number of such cases moving through the Circuit Court.

In Rem Tax Foreclosure – In April 2020, DHCD introduced a Bill to enact an Ordinance allowing for *in rem* foreclosure of vacant, high tax-lien properties. This ordinance was passed by the city council and enacted in September 2020, as city council ordinance #20-393. It allows the City to pursue tax lien foreclosure and forego the tax sale and tax certificate system for vacant buildings and lots at DHCD's request. This process still requires the same due process and notification to owners as the Tax Certificate process, but the City can initiate the process at any time for qualifying properties. The functional application of this legislation is DHCD will be able to acquire properties for redevelopment and assemble parcels much more efficiently than the current system. A major delay in acquisition by tax sale is it operates on a multi-year timeline and tax certificates expire after 2 years, which requires the City to wait until the next tax sale for a new certificate to be issued if a foreclosure action is not filed while the certificate is valid. Since there are thousands of vacant buildings and lots that cycle through successive tax sales, most certificates will expire before the city can file a foreclosure action. The in-rem tool will allow the city to file on vacant properties at the time of its choosing, without waiting for expired certificates to be reissued in successive years. This process will still likely be subject to court delays, but it may turn out to have a faster foreclosure timeline than tax sale foreclosure once a case is filed. This legislation is novel to Baltimore and is in the process of being implemented. DHCD will file three initial pilot cases this summer and has identified 30 additional properties to foreclose on using this new in rem tool.

Vacant Property Owner Information – DHCD has recently implemented Bill 19-0429 – “Posting Owner Information on Vacant Structures”. This legislation allows for more transparency by providing public contact information for owners of registered vacant properties. With public engagement, DHCD hopes that community pressure in addition to code enforcement action on these properties will lead to more accountability by owners. Public education of vacant properties and how city residents can be engaged in the process is vital to DHCD's efforts.

Agency Response to Resolution 21-0037R

Creating and Implementing a Sliding Scale of Fines

The Resolution asks about the feasibility of creating and implementing a sliding scale of fines on unstable vacant property owners. After a vacant building notice is placed on a property and the owner fails to take the necessary steps to abate the notice, a failure to abate notice can be issued to the property owner which results in a \$900 fine. An owner can receive a failure to abate notice every 10 days. Most property owners don't have the ability to sell or rehab, so continually fining an owner is not always a successful tool in addressing vacant properties and is only useful for a small percentage of property owners.

If we set fines above the current levels, we put vacants under rehab at risk by making it more difficult to finance the rehab. For vacant properties that can't be rehabbed because there is no



owner, too much debt or market issues, it just adds to the debt and most likely no one is paying the taxes or liens in the first place. For vacant properties teetering between being rehabbed and being abandoned, additional fines may push the property owner towards abandonment.

Improving the Receivership Process

The Resolution asks about ways to improve the receivership process. The process itself is guided by mandatory due process requirements. Delays may occur if there is an inability to find a willing receiver for the property or more recently, COVID related delays caused by court closures. DHCD does not control the outcome of the receivership process or who purchases the properties. DHCD can't require that the purchaser offer the property as owner occupied as opposed to rental once it is rehabilitated. Currently, 400-500 receivership cases are filed a year. DHCD could have capacity to increase to 700-800 properties a year with additional staffing. We estimate 150 additional filings per attorney and half a paralegal. There are also delays with the title processors. As title processors have more financial incentive to do private sector work over City work, there are delays in obtaining a title. If the City had its own title processor, DHCD may be able to expedite the process.

Creation/Implementation of a tax on vacant properties

Creating and implementing a tax on vacant properties will have a varied effect on owners and potential developers. There are vacant properties that will be vacant for only 6-12 months and those that will always be vacant unless demolition, receivership, or acquisition is utilized. By implementing a tax, there is less incentive for developers, especially smaller developers, to invest and rehab the property. The margins of profit for rehabbing a vacant property are slim and by implementing a new tax, this might dissuade developers with fewer resources.

Code Enforcement – Issuance of Fines and Other Penalties

As stated above, DHCD Code Enforcement can issue failure to abate notices of \$900 every 10 days. If the City wanted to issue higher or more frequent fines, it may have negative impacts on most property owners. It is likely that the fines will add to the total amount of liens on the property and they will not be paid. It will also likely push property owners toward abandonment.

DHCD Recommendations

While DHCD possesses many tools to address vacant properties, the most significant way to address high rates of vacancy is to prevent future vacant properties. Often times, unpredictable events can occur and an estate's deed is not directed to the correct person within the family. Constituents can plan out their estate and help prevent their property from going vacant by working with organizations such as *My Home, My Deed, and My Will*, who partner with Maryland Department of Housing and Community Development to provide free legal assistance for low-income property owners to create an estate plan. Increasing funding for low-income home repair programs can also prevent blight and vacancy, while maintaining affordable housing units. Stabilization and demolition are our most common tools in ridding the City of vacant properties, additional funding for these efforts will help rid Baltimore City of vacant properties.



DHCD **supports** the passage of City Council Resolution 21-0037R.

AK:mn

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