Identifying Vacant and Abandoned Properties

What Public Data Can (and Can’t) Do

April Hirsh Urban
Center on Urban Poverty and Community Development
University Heights Resident
How do you know when a home is vacant?
Possible data sources

• Regular vacancy survey
• Local vacancy registry
• MLS listing
• Utility usage
• USPS vacancy data
• Sheriff’s sales-property transfers
• Foreclosure filings
• Tax delinquency
• Investor ownership

Requires enforcement, expensive or infrequent

Administrative data, but difficult to access, may miss problematic properties

Administrative data, accessible, may miss problematic properties
How do you know when a property is abandoned?
Cleveland-Marshall College of Law

FIXING TOXIC TITLES

Presentation by
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TOXIC TITLES

Quotation: “When city officials try to hold someone responsible for dilapidated properties, they often find the homeowner and bank pointing fingers at each other. Indeed, the houses fall into a kind of legal limbo that Cleveland housing attorney Kermit J. Lind calls “toxic title.”


Also known as Zombie Titles
DEFINITION

A “toxic title” is a title to real property where none of the persons with a legal interest in it can exercise their rights to the property without incurring liabilities greater than the value of the property.

_titles to houses cannot be abandoned!

- Conveyance of title requires a grantor and a grantee who accepts liability for all liens and repairs.
WHAT CAUSES TOXIC TITLES?

• Mortgage servicing malfeasance
• Death of an owner of low-value property
• Foreclosure of “right, title and interest”
• Upside down loan-to-value
• Owner abandons occupancy
• Lien-holder “abandonment” -- “walk away”
• Speculative debt collection
• Slow property tax debt collection
WHAT HARM DO THEY DO?

- Maintenance & repair neglected
- No response to code enforcement actions
- Public nuisance conditions lower neighborhood health, safety, quality of life & value of neighboring property
- Attract abusive & fraudulent transactions by investors & criminals
- Property tax goes unpaid
- Public pays for nuisance abatement
- Prevent successful rehab & redevelopment
WHAT HARM TO PEOPLE?

• Prevents transfer/donation of property
• Destroys credit rating
• Disqualifies elderly/disabled for benefits
• Subjects impoverished owners to criminal penalties for failure to maintain worthless property
• Enables sale of undetected corrupt titles to good-faith purchasers
• Reduces value of neighboring houses
In Ohio, court supervision is required to foreclose (extinguish) liens and sell property.

Only a person/legal entity with a legal interest in the property may foreclose.

After foreclosure decree, confirmed judicial sale results in conveyance of deed to grantee by court order with title cleared of all liens.
TYPES OF LEGAL PROCEEDINGS

- Tax lien foreclosure & sale to buyer
- Probate action
- Quiet title action
- Civil nuisance abatement action with nuisance abatement costs as the priority lien to foreclose
- Require secured nongovernment creditors to exercise their lien rights to foreclose or forfeit to public disposition
- Spot blight eminent domain
QUESTIONS & COMMENTS

1. What is the role of federal housing agencies regarding toxic titles?
2. How does demolition affect title?
3. Who owns title in foreclosure before sale is confirmed?
4. Who owns title when owner dies?
5. [Your question goes here]
TAKE MY HOUSE (PLEASE)

MUNICIPAL RESPONSES TO THE VACANT HOUSE EPIDEMIC

- MARK WISEMAN,
  COUNCILMAN UNIVERSITY HEIGHTS
WHAT’S THE BIG DEAL?

- VACANT HOUSES COST
  - INCREASED POLICE ATTENTION
  - FIRE HAZARD
  - HEALTH HAZARD
  - NEIGHBORHOOD ITCH
    - LARGE DIFFERENCE BETWEEN ADJACENT NEIGHBORS AND EVERYONE ELSE
  - COSTS TO REPAIR IMMEDIATE HAZARDS
PERFECT F/C:

- LAWSUIT
- JUDGMENT
- SHERIFF’S SALE
- NEW BUYER
- PICKET FENCE
IMPERFECT F/C:

- LAWSUIT.. EMPTY HOUSE.....DELAY
- LOAN SOLD...CASE DISMISSED
- NEW LAWSUIT....DELAY
- HOUSE ROTS...JUDGMENT
- BANK HAS SECOND THOUGHTS;
- MOTION TO VACATE SALE & DISMISS CASE
- HOUSE IS GARBAGE
PASSIVE CONTROLS

- PLYWOOD
- PARADE-TYPE MONITORING
- ABILITY TO IGNORE GLARING PROBLEMS & REDIRECT EFFORTS TO THE BAKE SALE
- HAND-WRINGING/SAD LOOKS
NUISANCE RESPONSES

- INERTIA: HAMBURGER VS. CHEESEBURGER
  - USUALLY ONLY AFTER PROPERTY IS IN PAINFULLY OBVIOUS DISREPAIR AND SITUATION IS DANGEROUS
- FIX THE PORCH
- TRAP RACCOONS, SKUNKS, ETC.
- SEEK COURT INTERVENTION & ENTRANCE TO HOUSE
- STRONGLY WORDED LETTER
PAST EFFORTS BASED ON WHO IS THE “OWNER”

- Statutes stating “owner” has to maintain property
- Dayton v. Hausman (OH Sup Ct)
  - Bank responsible if they have “possession and/or control”
  - Mooted by tenuous relationship b/w lender & servicer
- Court orders to enter
- By the time you go to court – you’ve lost
ACTIVE CONTROLS

- DOCKET SEARCHES
- INSPECTION OF PROPERTY
- TRYING TO FORCE LENDER/SERVICER’S ACTION
  - SQUEEK AS MUCH AS YOU CAN
- ENTERING F/C AS INTERESTED PARTY
  - ONLY AFTER MONEY SPENT, ACTION TAKEN
- AFFIDAVIT OF STATEMENT OF INTEREST
5301.252 Recording affidavit relating to title.

(A) An affidavit stating facts relating to the matters set forth under division (B) of this section that may affect the title to real estate in this state, made by any person having knowledge of the facts ...may be recorded in the office of the county recorder...

(B)...(3) The happening of any condition or event that may create or terminate an estate or interest;
NOT QUITE A MAGIC WAND

- MONEY TO RECORD
- WAITING PERIOD BEFORE EXECUTED
- TITLE COMPANIES CAN OMIT
- CITY MUST INCUR COSTS AND THEN WAIT FOR REIMBURSEMENT
EVERY CITY NEEDS

- ENGAGED ADMINISTRATION
- ABILITY TO CHANGE “WHAT WE’VE ALWAYS DONE”
- UNDERSTANDING NATURE OF THE CRISIS
- WILLINGNESS TO ACT
- REALLOCATION OF RESOURCES
  - POINT OF SALE V. VACANT INSPECTIONS
  - TIME TO ENFORCE
SOUTH EUCLID/SHAKER HEIGHTS

- PLAINIFF IN F/C MUST:
  - REGISTER VACANT PROPERTIES WHEN THEY REALIZE IT’S VACANT*
  - PAY FEE TO REGISTER*
  - ACTUALLY FIX BLIGHTED PROPERTIES
    - INSPECTION
    - MONITORING
    - ABILITY/WILLINGNESS TO ENFORCE