

RECLAIMING ABANDONED PENNSYLVANIA

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The Pennsylvania Low Income Housing Coalition was formed in 1985 to ensure that all Pennsylvanians, particularly those who have low incomes, have access to decent, safe, affordable, and accessible housing. The Coalition is a 501(c)(3) and (4) corporation with over 300 individual and organizational members statewide, most of whom are housing consumers, advocates, producers or providers. The Coalition conducts research, education and outreach to advance solutions to Pennsylvania's affordable housing crisis.

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Table of Contents

<u>2</u>	Executive Summary	
<u>4</u>	Introduction	
<u>7</u>	Existing State Law Provides Fundamental Acquisition and Disposition Tools	
<u>12</u>	Ten Recommended Reforms	
	State Reform One	12
	<i>Create a Statewide Inventory of Abandoned Residential Property Using Agreed Upon Procedures and Definitions</i>	
	State Reform Two	13
	<i>Promote the Effective Acquisition, Assembly and Disposition of Abandoned Properties on a Large Scale Through the Use of Land Banks, Sideyard Programs and Other Best Practices</i>	
	State Reform Three.....	16
	<i>Introduce Hardship Waiver for Low Value Homes to Medicaid Estate Recovery Program</i>	
	State Reform Four.....	18
	<i>Modernize the Tax Liens Act To Make Foreclosure An Effective Land Acquisition Tool</i>	
	State Reform Five	21
	<i>Reform Eminent Domain Law to Streamline Process and Permit Just Compensation Reserves To Be Accurately Calculated and Reinvested If Unclaimed</i>	
	State Reform Six	24
	<i>Increase Owner Accountability to Encourage Property Donation</i>	
	State Reform Seven	26
	<i>Establish a Private Right of Action To Empower Neighbors to Initiate Legal Action to Address Blight and Abandonment</i>	
	State Reform Eight.....	27
	<i>Create a Smart Rehabilitation Building Subcode</i>	
	State Reform Nine	28
	<i>Reduce Time for Possession to 10 Years Under Adverse Possession Law</i>	
	State Reform Ten.....	30
	<i>Provide Funding and Incentives for Property Maintenance</i>	
<u>31</u>	Conclusion	
<u>33</u>	Glossary of Terms	
<u>34</u>	Source Notes	

Executive Summary

This Pennsylvania Low Income Housing Coalition ("The Housing Coalition") report examines the state's role in reclaiming vacant and abandoned residential property. The Housing Coalition analyzes Pennsylvania's current legal framework for the acquisition and disposition of abandoned property, explores state-level barriers to bringing abandoned property into productive reuse, and identifies reforms in law, policy and programs that will help its largest municipality, Philadelphia, recycle its formidable acreage of underutilized land. While the focus of the study is Philadelphia, many of the findings are relevant to the state's smaller cities and boroughs, which together with Philadelphia house half the state's population.

Throughout the latter half of the 20th Century, Philadelphia and many of Pennsylvania's other 54 cities and 962 boroughs saw precipitous declines in population, a shrinking tax base, concentrated poverty and a stagnant housing market. After 50 years of decline, housing abandonment has become a major challenge facing our boroughs and cities across the state. Although a great deal of attention has been given to the need for local governments to reform their property acquisition and disposition processes, little attention has been dedicated to exploring the role of state law and programs in facilitating or impeding local redevelopment efforts, and we hope that this report helps to fill that gap in knowledge.

What do we mean by an abandoned property? For the purposes of this report, abandoned property is defined as a chronically vacant and uninhabitable property, for which the owner is taking no active steps to return to the market.

Two state laws vest Philadelphia with the power to take control of abandoned properties: (1) *Municipal Claims and Tax Liens Act of 1923*, 53 P.S. § 7101 et. seq. (as amended 1956) ("*Tax Liens Act*") which authorizes the city to sell tax-delinquent properties at sheriff's sale to recover unpaid municipal debts; and the (2) *Pennsylvania Urban Redevelopment Law (P.L. 991, May 24, 1945, as amended) Act 1978 - 94*

of the Pennsylvania General Assembly ("The Urban Redevelopment Law") which permits the city's Redevelopment Authority to acquire blighted residential properties through eminent domain. Together, these laws give Philadelphia the fundamental tools needed to acquire, hold, and transfer parcels of vacant land.

An analysis of existing state law reveals the fact that Philadelphia has the fundamental powers it needs to acquire abandoned properties from negligent owners, to insure and maintain them during temporary municipal ownership, and to convey them to responsible owners. Yet modernizing and expanding these tools will allow municipalities to address abandonment proactively, efficiently, and cost effectively.

We Have Identified 10 Reform Opportunities That Will Help Philadelphia Transform Abandoned Properties Into A Competitive, Developable Product.

1. CREATE a Statewide Inventory Of Abandoned Residential Property Using Agreed Upon Procedures And Definitions

Pennsylvania needs an inventory of all abandoned properties in order to understand the scope of abandonment in its communities and to identify potential redevelopment opportunities.

2. PROMOTE The Effective Acquisition, Assembly And Disposition Of Abandoned Properties On A Large Scale Through The Use Of Land Banks, Sideyard Programs And Other Best Practices

Pennsylvania is in a unique position to increase the capacity of its local governments to address abandonment by providing wide-ranging technical assistance to its cities, towns and boroughs on comprehensive approaches to abandonment, such as the creation of a land bank, effective sideyard programs, and better use of existing

legal, policy and funding tools to speed the transfer of abandoned properties.

3. INTRODUCE Hardship Waiver for Low Value Homes To Medicaid Estate Recovery Program

Pennsylvania's Medicaid Estate Recovery program causes a lien to be placed on the home of the Medicaid patient to repay Medicaid costs. These liens often exceed the value of the property and encourage abandonment by preventing the heir from taking over and maintaining the property or selling it until the lien is paid. Pennsylvania should introduce a hardship waiver like 16 other states across the nation to exclude low value homes from medicaid costs recovery efforts.

4. MODERNIZE The Tax Liens Act To Make Foreclosure An Effective Land Acquisition Tool

- a. Change state law to allow distressed properties with judgment of foreclosure to be conveyed directly to developers without tax sale;
- b. Change state law to permit en masse judicial foreclosure action to reduce costs;
- c. Philadelphia should take advantage of the existing request notice requirement in the Municipal Tax Claims Act to reduce the cost of providing notice.

5. REFORM Eminent Domain Law To Streamline Process And Permit Just Compensation Reserves To Be Accurately Calculated And Reinvested If Unclaimed

- a. In areas certified as Redevelopment Areas or where vacancy rates exceed 30%, streamline the acquisition process by having the Planning Commission effectively pre-certify the properties for acquisition;
- b. Permit unclaimed just compensation reserves to be reinvested in communities rather than

be sent to the Pennsylvania Treasury's Bureau of Unclaimed Property;

- c. Create a standardized just compensation calculation for blighted properties to increase predictability of acquisition costs.

6. INCREASE Owner Accountability To Encourage Property Donation

- a. Mandate the reporting of municipal tax liens to credit reporting agencies to impact abandoned property owner's credit and prompt donation.
- b. Attach criminal penalties to abandonment while providing a number of opportunities to avoid indictment by paying past due taxes and maintaining the property, or by donating it to the city or the RDA.

7. ESTABLISH A Private Right Of Action To Empower Neighbors To Initiate Legal Action To Address Blight And Abandonment

8. CREATE A Smart Rehabilitation Building Subcode To Encourage Rehabilitation And Ensure the Safety Of Older Buildings Without Requiring Them To Meet Costly and Burdensome New Construction Standards

9. REDUCE Time For Possession To 10 Years Under Adverse Possession Law to Encourage Homeownership and Property Rehabilitation in Cities

10. PROVIDE Incentives For Property Maintenance And Deter Abandonment By Increasing Funding for the Proven Basic Systems Repair Grant Program

Conclusion

Abandonment is a serious problem for communities throughout the state but if addressed aggressively and comprehensively, it offers tremendous opportunity for older built-out cities and towns to add new housing to their neighborhoods.

Introduction

“Philadelphia’s problem with abandonment is so big that it’s also an untapped resource. If you were to aggregate all the vacant land in Philadelphia, you would have a land mass the size of Center City. Some of the neighborhoods are so devastated that you look around and realize, if you just took down the two or three buildings left standing, you would have acres. And we might really be positioned to do something with this land if we just get a handle on it.”²

*—Joyce Wilkerson,
Mayor John Street’s
Chief of Staff.*

This Pennsylvania Low Income Housing Coalition (“The Housing Coalition”) report examines the state’s role in reclaiming vacant and abandoned residential property. The Housing Coalition analyzes Pennsylvania’s current legal framework for the acquisition and disposition of abandoned property, explores state-level barriers to bringing abandoned property into productive reuse, and identifies reforms in law, policy and programs that will help its largest municipality, Philadelphia, recycle its formidable acreage of underutilized land.

While the focus of the study is Philadelphia, many of the findings are relevant to the state’s smaller cities and boroughs, which together with Philadelphia house half the state’s population.¹

Throughout the latter half of the 20th Century, Philadelphia and many of Pennsylvania’s other 54 cities and 962 boroughs saw precipitous declines in population, a shrinking tax base, concentrated poverty and a stagnant housing market. After 50 years of decline, housing abandonment has become a major challenge facing our boroughs and cities across the state. Although a great deal of attention has been given to the need for local governments to reform their property acquisition and disposition processes, little attention has been dedicated to exploring the role of state law and programs in facilitating or impeding local redevelopment efforts, and we hope that this report helps to fill that gap in knowledge.

What do we mean by an abandoned property? For the purposes of this report, abandoned property is defined as a chronically vacant and uninhabitable property, for which the owner is taking no active steps to return to the market.³ Philadelphia has more vacant and abandoned property per capita than any city in the nation.⁴

In 2001, there were 26,115 vacant houses, 30,729 vacant lots and 2,950 vacant commercial buildings

totaling 60,000 vacant properties in Philadelphia.⁵ With 1 in every 50 homes – nearly 10% of Philadelphia’s housing abandoned⁶ – abandonment impacts virtually every Philadelphia resident.

Today, 300,000 city residents live on blocks with an abandoned house. In addition to increased health and crime risks associated with an abandoned property, the presence of even one abandoned house on a block has been shown to reduce each owner’s property values by an average of \$6,720.⁷ Where abandonment rates rise, severely blighted city blocks are created, and it is within these severely blighted neighborhoods that 3 out of 4 of the city’s young children, ages 1–5, live.⁸

10% of Philadelphia’s Housing Stock Is Abandoned As a Result of 50 Years of Decline in Population and Employment.

In 1950, with a population of two million people and two centuries of uninterrupted growth, it seemed appropriate to bet on growth and build sufficient housing in Philadelphia for nearly two and a half million people. Unfortunately we lost the bet and began 50 years of rapid population decline. Between 1950 and 2000 Philadelphia lost over a quarter of its population. During these 50 years Philadelphia moved from its status as the second-largest city in the country with a population of over two million to the fourth-largest city in 2000 with a million and a half residents.⁹

Much of this exodus was driven by the sad economic fact that from 1950 to 2000, Philadelphia lost 70% of its manufacturing jobs.¹⁰ The impact of this can be seen most dramatically in North Philadelphia, which lost half its population – from 210,000 to 109,000 between 1950 and 1990.¹¹ North Philadelphia today includes about five percent of the city’s land area and over 50% of the city’s high vacancy blocks.¹²

There is a critical need to restore Pennsylvania’s urban housing markets by bringing unused land back into

productive reuse. It is critical to the health of Philadelphia, the region, and the State that we restore the market for abandoned residential properties by acquiring and assembling the parcels into a competitive marketable product.

Philadelphia's formidable acreage of underutilized land, an area approximately the size of Center City, presents a significant opportunity to create new communities with contemporary housing within one mile of Independence Hall and the business district.

Few historic cities have this opportunity to update its housing stock and offer potential residents a wide selection of new homes with modern amenities.

Large-scale land acquisition and assembly will only happen with government involvement. There is simply not sufficient market value to persuade a developer to buy up large numbers of blighted parcels from multiple owners (who may or may not be able to be located), assemble a developable site and build on it. The risks and costs are too great for any private developer to take on unassisted. Developers have taken on this challenge only where government has paved the way by reducing the risks and preparing the land. We have known this for over half a century:

1945 Urban Redevelopment Act (2)(c) "the foregoing [blight] conditions . . . cannot be effectively dealt with by private enterprise under existing law without the additional aids herein granted, and that such conditions exist chiefly in areas

which are so subdivided into small parcels and in divided ownerships that their assembly for purposes of clearance, replanning and redevelopment is difficult and impossible without the effective public power of eminent domain."

Philadelphia, in 2000, has made the commitment to increase its capacity and resources to acquire and assemble abandoned property for redevelopment with the initiation of the Neighborhood Transformation Initiative (NTI). Mayor John Street, elected in 1999, made it the goal of his administration to bring about the rebirth of Philadelphia neighborhoods. Signed into law on March 13, 2002, the Neighborhood Transformation Initiative ("NTI") will invest \$295 million dollars over five years to demolish dangerous properties, acquire and prepare large swaths of land for redevelopment, and stabilize and improve residents' quality of life. The actions required for different types of neighborhood housing markets were defined by a comprehensive market analysis prepared by The Reinvestment Fund. Planned actions range from demolition in areas with high vacancy to cutting down dead trees in viable "regional choice" neighborhoods. The goal for this effort is ambitious - to achieve a five percent population increase and a 65% decline in vacancy across the city by 2010.

State reforms can help cities leverage current economic and political realities to attract investment to Philadelphia and other Pennsylvania cities and boroughs.

"Now you go to a zoning hearing in the suburbs and you see a sign tacked to the door, "Meeting Moved to School Gym" so they have room for all the people opposing development. It is refreshing to go somewhere where you are wanted."

*—John Westrum,
President, Westrum
Development Company,
Metropolitan
Philadelphia Policy
Center's
Nov 13, 2002
"Rebuilding
Philadelphia" forum*

PHILADELPHIA HAS BEEN AWARE OF THE ABANDONMENT PROBLEM FOR DECADES

In 1956, a study prepared by the City Planning Commission and the Redevelopment Authority identified 82,000 severely deteriorated houses in Philadelphia— how many of these currently are listed in our inventory of 60,000 abandoned properties is unknown.¹³ However, by the 1960s vacancy and abandonment "became noticeable" and by the early 1970s it was a "runaway" problem and it has just kept running ever since.

After 50 years of new construction, Metropolitan Philadelphia suburbs are voicing strong opposition to continued unplanned growth and sprawling development in their communities. Faced with this strong opposition to unfettered growth in the suburbs, developers are seeking opportunities to develop housing in urban markets.

As suburbs purposefully become slower, less predictable and more negative about development, Philadelphia must cultivate the ability to compete by becoming faster, more consistent in its practices, and welcoming to development. Greeted with a welcoming government and low-cost developable sites near or adjacent to Philadelphia's core business district - land that in many cities around the world exacts a premium - the city should be able to lure private investment originally targeted to suburban development into urban neighborhoods.

In addition, reform that enables local governments to more effectively reclaim abandoned properties fits within Governor Rendell's commitment to helping attract investment to Pennsylvania's cities and towns. The Governor has made urban revitalization and the need to regenerate distressed neighbor-

hoods a priority of his administration.¹⁴ Governor Rendell has proffered a series of initiatives that will bring new resources to municipalities working to recycle abandoned residential property, including: (1) create a \$100 million revolving loan fund to turn blighted property into desirable real estate; (2) coordinate community development through the Governor's Economic Development Cabinet; (3) create a single statewide application for financial assistance that will permit cities to fund redevelopment projects without having to invest resources in meeting differing eligibility requirements; and (4) increase funding for affordable housing.

The Housing Coalition contends that to address abandonment and restore Pennsylvania's urban housing markets, we must also modernize state laws that define a municipality's right to acquire, assemble and dispose of abandoned land, and add laws to give cities and towns innovative new tools to fight blight. The Housing Coalition offers a series of 10 reforms to redefine and expand local governments' powers and to encourage owners and developers to rehabilitate or recycle properties rather than abandoning them.

Current Pennsylvania Law Provides Philadelphia With The Fundamental Tools to Acquire and Convey Abandoned Property On a Large Scale

Two state laws vest Philadelphia with the power to take control of abandoned properties: (1) *Municipal Claims and Tax Liens Act of 1923*, 53 P.S. § 7101 et. seq. (as amended 1956) (“*Tax Liens Act*”) which authorizes the city to sell tax-delinquent properties at sheriff’s sale to recover unpaid municipal debts; and the (2) *Pennsylvania Urban Redevelopment Law (P.L. 991, May 24, 1945, as amended) Act 1978 - 94 of the Pennsylvania General Assembly* (“*The Urban Redevelopment Law*”) which permits the city’s Redevelopment Authority to acquire blighted

residential properties through eminent domain. Together, these laws give Philadelphia the fundamental tools needed to acquire, hold and transfer parcels of vacant land.

An analysis of existing state law reveals the fact that Philadelphia has the fundamental powers it needs to acquire abandoned properties from negligent owners, to insure and maintain them during temporary municipal ownership, and to convey them to responsible owners.

UNDER CURRENT STATE LAW, THE CITY OF PHILADELPHIA HAS THE POWER TO:

- 1. Acquire vacant properties by foreclosure, eminent domain, purchase or donation without a specific purpose or plan for redevelopment**
- 2. Hold on to the property until a specific purpose or plan for redevelopment is known**
- 3. Insure the property to limit liability during the period that the city owns the property**
- 4. Assemble multiple parcels into a site attractive to a developer**
- 5. Convey the property and have the new owner take possession immediately**
- 6. Provide clear and clean title to the new owner**
- 7. Satisfy constitutionally mandated notice requirements**
- 8. Select responsible new owner for property to ensure the elimination of blighting conditions and the appropriate redevelopment of the property**

Fundamental Tools

1. Philadelphia can acquire vacant properties through foreclosure, eminent domain, purchase or donation without requiring a municipality to possess a specific purpose or plan for redevelopment.

Under the Urban Redevelopment Law, Pennsylvania gives the Redevelopment Authority ("RDA") the power "to assemble, purchase, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein from any person, firm, corporation, municipality or government."¹⁵ The Urban Redevelopment Law specifically provides for the taking of blighted properties as one of its purposes and provides a broad definition of blighted properties that will encompass virtually all of Philadelphia's 60,000 abandoned properties. The Tax Liens Act gives the city the ability to obtain property at sheriff's sale through purchase. The city may bid the total amount of all municipal claims on the property. Since this amount often exceeds the market value of the property, the city has the power to obtain most properties at sheriff's sale. The city has no more power than any other bidder, however, and cannot currently guarantee an acquisition using foreclosure.

2. Philadelphia can hold on to the property until a specific purpose or plan for redevelopment is known.

The Urban Redevelopment Law explicitly provides the RDA with the power "to own, hold, clear, improve and manage real property."¹⁶ The courts have confirmed this right to hold on to land as long as there is a good faith belief that the land will be used in the near future.¹⁷ The Tax Liens Act permits the high bidder of a property to take full control and use the property for whatever purpose the owner would like. Unfortunately, just as the city can hold the property without improving it, so can a speculator.

3. Philadelphia can insure the property to limit liability during the period that the city owns the property.

The Urban Redevelopment Law gives the RDA the authority "to insure or provide for the insurance of any property or operations of the Authority against any risks or hazards."¹⁸ The Tax Liens Act similarly gives a municipality the power "for the payment of insurance premiums thereon."¹⁹ However, few insurance products exist for municipalities that are banking large quantities of blighted land.

4. Philadelphia can assemble multiple parcels into a site attractive to a developer.

The Urban Redevelopment Law specifically gives the RDA the authority "to assemble ... any real or personal property or any interest therein from any person, firm, corporation, municipality or government."²⁰ If the city is the high bidder for a property, under the Tax Liens Act the city may join that property together with other properties it owns.

5. Philadelphia can convey property and have the new owner take possession immediately.

Under the Urban Redevelopment Law, once the RDA follows the legal process to identify properties as blighted, provides notice to all interested parties, and ensures property owner and tenants receive a fair price, the RDA may transfer it immediately to other private owners.²¹ The Tax Liens Act, as amended in 1992, eliminates the right-of-redemption period (90 days for owner to reclaim property) for vacant properties in a first-class city.²² The amendments allow the buyer of vacant properties to occupy the property as soon as the deed is provided, not less than 30 days after the sale, in order to afford the city sufficient time to investigate the proposed owner and deny his right to the title if he has prior code violations.

6. Philadelphia can provide clear and clean title to the property to the new owner.

Under the Urban Redevelopment Law, when the city takes a property, it obtains clean and clear title so long as it has followed due process - it made good faith efforts to notify the owner and interested parties of the taking. The Tax Liens Act states that "upon delivery by the sheriff of a deed for any property sold under this section, the judgment upon which such sale had shall thereupon and forever thereafter be final and conclusive and the validity thereof shall not be questioned for any cause whatsoever." Local title insurers confirm that the city is able to convey clear and clean title through either the foreclosure or condemnation process.²³

7. Philadelphia can satisfy constitutionally mandated notice requirements to property owners and interested parties by applying defined notice requirements.

The Urban Redevelopment Law allows local ordinance to determine adequate notice. The local government's discretion is limited by the holdings of the U.S. Supreme Court, which require attempts to find the owner and directly notify him by mail whenever possible. Philadelphia's current ordinance²⁴ satisfies those requirements. The Tax Liens Act places responsibility on Philadelphia owners and interested parties to register their name and current contact information with the city to allow the city to provide notice with a minimum of time and cost. If interested parties obey this mandate, which does not appear to be widely known, the city, armed with an accurate address, can mail a letter to the owner by first-class and certified mail and satisfy the notice requirement at minimal cost. Where no such easy notification is possible, the law provides for: (1) a posting of the notice on the property, (2) a search of all official records and a title search to determine owners, (3) service of the notice by the sheriff by certified mail or first-class mail and (4) where unable to identify the owner, publication in a newspaper of general circulation and a legal periodical. Notice of the date of the sheriff's sale must also be advertised in a newspaper of general circulation and a legal periodical.²⁵

8. Philadelphia can select a responsible new owner for the property to ensure the elimination of blighting conditions and the appropriate redevelopment of the property.

The Urban Redevelopment Law gives the RDA sole authority to determine the new owner of the property upon transfer. The city can assert conditions that a prospective owner must meet in order to obtain the property such as requiring clear development plans to be completed within a reasonable timeframe as a pre-condition to transfer of the property. The RDA also has the power to provide loans or grants to ensure that the new owner can adequately rehabilitate and maintain the property, and appoint a receiver during the period it is within RDA ownership to make improvements prior to conveying the property.²⁶

The Tax Liens Act does not allow Philadelphia to control the future use of the property. Upon foreclosure, the court orders a tax sale of the property. The city does not obtain control of the property unless it bids at tax sale and is declared the highest bidder. A non-municipal high bidder is under no obligation to improve the property, end blighting conditions, or redevelop the parcel. The city's limited role in the selection of the high bidder extends solely to its power under the Tax Liens Act to investigate the purchaser over a period of 30 days from his high bid to ensure that he does not have a history of code violation and negligent property maintenance. If he does, the property will go to the next highest bidder. This allows the cities to exclude the worst code violators from bidding but does not ensure that the property will be conveyed to a responsible owner.²⁷

Summary Chart of Action Needed to Implement Reforms and Their Impact on the State Budget

NEEDED REFORM	WHY REFORM IS NEEDED	BEST PRACTICES
Create Statewide Inventory	Unclear Scope and Location of Abandonment	Pennsylvania Brownfields Inventory
Provide Technical Assistance Re Acquisition and Disposition of Abandoned Property	Increases Capacity of Local Governments Fighting Blight	Maryland, Ohio
Add Hardship Waiver for Low Value Homes to Medicaid Estate Recovery Program	State Strips Homes of Equity and Encourages Heirs to Abandon Them	Kentucky, Florida
Streamline Foreclosure Process and Increase Control Over Disposition of Properties	No Power to Convey Foreclosed Properties to Person Who Will End Blight and Develop Property	Georgia, Ohio, New York
Modernize Eminent Domain Law and Increase Reinvestment of Just Compensation Funds	Slow Unpredictable Process With Unclaimed Funds Going Into State Treasury's Bureau of Unclaimed Property Rather Than Redevelopment	Other States Use Sparingly If At All
Increase Owner Accountability to Encourage Donation	Donation, the Cheapest, Easiest Method to Acquire Properties, is Rarely Used	Georgia, Ohio
Provide Neighbors with a Right to Bring Legal Action Against Negligent Owners	Citizens Have No Ability to Prosecute Neighbor Who Harms Them By Not Maintaining Property	Pittsburgh, PA
Create Smart Rehabilitation Building Sub-Code	Building Code Discourages Rehabilitation; Owner Must Bring to New Construction Standard	New Jersey, Maryland
Reduce Adverse Possession Statute of Limitations from 21 Years to 10 Years	PA Requires One of The Longest Periods for Obtaining Urban Property Through Adverse Possession in the Nation	New York, Rhode Island
Support and Fund Maintenance of Older Housing	When Cost of Maintaining Home Exceeds Value, the Owner Will Abandon It	Maryland, Ohio

SOLUTION	ACTION NEEDED	IMPACT ON STATE BUDGET	BENEFIT TO STATE
Require Municipalities to Inventory Abandoned Properties to Guide State and Local Policy	Change in Law	Line Item Providing Inventory Grants	Create Inventory of Abandoned Property for Development
Provide Needed Advice on Initiatives to Bring Abandoned Properties Into Productive Reuse	Policy Shift	None if Technical Assistance Staff Sufficient	Increase Capacity to Address Abandonment
End Medicaid Estate Recovery from Homes Valued Less Than \$50,000	Regulations Change	Lose Revenue from Estate Recovery	Stop Encouraging Abandonment
Reform Foreclosure to Transfer Properties to Responsible Owners and Streamline Process	Change in Law	None	Make Foreclosure an Effective Acquisition Tool
Standardize Blighted Property Values and Permit Just Compensation Reserves to Be Reinvested	Change in Law	None	Modernize Eminent Domain Code and Increase Investment in Blighted Communities
Hold Owner Accountable with Credit Reporting and Criminal Liability to Encourage Donation	Change in Law	None	Inexpensive Transfer of Property from Negligent to Responsible Owner
Give Neighbors Impacted by Abandonment the Right to Bring Action Against the Negligent Owner	Change in Law May Be Needed	None	Increase Capacity to Hold Negligent Property Owners Responsible
Create a Smart Rehabilitation Subcode - Requirements Based on Safety Not New Construction	Change in Law	None	Increase Rehabilitation of Housing Stock
Reduce Adverse Possession Time from 21 Years to 10 Years	Change in Law	None	Encourage Tax-Paying Ownership and Maintenance of Homes
Increase Funding for Maintaining Older Infrastructure and Basic Systems Repair Program	Reallocate Funding	Increased Funding	Revitalize Urban Neighborhoods with Aging Housing Stock

TEN PROPOSED STATE LEGAL REFORMS

The Housing Coalition Recommends 10 State Legal Reforms to Expand and Modernize the Fundamental Tools Provided to Reclaim Abandoned Property

Although the fundamental tools are in place to acquire and dispose of land, the scope of the abandonment problem deserves modernization, expansion and streamlining of the tools that allow municipalities to address abandonment proactively, efficiently, and effectively. We have identified 10 reform opportunities that will help Philadelphia transform abandoned properties into a competitive, developable product.

CREATE STATEWIDE INVENTORY

- Why is change needed?
Unclear scope and location of abandonment
- Best Practices
Pennsylvania Brownfields Inventory
- Solution
Require municipalities to inventory abandoned properties to guide state and local policy
- Action Needed
Change in law
- Impact on State Budget
Line item providing inventory grants
- Benefit to State
Create inventory of abandoned property for development

STATE LEGAL REFORM ONE:

Create a Statewide Inventory of Abandoned Residential Property Using Agreed Upon Procedures and Definitions

Pennsylvania has a vital role to play in ensuring that the basic information that drives the redevelopment of distressed communities is accessible to policy makers, developers, residents and businesses. At its most basic level, this information includes the ability to identify what land is available, who possesses title to it, and the uses for which it is zoned.

Without this information, effective assessment of the land's potential for development and efficient acquisition is impossible. At this point, the state cannot accurately answer the question:

What urban land is available for development in the Commonwealth?

The Housing Coalition recommends that Pennsylvania create an inventory of abandoned residential property located within the boroughs, towns and cities of the Commonwealth. Ideally the inventory would be both created and funded using the Brownfields model of providing inventory

grants to municipalities to finance their inventory efforts and then compiling the data and making it available at the state level. Once completed, Pennsylvania can use the statewide inventory to (1) guide state policy and improve timing of policy responses to conserve public spending and avoid blight; (2) identify potential redevelopment opportunities; and (3) create a measure of the supply of existing residential redevelopment land to avoid the need to develop greenfields to meet the long-term growth needs of the state.²⁸

Few municipalities across the Commonwealth have inventoried their abandoned property to date.²⁹

A statewide inventory using common definitions of vacancy including location, size, zoning, quality of structure if any, whether the property is buildable, and the status of ownership will afford these communities a critical urban revitalization tool.

STATE LEGAL REFORM TWO:

Promote the Effective Acquisition, Assembly and Disposition of Abandoned Properties on a Large Scale Through the Use of Land Banks, Sideyard Programs and Other Best Practices

Pennsylvania is in a unique position to increase the capacity of its local governments to address abandonment by providing wide-ranging technical assistance to its cities, towns and boroughs.

Governor Ed Rendell stated during his 2002 campaign that a key role for the Commonwealth is to "ensure that local officials have the technical expertise to develop and implement meaningful revitalization programs."³⁰ If Pennsylvania is to play this leadership role with respect to the complex problem of abandonment, it must provide technical assistance about existing state law, best practices, and funding to help municipalities bring their abandoned property into productive reuse.

Promote and Facilitate Land Banking

Pennsylvania should provide technical advice on comprehensive approaches to abandonment, such as the creation of a land bank. Several states, most notably Ohio and Georgia, have changed their legal frameworks to allow their municipalities to create effective land banks. A land bank is a city-controlled repository for buildable land for which the city has gained title through tax foreclosure, eminent domain, purchase or donation. Typically, the city obtains title, deposits the land into a virtual bank - a detailed computer listing of all available parcels - wipes the property clean of all municipal liens and then provides the land at little or no cost to credible developers. In return, the developer offers the city proof that it will place the property into productive reuse within a reasonable timeframe.

The simple premise of a land bank is that if you acquire, clear and prepare land, developers will take the risk of building in an uncertain market and as each investment leverages the next, the housing market will be rebuilt.

Philadelphia has stated its intention to establish a land bank that will list detailed information about available properties owned by city agencies or the

RDA. Other jurisdictions may similarly benefit from this best practice that Cleveland and Atlanta have used so effectively to renew communities, create new housing, and increase the city's tax base.

Provide education and outreach about effective sideyard programs

Land banks seek to assemble buildable lots into a developable site. Sideyard programs seek to transfer unbuildable lots to neighbors at minimal cost. There are tremendous benefits to providing adjacent owners with the ability to obtain vacant lots. The new sideyard owners bring the vacant lot back to the tax rolls, provide permanent maintenance, add amenities and green space to the neighborhood and generally strengthen the market for "missing teeth neighborhoods" which have had several mid-block demolitions.

The state can share knowledge of sideyard programs that are best practices. For instance, Cleveland has an effective sideyard program. The city notifies adjacent owners sharing a common boundary of unbuildable properties as they enter the land bank and gives neighbors preference in buying the properties. In exchange for the property, owners must agree to maintain the property, pay future property taxes, and apply for a permit prior to building a structure on the new land. The newly acquired lot must be combined with the existing property to discourage selling the lot separately in the future for profit and prevent possible speculation. If the new owner fails to pay taxes on the new property in a timely manner, it will cause it to revert to the city land bank.³¹

And there are best practices right here in our own state. Pittsburgh has initiated a program that results in a much faster transfer of the blighted lot to the new owner. If an adjacent owner has no prior municipal claims or code violations, he or she can obtain a sideyard property first by leasing it for \$101 a month without being required to pay taxes

PROVIDE TECHNICAL ASSISTANCE

- **Why is Change Needed?**
Increases capacity of local governments fighting blight
- **Best Practices**
Maryland, Ohio
- **Solution**
Provide needed advice on initiatives to bring abandoned properties into productive reuse
- **Action Needed**
Policy shift
- **Impact on State Budget**
None if technical assistance staff sufficient
- **Benefit to State**
Increase capacity to address abandonment

"If we do not address the systemic infrastructure problems [in our cities] . . . endemic blight, tracts of the most desirable property unusable for development and inadequate housing supplies - these communities will remain unattractive to developers."

*—Governor-Elect
Rendell
Position Paper (2002)*

on it and then, after legal processing, obtain the property for a minimal fee of about \$75 dollars.³² The New Kensington CDC pilot program in Philadelphia also deserves attention as a best practice. New Kensington found that by bringing in a consultant who informs residents about the program, assists them in the application process, and walks the applications through the city's system, they can cut through some of Philadelphia's cumbersome bureaucracy and as a result have increased sideyard transfer rates substantially.

Ensure municipalities understand available legal tools to address abandonment

Another key area in which Pennsylvania can offer its municipalities assistance is to make information about state law and policy relevant to addressing abandonment readily accessible. It is the sad truth

that, because of the ever-changing roster of elected officials, the existence and details of existing law do not always reach the municipalities. Whether the state offers personal technical assistance to municipalities or creates a manual that will provide current information about how to reclaim abandoned land, the state should ensure that local governments understand the legal tools available to tackle this important problem.

Other subjects for state technical assistance range from providing guidance on preferred architectural designs for new residential units that include 21st Century amenities but preserve the aesthetics of the older community to urban greening programs. Communities across the Commonwealth are facing abandonment at different stages and will require different kinds of state assistance to give them the knowledge and resources that they need to fight blight successfully.

Cleveland Land Bank

HOW CLEVELAND LAND BANK BEGAN: Cleveland established the nation's first land bank by state legislation in 1975. Its goal was "to acquire vacant and abandoned tax-delinquent property and to market the property to individuals, developers and nonprofit organizations for redevelopment."³³

HOW CLEVELAND LAND BANK OPERATES: The city receives property into the Land Bank Program by taking possession of vacant land through tax foreclosure sales and gift-in-lieu-of foreclosure donations. The Ohio legislature reformed the tax foreclosure system, converting to a judicial tax foreclosure system, to provide for a faster process that delivers clear title. To foreclose against a property under Cleveland's system, a special prosecutor who aggressively pursues tax-delinquent properties files a complaint against the property in an "in rem" (against the property/not the owner) proceeding. Owners and interested parties have 28 days to answer the complaint. If there is no response, and notice requirements have been complied with, a default judgment is taken and the property is forfeited

to the state. The owner then has the two weeks after judgment of foreclosure and before entry of confirmation of sale to redeem his property. Ohio also permits Cleveland to choose whether to sell a distressed property at tax sale or transfer it directly to a for-profit or nonprofit developer in exchange for its agreement to complete construction within 18 months.³⁴

CLEVELAND LAND BANK WORKS: Since 1975, the Cleveland Land Bank has produced 2700 homes. Cleveland's housing stock is about one third the size of Philadelphia's - 224,311 Cleveland housing units as compared to 674,899 in Philadelphia. In 1998, Philadelphia issued only 457 building permits, 2% of the 22,000 issued regionwide. In the same year, Cleveland issued 827 permits out of 10,000 metropolitan permits or 7.4% of the construction in the region.³⁵ Nearly 90% of new residential construction in Cleveland by nonprofit and for-profit developers involves land bank lots.³⁶ By 2002, Cleveland accounted for nearly 10 percent of new units in the NE Ohio housing market.³⁷

Atlanta Land Bank

How Atlanta Land Bank Began:

The Atlanta Land Bank Authority ("LBA"), a nonprofit organization, was established in 1991 to clear land for new facilities and remediate visible blight in preparation for the 1996 Olympic games. The "mission of the LBA has been to free land bound by cloudy title for transfer to those who are bringing new life to struggling communities."³⁸ Tim Polk, Deputy Commissioner of Atlanta's Department of Planning, Development and Neighborhood Conservation, joked that the authority's real strength is as "a legal laundering service," because it "washes" land of overdue taxes and hands it back to nonprofit groups or developers.³⁹

How Atlanta Land Bank Operates:

The majority of properties in the Atlanta Land Bank are donated. Most of the remaining properties are obtained through the tax foreclosure process. Like Ohio, the Georgia legislature reduced the time and cost of foreclosure by converting their foreclosure process to judicial foreclosure. Judicial foreclosure allows the city to obtain title within approximately eight months.⁴⁰ To foreclose on the property, the local government must provide notice to all owners or interested parties revealed in a 50-year title search and then file a complaint. The owner then has 60 days to redeem the property and if he fails to do so, 30 days later, the new owner is issued a tax deed.

Unlike the Cleveland Land Bank, which is controlled by the city's

development office, and therefore the Mayor, the Atlanta Land Bank is controlled by an independent agency outside of city government. The Mayor appoints two members of its board and the county appoints the other two. [Atlanta's city and county are two separate entities unlike Philadelphia.] The board must vote unanimously to convey land for any project.⁴¹

Atlanta Land Bank Works:

Between 1991 and 2001, Atlanta's Land Bank, with a budget of approximately \$325,000, forgave taxes on over 1000 properties in exchange for development. From 1994 to July 2002, the agency helped in the construction of 793 new homes in the city, with 218 more on the way. All have been built on formerly tax-delinquent land.⁴² In 1995, the city of Atlanta's housing stock was less than one third the size of Philadelphia's housing stock - 182,754 Atlanta housing units as compared to 674,899 Philadelphia housing units. From 1995 to 1999, the number of building permits issued in the city of Atlanta was four times the number issued in Philadelphia - 12,533 in Atlanta and 2848 in Philadelphia. The city of Atlanta issued 6.9% of the region's building permits while Philadelphia issued .4% of the region's total.⁴³ It is difficult to isolate the land bank's role in the city's differing development patterns because of Metropolitan Atlanta's rapid growth during a period when Metropolitan Philadelphia grew minimally; however, the difference in new construction is notable.

ADD
HARDSHIP
WAIVER

- **Why is Change Needed?**
State strips homes of equity and encourages heirs to abandon them
- **Best Practices**
Kentucky, Florida
- **Solution**
End Medicaid Estate Recovery from homes valued less than \$50,000
- **Action Needed**
Regulations change
- **Impact on State Budget**
Lose revenue from estate recovery
- **Benefit to State**
Stop encouraging abandonment

*"What about the daughter who inherits the property from her mother? If it is a property worth \$30,000 and there is a \$50,000 debt then she can buy it from us for \$30,000. She didn't inherit anything."*⁴⁵

*-Drew Coates,
Senior Counsel Office,
Office of Legal Counsel,
Department of Welfare,
Telephone Interview
Nov 8, 2002*

16

Introduce Hardship Waiver for Low Value Homes to Medicaid Estate Recovery Program

Pennsylvania must reform its Medicaid Estate Recovery program so that it no longer encourages abandonment and blight. Medicaid is a jointly funded federal and state program to provide medical assistance to low-income citizens. Originally intended to provide health care to the country's poorest citizens, the program has become extraordinarily expensive for states as the middle class utilize it for long-term care upon the depletion of their assets. In fact, Medicaid is the fastest growing budget item in Pennsylvania and most other states. Medical Assistance currently comprises 28% of state expenditures.⁴⁴

In 1993, the United States Congress, cognizant of increasing costs, began to require states to recover money spent for certain Medicaid services from the patient's estate after his death. Congress also mandated that states create a waiver where recovery would cause undue hardship.⁴⁶ The House Budget Committee analysis of the Omnibus Budget Reconciliation Act of 1993, which required the hardship waiver, suggested three circumstances that would trigger the waiver: when the estate subject to recovery is (1) the sole income-producing asset of the survivors, such as a family business, (2) **a modest homestead**, or (3) where other "compelling circumstances" exist.⁴⁷ We recommend that Pennsylvania, like 16 other states across the nation, waive recovery from private residences when their value is less than \$50,000.

Currently in Pennsylvania when a Medicaid patient dies, the Department of Public Welfare ("DPW") requires the administrator of the estate to obtain a statement of interest from the department showing costs incurred for medical care. The administrator must then place a lien on the property sufficient to repay the state. Where there is no administrator, DPW seeks out private attorneys who will open the estate and sell the property to allow medical cost recovery. Today, title insurance companies often demand a

letter from DPW declaring that there is no unpaid debt before the property can obtain title insurance necessary for it to be sold or transferred.⁴⁸

The liens placed on these properties are not insubstantial. The average long-term care cost for a patient who has been in nursing home care is \$40,000. This amount exceeds the market value of properties in many Philadelphia neighborhoods. In these situations, a property owner who wishes to pass his property upon death to a son or daughter who will maintain the home and continue to live in the neighborhood is stymied.

The property itself and the administrator of the estate are directly liable to DPW for all costs. Yet, DPW rarely if ever perfects or records the liens, which means that the lien does not produce any revenue for the Commonwealth while it may lead to another abandoned home stripped of equity blighting a Philadelphia community.

How many homes are impacted by Medicaid debt? Drew Coates, of DPW's Office of Legal Counsel, says there are "a ton" of homes currently in Philadelphia for which DPW claims exceed their full market value. It is impossible given the state of DPW's records to define the exact number of properties that remain unsold because of liability to the state for past Medicaid costs to an owner. However, a 1996 study found that half of all homes in Philadelphia are owned by people over age 55 (175,000 units) and that one-third are owned by people over age 65. A project of the University of Pennsylvania in 1999 further determined that many of these older people - especially the 60,000 low-income older people in the city - are faced with the difficult choice between keeping their homes or forfeiting the value in their homes to access services through the Medicaid Estate Recovery Program.⁴⁹ In addition, while it is impossible to speculate how many properties are not transferred to relatives or friends at death as a result of DPW's claims, it is important to note that

according to a 1998 survey, "45% of these older people have not made plans to either sell or transfer the titles in their homes. These data suggest that within the next 15 to 20 years half of the homes in Philadelphia are at the risk of abandonment."⁵⁰

Sixteen states across the country have avoided contributing to blight by waiving recovery from low value primary residences to avoid creating an undue hardship. Kentucky's law states that no additional liabilities that may interfere with a property's marketability will be placed on houses valued at less than \$50,500.⁵¹

Florida refuses to place a lien on any homestead and specifically defines undue hardship when "the cost

involved in the sale of the property would be equal to or greater than the value of the property".⁵² Pennsylvania should emulate other states and exclude properties that have a low market value. Doing so will ensure that poor people who avail themselves of Medicaid will not have their assets taken or their ability to pass wealth down through inheritance removed. Secondly, it will stop the devastating impact this program has on communities. The clear intent of the 1993 law that established mandatory estate recovery was to stop middle class elderly from using estate planning to hide their assets and take advantage of free health care, not to prevent low-income homeowners from enjoying the right to pass wealth down to their children or to take houses off the market and create abandonment.⁵³

"People with \$150,000 homes hire an estate planner who somehow takes it out of the estate. People with \$20,000 or \$30,000 homes don't care or don't understand or don't have the wherewithal to hire an estate planner, so those are assets we can get."

*—Drew Coates,
Senior Counsel Office,
Office of Legal Counsel,
Department of Welfare,
Telephone Interview
Nov 8, 2002*

STREAMLINE FORECLOSURE PROCESS

- **Why is Change Needed?**
No power to convey foreclosed properties to person who will end blight and develop property
- **Best Practices**
Georgia, Ohio, New York
- **Solution Reform**
foreclosure to transfer properties to responsible owners and streamline process
- **Action Needed**
Change in law
- **Impact on State Budget**
None
- **Benefit to State**
Make foreclosure an effective acquisition tool

Modernize the Tax Liens Act To Make Foreclosure An Effective Land Acquisition Tool

Foreclosure is a primary tool for fighting blight - 60% of municipalities nationwide use foreclosure powers to bring abandoned property back into productive reuse.⁵⁴ Pennsylvania's Tax Liens Act, however, does not offer Philadelphia the innovative foreclosure powers and efficiencies other states have adopted. As a result, Philadelphia has largely stopped using tax foreclosure as a means of acquiring vacant land for redevelopment. Even though the sheriff's sale process is less expensive and controversial than eminent domain, it gives the city too little control over the ultimate disposition of the property. The Housing Coalition recommends that Pennsylvania reform the Tax Liens Act to adopt three of these innovative reforms to allow the foreclosure law to be used effectively for neighborhood regeneration as well as revenue generation.

1. Allow distressed properties with judgment of foreclosure to be conveyed directly to developers without tax sale.

Many states have reformed their foreclosure laws to allow municipalities to expeditiously and predictably convey properties to parties who will be most effective at rehabilitating or redeveloping them.

The Municipal Claims and Tax Liens Act of 1923, the state law that authorizes Philadelphia to foreclose on properties after one year of tax delinquency, does not allow the city to select a responsible new owner for the property.⁵⁵ Instead, the city must offer the property at tax sale to the highest bidder. Once purchased at tax sale, the city has no authority to demand that the new owner eliminate blight or redevelop the property.

The foreclosure procedure under the Tax Liens Act requires the city to file a petition with the court showing tax delinquency and appropriate notice to the owner of both the delinquency and the foreclosure action. If there is no valid objection from the owner, the court orders that the property be sold at a tax sale, also called a sheriff's sale.⁵⁶ In circum-

stances where the city is foreclosing on a vacant property with five years of tax delinquencies, the city can sell the vacant property without any right of redemption for the owner, allowing the immediate transfer of the property with clear title.⁵⁷ Though Philadelphia can bid for a property at sheriff's sale, the city cannot bid an amount greater than the cost of all outstanding municipal claims and costs.⁵⁸

New York, Ohio, Georgia and Michigan have all recently reformed their state foreclosure laws to allow transfer of distressed properties to third parties without the necessity of a tax sale where it would better serve the city. These states use foreclosure for the majority of property acquisitions, outside of donation.

In 1997, New York's foreclosure law was amended to permit the transfer of vacant properties directly to for-profit or nonprofit developers after foreclosure, after finding that hundreds of vacant lots and properties sold at auction remained blighted and trash-strewn after purchase by the high bidder.⁵⁹ Under Local Law 37, now codified in the Administrative Code of New York at Section 11-424, the Commissioner of Housing Preservation and Development pulls all distressed properties from the tax sale at least 10 days prior to sale and instead makes them subject to "in rem" foreclosure proceedings. A property is defined as distressed if it has a one-year-old delinquent tax lien that is at least 15% of property value and has five or more code violations or has a lien of more than \$1000 for encapsulation or maintenance by the city. The distressed properties are placed on a list filed with the Supreme Court to commence the "in-rem" foreclosure proceedings. An owner then has 10 weeks to redeem the property by paying back the liens. If no interested parties come forward, judgment on the foreclosure is taken by default. The court enters the judgment and transfers the deed after another four-month redemption period to the city. The city can then convey it to a third party.

Detroit-Wayne County's Project SAVED permits transfer without a tax sale to a qualified nonprofit community development corporation ("CDC"). In Detroit, once a tax-delinquent owner is duly notified of his delinquency, the lien on the house is "sold" to the city's finance director. Two years after this "sale," the city brings an action in court to foreclose on the lien and, if it prevails, title to the real property goes to the city 180 days after the filing of the complaint. At that point, the city can convey the property to a pre-certified CDC who agrees to rehabilitate the houses and sell or rent them to low- or moderate-income families. The law prohibits any individual from profiting from the sale. Profits must be used to acquire and renovate other properties. The CDC further must commit to insuring the property, paying the utilities, taxes and all other costs, and providing follow-up services to purchasing families for one year after sale.⁶⁰

Providence, Rhode Island allows properties to be removed from tax sale where there is a substantial risk that speculators will bid on the property. The Tax Sale Realty Law, passed in 1997,⁶¹ allows the municipality to transfer the lien on the property for delinquent tax debt to the Redevelopment Authority ("RDA") for redevelopment purposes. The RDA can then get the property directly into the hands of developers without holding a tax sale.⁶² We also discussed Atlanta and Cleveland's foreclosure laws when discussing their land banks earlier.

If Pennsylvania were to adopt The Housing Coalition's recommendation and reform the Tax Liens Act, we would recommend the adoption of a foreclosure process similar to Ohio, Georgia, New York and Michigan. Philadelphia would file a complaint for foreclosure in the court. If the owner and interested parties fail to respond, the court will issue a foreclosure judgment providing title to the municipality. It will then be the decision of the city whether to place the property directly into its land reutilization program and transfer it to a developer or to sell it at tax sale.

2. Permit en masse judicial foreclosure action to reduce costs.

The acquisition of abandoned property is full of time-consuming repetitive tasks that make the

process more costly and less efficient. In our current system of foreclosure, the municipality acquiring an abandoned property must petition the court separately for each property it seeks to foreclose upon to obtain a separate judgment authorizing the property to be sold at sheriff's sale.⁶³ Several states have added efficiency to the judicial components of a foreclosure proceeding by allowing a municipality to file "en masse" judicial actions - file one action for judicial tax enforcement against hundreds of properties.

There is no constitutional reason why such proceedings could not be conducted against multiple properties as part of one action. The sole issues to be decided by the court are whether there was delinquency and whether adequate notice was provided.⁶⁴

Ohio provides under law⁶⁵ that when foreclosure is initiated by a municipality "[a]ny number of parcels may be joined in one action" to obtain an order that will authorize foreclosure and forfeiture of the property to the state and order that the land be offered for sale. In Florida, the law states that in suits for the foreclosure of tax liens, "as many lots, parcels or tracts of land, regardless of ownership, and as many tax liens, tax certificates and assessment liens may be included in one suit as the complainant may desire."⁶⁶ Maryland permits up to 10 properties by different owners to be brought in one action.⁶⁷

The benefit of consolidating foreclosure actions is very simple - it allows multiple acquisitions to be brought to the court together in one action, requiring less repetitive preparation and filing fees, smaller attorney fees, less burden on the courts and hopefully a quicker resolution.

3. Philadelphia should take advantage of the existing request notice requirement in the Municipal Tax Claims Act to reduce cost of providing notice.

The constitutionally mandated notice requirement is one of the most costly and time-consuming components of acquiring vacant land. Federal law requires a government taking property by eminent domain or through tax foreclosure to provide notice that is reasonably calculated to inform interested parties of the attempted taking and give

Abandonment can have devastating consequences for our cities fiscal health. The failure of cities to collect even two-four percent of property taxes because of delinquency and abandonment translates into three-six billion dollars in lost revenues to local governments and school districts nationally.⁶⁸

them an opportunity to object.⁶⁹ If an owner's name and address is available and current on official records, this is easy – just send him a letter by registered mail and you are done. Unfortunately, this is rarely the case. The vast majority of the abandoned properties in Philadelphia were abandoned years ago when the cost of operating and maintaining them exceeded their market value.

The law requires that, in circumstances where you cannot directly notify the owner of his potential loss of property interest, you must use posting and publication to provide constructive notice. The property is posted with notice of the proposed taking, and the action the government is contemplating is advertised with a notice in the legal journal and a paper of general circulation in the community. The required notice is lengthy. In today's business world, the price of this advertising can often greatly exceed the price of the property and/or the administrative cost involved in the acquisition and demolition process. Knowledge of an owner's current address clearly adds tremendous cost and time efficiencies to the notice process.

The Municipal Tax Claims Act offers an opportunity for Philadelphia to greatly increase its future knowledge of an abandoned property owner's whereabouts.

In 1992, the Municipal Tax Claims Act was amended to include a statutory request notice requirement. This procedure requires property owners to register their interest in real properties for the purpose of "establishing and maintaining a current record of real estate transactions in the office of the county commissioners so that the current ownership can be ascertained without burdensome and time-consuming searches."⁷⁰

53 P.S. 7193.1 (a) states: *Any owner of real property located within a city of the first class, any mortgagee thereof or any person having a lien or claim thereon or interest therein shall register a notice of interest with the department of the city of the first class responsible for collection of tax and municipal claims stating his name, residence, and mailing address and a description of the property in which the person has an interest. A notice of interest shall not be required for any mortgage or interest otherwise properly recorded in the Office of the Recorder of Deeds provided the document contains a current address sufficient to satisfy the notice requirements of this section. The interested party shall file an amended registration as needed.*

Philadelphia, to date, has not taken advantage of this tool intended to facilitate the city's ability to provide notice. Yet this amendment offers Philadelphia a tremendous opportunity to reduce the high costs of providing notice.

Although the city cannot place all of the burden on the property owner to protect his rights by relying solely on the registry and refusing to provide any notice if the owner is not registered, such a registry can substantially lessen the city's burden of finding the owner.⁷¹

We recommend that Philadelphia launch a public education campaign, with the assistance of lenders, title insurers, utility companies and others who are informed when a Philadelphian changes his residence, to educate all city property owners of the need to register their current address and that a fine will be imposed for a failure to register. In addition, the city must provide a readily accessible system for residents to update their contact information by e-mail, mail or facsimile and make the registered information routinely available to all city agencies.

STATE LEGAL REFORM FIVE:

Reform Eminent Domain Law to Streamline Process and Permit Just Compensation Reserves To Be Accurately Calculated and Reinvested If Unclaimed

Eminent domain is a power provided by the Fifth Amendment to the United States Constitution that allows governments to take private property if the taking is for a public use (such as the elimination of blight) and the owner is "justly compensated" (usually, paid fair market value) for his or her loss.⁷² In 1945, the Pennsylvania Legislature granted limited powers of eminent domain to Redevelopment Authorities under the Urban Redevelopment Law.⁷³ Only 42% of cities nationwide use eminent domain as a tool to fight blight and many of those only use the tool within a designated renewal area.⁷⁴ In Philadelphia, however, in recent years, eminent domain has replaced the sheriff's sale as the primary means by which the city acquires property.⁷⁵ The Housing Coalition outlines three reforms that will make condemnation more cost- and time-efficient without reducing substantial protections accorded to property owners.

1. In cases where significant abandonment exists within an agreed upon Redevelopment Area with high abandonment rates, allow the Redevelopment Authority to acquire the properties without the inefficiencies of multiple agency involvement.

The Urban Redevelopment Law requires multi-agency involvement at the municipal level for every acquisition of every parcel by eminent domain. Section 12(f) of the Urban Redevelopment Law explicitly requires that the RDA seek out an opinion by the Planning Commission about the appropriateness of each and every acquisition. This is true even if the Planning Commission itself has identified the area as a Redevelopment Area or it has over a 30% vacancy rate.

IN 2002, HOUSE BILL 1952, AMENDING THE URBAN REDEVELOPMENT LAW, WAS PASSED. THE BILL, NOW CODIFIED UNDER LAW AS ACT NO. 113, SUBSTANTIALLY STREAMLINED EMINENT DOMAIN PROCEDURES:

- 1) Creates objective criteria by which the municipality can identify abandoned property for condemnation. "Abandoned" is added to list of criterion that allows condemnation by the RDA and is defined as:
 - a. Owner fails to pay demolition lien or a lien in excess of 150% of property's value**
 - b. Voluntary surrender of property****
- 2) Vacancy – The law defines vacant:
 - a. Squatters will not be able to legally halt spot condemnation that otherwise meets criteria**
 - b. Unimproved lot will be considered vacant when owner does not cure code or building violations within six months****
- 3) Increases level of spending for which contractor must get a bond from \$500 to \$10,000**
- 4) Reduces the time after condemnation in which the owner can appeal estimated just compensation from five years to one year**

MODERNIZE EMINENT DOMAIN LAW

- **Why is Change Needed?**
Slow unpredictable process with unclaimed just compensation funds going into State Treasury Bureau of Unclaimed Property rather than redevelopment
- **Best Practices**
Other states use sparingly if at all
- **Solution**
Standardize blighted property values and permit just compensation reserves to be reinvested
- **Action Needed**
Change in law
- **Impact on State Budget**
None
- **Benefit to State**
Modernize eminent domain code and increase investment in blighted communities

This approval step is yet another impediment in a municipality's ability to streamline the acquisition process. Depending on when the next Planning Commission meeting is scheduled, this approval can delay the process by a month or more. Reform is needed to allow the Planning Commission to essentially pre-certify properties for taking by eminent domain. Where the blighted property to be acquired is located within a Redevelopment Area or a neighborhood with 30% vacancy or more, and the Planning Commission has found the neighborhood appropriate for redevelopment, the recommendation of the Planning Commission should be deemed positive without review. This will help to streamline the acquisition process.

2. Permit unclaimed just compensation reserves to be reinvested in communities.

Under The Urban Redevelopment Law, the RDA must post and maintain a bond sufficient to pay just compensation (usually market value) to owners for their property.⁷⁶ In practice, once a court issues a judgment holding that the RDA's use of eminent domain is valid, the RDA pays the estimated fair market value into the court for the benefit of the condemnees who have not yet come forward to claim compensation for their properties.⁷⁷ At the time the bond is given to the court for the benefit of the condemnees, the one-year period for appealing the value of the condemned property begins. During the period when the court holds the just compensation funds, the city may petition the court to withdraw money from the funds sufficient to pay off existing tax liens partially or fully.

Under current state law, after one year, if the owner fails to come forward or if for any reason the money cannot be provided to the owner, the "court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat. No fee shall be charged against these funds." This basically means that the unclaimed property will go where all Pennsylvania unclaimed property goes - to the Pennsylvania Treasury's Bureau of Unclaimed Property, where the Treasury will maintain perpetual custody of unclaimed property until it is claimed by the rightful owner, or his or her heirs. There is no time limit for an owner to claim his property.⁷⁸

The state's policy of tying up reserves indefinitely in the State Treasury could remove millions of dollars from redevelopment efforts in the city of Philadelphia alone as the Neighborhood Transformation Initiative proceeds, according to Herb Wetzel, Executive Director of the Philadelphia Redevelopment Authority. We need to redirect just compensation reserves back into property acquisition and development to increase resources for large-scale land acquisition.

In addition, Philadelphia continues to wrestle with an urban myth that dramatically increases the amount that developers are required to reserve in escrow to pay just compensation to property owners. It is Philadelphia practice to require the developer to place 200% of the potential damages to the owner of the condemned property into escrow for a period of one year. By reforming the law to allow just compensation reserves to be returned to the developer or RDA if unclaimed, we will free up the portion of this money unneeded for advertising, lawyers' fees, or compensating the owner to be reinvested in acquiring other abandoned properties. This will have even greater benefit in Philadelphia because the city chooses to require that developers who partner with the RDA provide 200% of market value to finance the acquisition.

3. Create standardized just compensation calculation for blighted properties.

Under eminent domain law, the owner must receive just compensation, usually defined as fair market value for his property. Fair market value is the price the property would sell for between a willing buyer and seller.

It is often more difficult to determine market value in neighborhoods where no properties have been exposed to the market for years. A traditional appraisal based on comparable sales comparisons becomes impossible. As a result, a series of alternative appraisal methods are utilized that result in wide variations in value. We need to create a standardized formula for calculating market value for abandoned properties to provide predictability to municipalities and to ensure that the owner will not be unjustly rewarded.

Philadelphia requires that each developer reserve 200% of market value for every property it seeks to obtain by condemnation in partnership with the RDA. There is no basis in state law for this requirement. Franklin Town is a 1972 Commonwealth court case that has been frequently cited as the state case that establishes a legal requirement that developers post a bond in the amount of 200% of the potential costs and damages to the condemnees.⁷⁹ Franklin Town involved the Philadelphia Redevelopment Authority condemning some land and then transferring it immediately to a private developer. There was a specific provision in the agreement between the RDA and the redeveloper that required the bond to be 200% of the projected condemnation costs. The Court ruling made clear that this was purely a decision of two specific parties to the contract and not a state-mandated requirement that impacted developers that were not a party to this specific agreement. The Court stated that while the agreement called for "surety to be twice the estimated acquisition cost of the property to be acquired, it is not specifically required by the Eminent Domain Code.. . [T]he condemner and the developer have elected to agree to such an arrangement." The city would benefit from reconsidering this practice that ties up developers' limited funds.

One potential market value formula would require Pennsylvania municipalities to pay the difference between the fair market value for a comparable property that is intact with all basic systems functioning less the cost of bringing the home up to code with functioning basic systems.⁸⁰

Using this suggested formula, the state would need to establish a minimum standard for fitness for habitation including sanitary facilities, plumbing, heating and structural strength. The city could then estimate the repair cost necessary to bring the building into compliance. Where the cost of repair is more than the value of the structure, the owner would receive no compensation. Effectively, the municipality would discount the market value in the same way as environmentally contaminated land is discounted when obtained through eminent domain.⁸¹

ENCOURAGE PROPERTY DONATION

- Why is Change Needed?
Donation, the cheapest, easiest method to acquire properties, is rarely used
- Best Practices
Georgia, Ohio
- Solution
Hold owner accountable with credit reporting and criminal liability to encourage donation
- Action Needed
Change in law
- Impact on State Budget
None
- Benefit to State
Inexpensive transfer of property from negligent to responsible owner

Increase Owner Accountability to Encourage Property Donation

Hold owners accountable as an incentive to donate abandoned property.

When the Tax Liens Act was passed in 1923 and the Urban Redevelopment Law was passed in 1945, the underlying logic of the laws was that the property owner who has failed to pay taxes or maintain his property would have a financial stake in his property and, therefore, a vested interest. The threat of taking his property would be the best way to hold an owner accountable and to ensure payment of taxes and maintenance of the property so that it did not become a blight on the neighborhood. Today, there is no demand for the majority of the vacant properties in Philadelphia and therefore little if any market value. There is little incentive for an owner not to abandon the property.

The Housing Coalition asserts that state and local governments need to articulate and enforce expectations for property owners when private ownership has public consequences. That expectation should be that you maintain your property or you donate it to the city, the RDA, or a local CDC to facilitate the redevelopment of the community. To motivate the owner to come forward and donate his property, we suggest creating a situation where the owner's failure to pay taxes or maintain his property has real consequences for the current quality of his or her life.

There are two potential methods to provide this motivation to come forward and either pay off municipal claims and maintain the property or donate it.

1. Mandate the reporting of tax liens to credit reporting agencies to impact abandoned property owner's credit.

The Housing Coalition's first proposed accountability measure would require each municipality to report all municipal liens to a credit reporting agency so that each lien will be noted in the public records section of the individual's credit report.

Currently, an owner who chooses to abandon his property and ignore his responsibility to pay property taxes for that property does not see an impact to his credit and his capacity to buy a new house, a big screen TV or any other large purchase.

Unless the municipality reports the tax lien to the credit reporting agency, so that it appears in the public records section, that person can owe \$30,000 in back taxes and still have a perfect credit rating. By mandating that all municipalities report their liens, an owner will have an incentive to contact the city and clear up current ownership issues. Once contacted, the goal of the city will be to obtain full payment of the tax lien and an agreement requiring maintenance of the property or the donation of the property in return for the lien being removed.

As a bonus, reporting liens may reduce notice costs. Once the city has placed a lien on the owner's credit report, it will have the right to obtain current contact information for the owner. As discussed earlier, knowledge of current address adds tremendous cost and time efficiencies to the notice process.

2. Attach criminal penalties to abandonment

Several states have adopted statutes that expose an abandoned property owner to criminal penalties for failing to maintain or prevent crime from occurring on his property. The Housing Coalition recommends that Pennsylvania similarly criminalize abandonment to hold owners of abandoned property accountable and encourage donation of negligently maintained property.

Statutes and procedures in several states offer instructive best practices. Arizona⁹² requires owners of property to take actions that are reasonable and necessary to reduce or eliminate the crime occurring on their properties. If the owner fails to do this, he or she will be sent

notice to take action. If no action is taken, the property owner faces an ultimate penalty of a class 5 felony charge in residential property cases, a \$10,000 fine, and the possibility the property will go into receivership.⁸³

Changes to Ohio law and Cleveland's ordinances have transformed traditionally civil violations of the City's Health, Housing, Building, Fire, and Safety Codes into criminal misdemeanor violations. The maximum penalty for a first-degree misdemeanor in Cleveland is a \$1,000 fine and 180 days in jail. In code violation cases, the city may choose to bring criminal charges against both the record owner of the premises and the person in control of the premises. The Housing Court schedules a hearing, and if the owner fails to come to court, a warrant may be issued for his arrest. The city provides substantial opportunity to avoid criminal prosecution and employs Housing Court Specialists to assist offenders in locating sources of financing or grants to complete needed home repairs or to transfer ownership of the property.⁸⁴

The City of San Diego implemented the Vacant Properties Program in 1996 to return vacant boarded properties to productive use. The program works with property owners to eliminate impediments to rehabilitating their properties, or to help transfer the properties to other parties who will maintain them. In San Diego,

owners/responsible parties of vacant structures are required to submit for approval a Statement of Intent to bring the property into productive use.⁸⁵ The Statement of Intent must include the expected period of vacancy, a maintenance plan for the period of vacancy, and a plan and time line for the lawful occupancy, rehabilitation or demolition of the structure. Failure to submit a Statement of Intent is considered a misdemeanor and is referred to the Criminal Division of The Office of the City Attorney for compliance.⁸⁶ In addition, owners must file a progress report with the city every 90 days or face fines. 90% of all cases are closed due to voluntary compliance.⁸⁷

Any Pennsylvania criminal statute holding property owners liable for negligent maintenance must offer substantial opportunities to avoid prosecution.

The Housing Coalition recommends that a statute criminalizing abandonment be passed that requires a lengthy, well-publicized amnesty period prior to enforcement. After the law goes into effect, we recommend that the statute give the property owner an explicit opportunity to resolve the violations prior to an indictment by investing in or transferring the property. Owners of occupied property, regardless of negligent maintenance, will not be liable under this statute.

STATE LEGAL REFORM SEVEN:

PRIVATE RIGHT OF ACTION

- **Why is Change Needed?**
Citizens have no ability to prosecute neighbor who harms them by not maintaining property
- **Best Practices**
Pittsburgh, PA
- **Solution**
Give neighbors impacted by abandonment the right to bring action against the negligent owner
- **Action Needed**
Change in law may be needed
- **Impact on State Budget**
None
- **Benefit to State**
Increase capacity to hold negligent property owners responsible

Establish a Private Right of Action To Empower Neighbors to Initiate Legal Action to Address Blight and Abandonment

The city has limited resources to prosecute owners of blighted property. The best evidence of this fact is that a problem identified over half a century ago has been left to grow unabated. The city has demolished an average of 1,000 imminently dangerous homes per year since 1984, yet 8,000 remain.⁸⁸

Affording rights to the neighbors of a vacant property to prosecute the owner without the need for city agency assistance would substantially increase capacity to control blight and would empower residents whose quality of life and property values have been harmed.

In 2002, a bill was introduced into the legislature (HB1938) that would grant Pennsylvania residents a right to take private action in a court of law to prosecute negligent owners, but no action was taken on the bill.

Pittsburgh, however, locally established a private right of action to file a complaint with its Housing Court. Under Pittsburgh's law, a citizen who identifies the owner and provides extensive evidence of negligent maintenance can obtain the clean up of the property or criminal penalties for the owner. The fact that Pittsburgh already has a housing court in place with magistrates who are trained in this area of law gives it a substantial advantage over the majority of municipalities, including Philadelphia, which have no courts dedicated solely to housing issues. Unfortunately, a diminished court docket and ailing city budget may result in the elimination of the Pittsburgh Housing Court.⁸⁹ For Philadelphia to effectively create a private right of action, it will need to create a housing division of the court with the expertise and procedures to handle large numbers of claims filed by unrepresented residents who base their claims on evidence produced in an unconventional format.

THE THREE STAGES OF HOUSING ABANDONMENT:

Stage 1: Psychological Abandonment—

Residents and non-residents begin to doubt the future viability of the neighborhood.

Stage 2: Fiscal Abandonment—

Property owners no longer invest in their property by paying taxes or spending for maintenance or improvements.

Stage 3: Physical Abandonment—

The owner abandons the property.⁹⁰

STATE LEGAL REFORM EIGHT:

Create a Smart Rehabilitation Building Subcode

CREATE REHABILITATION SUBCODE

Philadelphia's Building Code, Chapter 34 of the 1996 BOCA Code, insists that altered portions of older buildings must meet requirements for new construction. This adds sufficient cost and unpredictability to deter renovation particularly in distressed neighborhoods.

The reality is that older housing often cannot meet the requirements for new housing for a variety of reasons: because of its century-old lumber or because the staircase was built before there were any requirements as to how steep the steps are or how long the step is and there is not adequate room to accommodate a modern-day staircase. The dimensions of older houses were very different from our modern homes, yet the code contains the same ceiling height requirements, egress window requirements, and corridor and doorway width requirements for older homes being rehabilitated as new construction.⁹¹

Philadelphia's Building Code, as a result, fails to provide those renovating a property with clear, consistent and predictable standards.

The owner must submit plans and go through an extensive evaluation of the building to obtain a subjective points assessment. The building is given points for features that meet or exceed the code requirements for a new structure, and has points removed for features thought to be hazardous. The inspector then adds up the points, and if there are not enough, then the building owner must determine which are the lowest cost changes he can make in order to add sufficient points to be able to renovate the property. This cumbersome, time-consuming system does not support the owner who wishes to renovate his home rather than abandon it or the investor who seeks to preserve the historic feel and dimensions of older housing stock.

Rehabilitation has a significant impact on the quality of housing stock, the economy and our neighborhood property values and aesthetics. Nationally, home

improvement alone accounts for two percent of the gross domestic budget annually and remodeling is approaching the same level as new construction.⁹² Spending on rehabilitation in the Philadelphia Metropolitan Area is significant. In fact, during the 1990s, our region spent \$24.4 billion on remodeling with an average of almost \$2000 spent per homeowner.⁹³ This investment is evident in our older neighborhoods. It is important for government policy to support and promote private investment in housing rehabilitation and renovation.

New Jersey revised its building code in 1998 to include a rehabilitation subcode and it has markedly increased rehabilitations throughout the state. The code is written in basic English rather than arcane regulatory language and provides clear technical requirements for each type of work needed to create a safe building.

The extraordinary impact of the subcode has been well documented. Since the adoption of New Jersey's "Smart Code," rehabilitations statewide have increased by 40%, while money spent on rehabilitations in New Jersey's five largest cities jumped 90% from 1997-1999.⁹⁴

New Jersey was at the front of the rehabilitation parade but many states have followed including Maryland, Maine, Michigan, New York and Rhode Island.⁹⁵ The revised codes reduced the cost of rehabilitation in those states by 10-40%.⁹⁶

Pennsylvania should adopt a rehabilitation subcode that requires a safe older building rather than requiring an old building to meet new construction standards. As a result Pennsylvania will transform many older buildings into investment opportunities.

* In 1999, the Pennsylvania Construction Code Act (No. 45 of 1999) mandated that all communities in Pennsylvania follow the 2000 International Building Code. The International Building Code was formerly known as the B.O.C.A. Code. Licensing and Inspection is scheduled to release regulations sometime in 2003 when the law will go into effect in most of the state. In Philadelphia, the new code will not take effect until 2004. The new uniform code does not significantly improve rehabilitation requirements.

- **Why is Change Needed?**
Building code discourages rehabilitation; owner must bring to new construction standard
- **Best Practices**
New Jersey, Maryland
- **Solution**
Create a smart rehabilitation subcode - requirements based on safety not new construction
- **Action Needed**
Change in law
- **Impact on State Budget**
None
- **Benefit to State**
Increase rehabilitation of housing stock

REDUCE ADVERSE POSSESSION TIME

- **Why is Change Needed?**
PA requires one of the longest periods for obtaining urban property through adverse possession in the nation
- **Best Practices**
New York, Rhode Island
- **Solution**
Reduce adverse possession time from 21 years to 10 years
- **Action Needed**
Change in law
- **Impact on State Budget**
None
- **Benefit to State**
Encourage tax-paying ownership and maintenance of homes

Reduce Time for Possession to 10 Years Under Adverse Possession Law

The Housing Coalition recommends that the period for bringing an adverse possession action should be reduced from 21 years to 10 years on residential properties in cities of the first, second and third classes in order to permit occupiers with cloudy title to gain clear ownership. This will permit them to pass their property down through inheritance and obtain grants and loans during their lifetime to maintain the property.

Adverse possession is a legal process that permits a person with a long-established claim to a property to gain title to that property based upon sheer possession. In Pennsylvania, a person seeking to claim title to real estate through adverse possession must meet the Pennsylvania common law standards, which requires the person bringing the action to be in "...actual, continued, visible, notorious, distinct and hostile..." possession of the property for 21 years. This means that a person must continuously and personally occupy the land in a manner that is visible to those around him for 21 years.

Pennsylvania's time requirement for possession is one of the longest in the nation.

The Pennsylvania General Assembly in the 18th Century wanted to make it difficult for adverse possession suits to be brought, generally, and particularly by settlers in western Pennsylvania (anyplace west of Lancaster) against the great land barons of the Commonwealth who owned vast unpopulated tracts of land. In this regard, Pennsylvania was not alone. A review of other states

(see chart on next page) that were English colonies indicates that long adverse possession time frames were not uncommon (e.g. New Jersey and several New England states) until more recent legislative action was taken (e.g. New York). Conversely, states that were settled later, principally in the west and to some extent in the south, have shorter statute of limitations because in these states the public policy goal was to encourage rapid settlement. We recommend that Pennsylvania reduce the time of possession to 10 years solely for properties in its first-, second- and third-class cities.

Although we cannot quantify how many individuals would obtain ownership to abandoned properties as a result of this legal change, a recent study by the University of Pennsylvania and the Philadelphia Corporation on Aging indicates that thousands of elderly people may be occupying homes on which their names do not appear on the deeds, and a shorter time for adverse possession would permit many of them to obtain ownership of their properties.⁹⁷ In addition, there are a number of individuals who obtained property by verbal promise or who took over responsibility for maintaining a property and paying taxes when the owner left, but still lack a legal right to ownership that changes to adverse possession requirements would remedy.⁹⁸ Lowering the possession time for adverse possession will encourage ownership of distressed properties in Pennsylvania cities and will provide to municipalities a clearly identifiable party who is responsible for the operation and maintenance of residential property and the payment of taxes.

As the table below indicates, Pennsylvania’s 21-year statute of limitations is among the nation’s longest.

STATE STATUTES OF LIMITATIONS FOR ADVERSE POSSESSION

<u>State</u>	<u>Years</u>
Alabama	20
Alaska	10
Arizona	10
Arkansas	7
California	5
Colorado	18
Connecticut	15
Delaware.....	20
D.C.	15
Florida	7
Georgia	20
Hawaii	20
Idaho	5
Illinois	20
Indiana	10
Iowa.....	10
Kansas	15
Kentucky.....	15
Louisiana.....	30
Maine	20
Maryland	20
Massachusetts	20
Michigan.....	15
Minnesota	15
Mississippi.....	10
Missouri	10

<u>State</u>	<u>Years</u>
Montana	5
Nebraska	10
Nevada	5
New Hampshire	20
New Jersey	30
New Mexico	10
New York.....	10
North Carolina	20
North Dakota	20
Ohio	21
Oklahoma	15
Oregon.....	10
Pennsylvania	21
Rhode Island	10
South Carolina	10
South Dakota	20
Tennessee.....	7
Texas	10
Utah	7
Vermont.....	15
Virginia	15
Washington.....	10
West Virginia	10
Wisconsin	20
Wyoming	10

SUPPORT AND FUND MAINTENANCE

- **Why is Change Needed?**
When cost of maintaining home exceeds value, the owner will abandon it
- **Best Practices**
Maryland, Ohio
- **Solution**
Increase funding for maintaining older infrastructure and Basic Systems Repair program
- **Action Needed**
Reallocate funding
- **Impact on State Budget**
Increased funding
- **Benefit to State**
Revitalize urban neighborhoods with aging housing stock

"Economists speak of a 'prisoner's dilemma,' in which property owners do little to maintain their homes if others nearby are not maintaining theirs. Preventing properties from falling into disrepair therefore is essential to thwarting the progressive deterioration of neighborhoods."⁹⁹

Provide Funding and Incentives for Property Maintenance

To create demand for housing in Pennsylvania's cities and towns, Pennsylvania must invest in maintaining and improving the housing stock. A recent study found that 45% of the nation's seven million extremely low-income homeowners have difficulty properly maintaining their homes, because they spend more than half their income on other housing costs.¹⁰⁰ Over two years in 1998-99, 42% of homeowners spent less than \$500 on upkeep of their home according to the American Housing Survey.

The age of Pennsylvania's housing stock greatly increases the need for major repairs to roofs, plumbing and electrical systems. If these fundamental repairs are not made, conditions will accelerate property deterioration until the property itself is dangerous, uninhabitable and abandoned.

A recent analysis of the state-funded Basic Systems Repair Program which provides grants to low-income homeowners to repair their homes' basic systems, shows that it has been successful in preventing individual owners from abandoning their properties.

Blight Free Philadelphia: A Public-Private Strategy to Create and Enhance Neighborhood Value, a report by the Eastern Philadelphia Organizing Project and Temple University Research for Democracy, found that the Basic Systems Repair Grant Program, a program that provides income-eligible homeowners

with grants to make essential repairs to major systems of their home administered by the Philadelphia Housing Development Corporation, funded grants to 12,000 homes between 1995 and 2000. The average grant to owners was \$3,088. Of the 12,000 homes that received grants, only 117 were found to be abandoned in 2000. That is less than one percent of grants when more than four percent of all Philadelphia residences are abandoned.¹⁰¹

Philadelphia's failure to integrate this repair program with a more comprehensive strategy to prioritize expenditures for maximum impact makes it impossible to determine if this program can turn around entire neighborhoods but its potential to reduce blight at relatively low cost may be substantial.

Pennsylvania needs to increase funding for this Housing and Redevelopment Assistance Program- ("HRA") funded best practice, reversing major cuts in this program that have reduced funding to half the level of funding at the beginning of the 1990s.¹⁰² Once HRA funding is expanded, municipalities must target available funds in a thoughtful way to neighborhoods that remain functioning but under threat from limited abandonment. With an inventory of their abandoned housing stock in hand, a community will be able to strategically allot these funds, targeting specific neighborhoods and properties that have a special significance because of their location to most effectively deter abandonment.

Conclusion

Abandonment is a serious problem for communities throughout the state but if addressed aggressively and comprehensively, the situation offers tremendous opportunity for our older built-out cities and towns to add new housing to their communities.

In Philadelphia, the greatest population loss and abandonment rates exist in the neighborhoods adjacent to Center City. With high market values only blocks away, there is a strong base upon which to expand market demand. In fact, throughout Philadelphia and many other Pennsylvania municipalities only five or six blocks tend to separate thriving neighborhoods and largely abandoned neighborhoods. This offers a notable opportunity to leverage the demand for housing in viable markets to attract residents to the underutilized land on their borders.¹⁰³

Currently, the state provides Philadelphia and other municipalities governed by the same foreclosure (Municipal Claims and Tax Liens Act of 1923) and eminent domain (The Urban Redevelopment Law)

laws, with the fundamental tools it needs to acquire, assemble and convey abandoned properties.

Pennsylvania municipalities are in a better position than many cities across the country to acquire land strategically because unlike other jurisdictions, Pennsylvania permits them to take land without having a set purpose in mind for the use of the land. Municipalities can also assemble the land into developable sites, maintain and insure it during the period of temporary ownership and have some power to convey it to a third party who will be responsible for eliminating blight and redeveloping the site.

The Housing Coalition's proposed reforms are designed to modernize these tools to allow municipalities to address abandonment more efficiently and effectively. These reforms will give local governments the tools to fight abandonment aggressively and comprehensively and attract new investment to our cities and towns.

The Housing Coalition hopes these ideas for reform are helpful to Philadelphia, the Commonwealth and many other Pennsylvania municipalities.

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Glossary of Terms

Abandoned Property – A chronically vacant and uninhabitable property whose owner is taking no active steps to bring it back into the market

Appraisal – An estimated value of property obtained from an analysis of property

Building Code – An ordinance specifying minimum standards of construction of buildings for the protection of public safety and health

Clean and Clear Title – Marketable title reasonably free from risk of litigation over possible defects like inadequate notice

Condemnation – A judicial or administrative proceeding to exercise the power of eminent domain, through which a government agency takes private property for public use and compensates the owner

Eminent Domain – The right of a government or municipality quasi-public body to acquire property for public use through a court action called condemnation, in which the court determines that the use is a public use and determines the price or compensation to be paid the owner

Equity – The interest or value that an owner has in his or her property over and above any mortgage indebtedness

Foreclosure – A legal procedure whereby property is sold to satisfy a tax debt of at least one year's payments

Tax Lien – A claim against property arising out of non-payment of the taxes; the claim may be sold by the taxing authority

Tax sale – Public sale of property at an auction by a municipality due to nonpayment of property taxes

Title – Evidence of a person's right or interest in property; may obtain title insurance that indemnifies the insured for unknown defects in the title

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