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**MEMORANDUM**

**TO:** Amy Connolly, Director, Department of City Development, City of Racine

Laura Detert, Manager of Housing and Community Development,  
Department of City Development, City of Racine

**FROM:** Matt Kreis, Assistant General Counsel for National Initiatives,  
Center for Community Progress

John M. Carpenter, Jr., Consultant

**DATE:** December 20, 2017

**RE:** Preliminary Review of the Systems Impacting Vacant and  
Abandoned Properties in Racine

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**Introduction**

In the summer of 2017, the City of Racine (“City”) requested that the Center for Community Progress (“Community Progress”) assess the City’s approach to vacant and abandoned property in Racine.<sup>1</sup> The resulting agreement called for Community Progress to provide the City with a preliminary assessment of the systemic legal, policy, and operational issues related to housing and building code enforcement and potential opportunities for land banking activities in Racine.

To inform this assessment, Community Progress briefly reviewed relevant Wisconsin State Law (“State Law”), the Racine Code of Ordinances, other online resources, and documents provided by the City. Community Progress also conducted several phone interviews with City staff, and participated in a site visit to Racine on November 7<sup>th</sup> and 8<sup>th</sup>, 2017. The focus of those efforts was to better understand the existing legal and organizational framework of the City’s housing and building code enforcement, delinquent property tax enforcement, and current public land acquisition and reuse practices.

This assessment focuses primarily on vacant and abandoned property in Racine, despite the fact that conversations with stakeholders during our site visit (which included City staff, the Racine County Treasurer (“County Treasurer”) and her staff, the Municipal Court judge, and a local developer) revealed a lack of consensus as to which types of problem properties in Racine have the

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<sup>1</sup> When “Racine” is used on its own in this assessment it refers to the geographic area of the City of Racine.

largest impact on City resources and residents.<sup>2</sup> Community Progress' expertise and focus in this engagement is on vacant and abandoned property, which refers to property that is not just vacant but has been left to deteriorate, and which imposes significant harm on neighbors and neighborhoods. Strategies to address substandard occupied properties are beyond the scope of this memorandum, but are certainly a critical and necessary portion of the City's response to problem properties.

As the City looks to establish a more comprehensive and outcome-driven approach to vacant and abandoned properties, Community Progress offers the following **Five Key Takeaways** for consideration:

- 1) New City leadership provides an excellent opportunity to establish vacant and abandoned property as a key municipal priority, and existing intergovernmental collaborative efforts should be built upon to create a Vacant and Abandoned Property Task Force.**
- 2) The development of comprehensive property data will help determine which set of problem properties have the most impact on City resources and residents (vacant and abandoned properties, substandard rental properties, underutilized commercial and industrial buildings, or substandard single-family homes) and to inform strategic public intervention and the deployment of limited public resources.**
- 3) Efficient, effective, and equitable housing and building code enforcement requires that the City establish (a) more proactive and targeted enforcement practices to address issues of capacity, (b) the transfer of vacant and abandoned property to responsible ownership, and (c) updated policies and programs to support low-income and other vulnerable homeowners and residents.**
- 4) Delinquent property tax enforcement, controlled entirely by Racine County ("County"), should be a systematic mechanism for the transfer of tax delinquent, vacant, and abandoned properties to responsible ownership. However, the delinquent tax enforcement system is not currently deployed efficiently or effectively for this purpose because various tensions and insufficient trust are endemic to the relationship between County and City leadership and departments.**
- 5) Tax delinquent, vacant, and abandoned properties acquired through an expanded delinquent tax enforcement program could be a source of property to support the City's acquisition and disposition goals. Improved coordination and collaboration between County officials responsible for the collection of tax revenue, and City officials**

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<sup>2</sup> "Problem properties" is used to refer to those types of property that have a negative impact on the community due to the condition of the property. In this assessment, problem properties refer collectively to vacant and abandoned property, substandard rental property, substandard single-family homes, and underutilized commercial and industrial buildings.

**seeking remediation of vacant, abandoned, and tax delinquent properties, is a necessary precursor to any successful program.**

These five key takeaways, as well as the research and interviews conducted by Community Progress, informed the following assessment of the City's approach to vacant and abandoned property. Under Mayor Mason's new leadership, and with the pending development of the Foxconn Technology Group facility just outside the City's borders as a possible economic stimulant, the City is in an optimal and timely position to harness its existing staff and build a more comprehensive and proactive approach to address those properties in Racine that continue to drain City resources and diminish the value of neighboring properties. The observations and recommendations that follow are offered as a menu of options for City and local leaders to consider, and any decisions as to implementation are subject to the advice and guidance of local legal counsel.

## **I. City Leadership Should Prioritize Vacancy and Abandonment with the Creation of a Vacant and Abandoned Property Task Force**

In any local government, efforts to address vacancy and abandonment must be identified as a key priority by existing leadership to be successful. Two key components of prioritizing vacancy and abandonment include: (1) understanding that an approach to vacant and abandoned properties requires the coordination and alignment of various public systems, including data and information technology, housing and building code enforcement, delinquent property tax, and public land acquisition and reuse; and (2) recognition of the impact vacant and abandoned properties have across multiple local government departments and agencies, including cities *and* counties, as well as community organizations and residents. To ensure approaches to vacancy and abandonment are informed and developed with the input and expertise of each of these various municipal and community stakeholders, local government leaders often organize working groups or task forces to specifically address vacant and abandoned properties. These working groups or task forces are only successful if local government leaders ensure that such groups are led by a person or persons with the authority to mandate regular and routine meetings and to hold members accountable for participation and task force goals.

The City does not have a vacant and abandoned working group or task force, but has developed a cross-agency collaborative model that can serve as the foundation for creation of a vacant and abandoned property task force. Over the past five years, the City's Integration Team, led by the Department of Health ("Health"), and consisting of staff from the Department of Building Inspections ("Buildings"), Fire Department ("Fire"), Police Department ("Police"), and the County's Housing Authority, has worked together to inspect more than 70 large, multi-family rental properties for violations that affect the habitability of those properties, like the presence of lead paint or other dangerous conditions that would affect the health or safety of the inhabitants. This effort offers a great opportunity on which to build similar collaborative efforts related to vacant and abandoned property. Such a task force could also offer a forum for outreach to residents and

stakeholders outside of local government.<sup>3</sup> To ensure the success of such a task force, it is critical for City, County, and community leaders to reach a consensus on the problems that vacancy and abandonment present, and to develop shared vision, goals, and strategies in response.<sup>4</sup>

Consider the following next steps:

- 1) *Create a Racine Vacant and Abandoned Property Task Force.* The Vacant and Abandoned Property Task Force should meet at least once each month to oversee the coordination of the City's approach to vacant and abandoned property. The Task Force should consist of City staff from the Mayor's office, the Department of City Development ("City Development"), Buildings, Health, Fire, Police, the Department of Management Information Systems ("MIS"), and representatives from the County Treasurer, the office of the County Executive (on behalf of the County Board of Supervisors), and possibly the County's Housing Authority. The focus of the Task Force should be solely on vacant and abandoned property in Racine and on the full range of options available for enforcement, remediation, and the compelled transfer of ownership for those vacant and abandoned properties that are causing the most harm. The Task Force should be led by a representative with the Mayor's or City Administrator's authority to hold members accountable for participation. It is equally imperative that the County Treasurer and the County Executive be represented in these meetings because the delinquent property tax enforcement process, over which the County has control, is a key aspect of ensuring tax delinquent, vacant, and abandoned properties are transferred to responsible ownership (this will be discussed further in Section IV).
- 2) *Develop and work toward Year 1 Task Force goals.* Taskforce goals in Year 1 should include data collection and sharing, assessment of efficacy of all municipal tools utilized to address vacant and abandoned properties, and collaboration between County and City departments and officials to leverage knowledge and municipal powers to achieve common goals. An equally important Year 1 goal is to show tangible success on a specific piece of property to build goodwill with the municipal and community organizations that support the Task Force and with residents. Tangible success could include, for example, converting a vacant lot into a small passive parklet, or finally demolishing a property that has presented a major problem to residents for years. In addition, Year 1 goals may include development of internal (City and County governmental departments) and external (neighborhood, for-profit and non-profit stakeholders) educational programs about vacant and abandoned properties,

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<sup>3</sup> The City of New Orleans' BlightStat program offers an opportunity to reveal how a collaborative City group working to address blight in New Orleans can also involve and seek input from residents. Information available on the City of New Orleans website at <https://www.nola.gov/code-enforcement/blightstat/>.

<sup>4</sup> For more on the importance of developing shared vision, goals, and strategies to address vacancy and abandonment, see Community Progress' Technical Assistance Scholarship Program ("TASP") report, *Developing a Shared Vision and Strategies to Address Vacancy and abandonment in the City of St. Louis*, available at: [http://www.communityprogress.net/filebin/20160707\\_STL\\_Report\\_Draft\\_FINAL\\_STL\\_REVIEW.pdf](http://www.communityprogress.net/filebin/20160707_STL_Report_Draft_FINAL_STL_REVIEW.pdf).

the harms they impose, and the current opportunities and challenges facing municipal leaders attempting to remediate those properties.

- 3) *Encourage the participation of residents most impacted by vacant and abandoned properties at Task Force meetings and in Task Force activities.* Advertise Task Force meetings and send targeted invitations to those residents who live in communities with the most vacancy and abandonment. These meetings should offer residents the opportunity to describe the challenges that problem properties present, hold Task Force members accountable, and contribute ideas for possible end-uses of problem properties. Consider Task Force programs in Year 1 that provide opportunities for resident participation and leadership including, for example, neighborhood property windshield surveys, or simple Facebook campaigns to help identify and count vacant and abandoned properties throughout Racine.
- 4) *Celebrate success.* The mere creation of a Vacant and Abandoned Property Task Force with representation across City and County governments, and resident engagement is a success and feat of collaboration. Additional activities and milestones achieved by the Task Force—from completing a vacancy count in a particular neighborhood, to the creation of an innovative City/County program to develop additional affordable housing—are important to share in a transparent fashion, and to celebrate publicly to build support for Task Force goals and activities.

## **II. Comprehensive, Cross-Departmental Property Data is Critical to Inform Deployment of Limited Public Resources to Vacant and Abandoned Properties**

Access to accurate, timely, and robust parcel data is essential to helping communities determine the types of properties that have the most harmful impact on City resources and residents. Access to and compilation of parcel level data, including market information, property condition, and ownership information, is also key to reforming and better aligning public systems and intervention strategies to address the problems imposed by vacant and abandoned properties. For example, vacancy and property tax delinquency are often key indicators that a property may have a negative impact on the community. The ability to compile a list of properties that share these data points and then inspect them for potential housing and building code violations (or to match them to current housing and building code enforcement actions already under way) can be a powerful tool in gauging the scope and impact of that specific subset of properties.<sup>5</sup> The chart on the following page highlights sample data points that would ideally be available to local governments considering reform to public systems and strategies to address vacant and abandoned properties.

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<sup>5</sup> Studies examining the economic impact of vacancy are often referred to as “Cost of Blight” studies. See for example [http://www.communityprogress.net/filebin/Cost\\_of\\_Vacant\\_and\\_Blighted\\_Immergluck\\_FINAL\\_02.17.16.pdf](http://www.communityprogress.net/filebin/Cost_of_Vacant_and_Blighted_Immergluck_FINAL_02.17.16.pdf) (Atlanta), and [http://www.communityprogress.net/filebin/160630\\_TASP\\_LCLRC\\_Toledo\\_Cost\\_of\\_Blight\\_Study\\_Final.pdf](http://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf) (Toledo).

Sample Data Sets Related to Vacant and Abandoned Properties

<b><i>CATEGORY</i></b>	<b><i>KEY DATA</i></b>	<b><i>POSSIBLE DATA SOURCE</i></b>
<b>Basic Property Information</b>	<p>Basic property characteristics (number of taxable properties, number of units, property condition, land use)</p> <p>Ownership</p> <p>Assessed value</p> <p>Conveyances (date, sales price, buyer and seller, type of deed)</p> <p>Mortgage foreclosure filings/status</p>	<p>City Assessor</p> <p>Register of Deeds</p> <p>Clerk of the Circuit Court</p>
<b>Vacancy and abandonment</b>	<p>Utility shut-offs</p> <p>Mail stops and forwarding</p> <p>Visual evidence of neglect</p>	<p>Public utilities</p> <p>US Postal Service</p> <p>Surveys or citizen reports</p> <p>Finance Department</p>
<b>Housing and Building Code Enforcement</b>	<p>Types of properties subject to enforcement</p> <p>Complaints</p> <p>Cases referred to Court</p> <p>Enforcement outcomes</p> <p>Orders to Demolish</p> <p>Nuisance abatement</p>	<p>Department of Buildings Inspection</p> <p>Health Department</p> <p>Department of City Development</p> <p>Department of Management Information Systems</p>
<b>Property Tax Information</b>	<p>Tax delinquencies (number, time delinquent)</p> <p>Tax certificates/liens</p> <p>Redemptions</p> <p>Tax Foreclosures</p>	<p>County Treasurer</p> <p>Department of Finance and Budget</p>
<b>Crime and Fire</b>	<p>Crime and fire calls at specific addresses and by block</p> <p>State Fire Prevention/Fire Safety Code violations</p>	<p>Police Department</p> <p>Fire Department</p>

Data should be routinely and systematically collected. Data from a single point in time will help to tell the story or define the problem when the data was collected, but if data is consistently and routinely collected over time, the data will begin to highlight trends. When integrated and mapped, comprehensive parcel level data will offer City and community leaders the opportunity to visualize and even predict where local efforts to intervene in the life cycle of a property are most needed and will have the greatest impact.

The City already has a system in place that can harvest data from various existing databases, and then sort and visualize many of the types of data mentioned above. The City's Department of Management Information System ("MIS") reports that it has spent significant time optimizing a software suite called Cityworks, and that Cityworks can access, aggregate, sort, and map data from a number of existing City and public databases including, for example: housing and building code enforcement data, property assessment and value data, inspection and permit data from various City departments, property tax payment data, and planning data.

Only a fraction of Cityworks functions and capabilities are currently utilized by the City. Routine and systematic use of Cityworks as a platform for data integration and analysis for all departments that address problem properties or seek to strategically acquire such property for development or reuse would further enhance the system's utility. Ultimately, Cityworks could be used to help define and understand the scope of each subset of problem properties (vacant and abandoned properties, substandard rental properties, underutilized commercial and industrial buildings, or substandard single-family homes ) as well as to inform strategically targeted housing and building code efforts or identify properties that are ripe for the City's development programs.

Consider the following next steps:

- 1) *Task the Vacant and Abandoned Property Task Force to ensure Cityworks is utilized to its full potential to better track types and locations of problem properties and to inform proactive approaches.* The sharing of data into Cityworks should be prioritized among all City departments that play a role in addressing vacant and abandoned property. The Vacant and Abandoned Property Task Force could play a key role in ensuring Task Force members take full advantage of Cityworks as an analytical tool. Task Force members could support and enhance the already substantial level of customization invested in the software from MIS staff by: (a) reviewing the data points currently collected, and (b) making recommendations for additional data points to be captured in Cityworks or their departmental systems. Such data points may include property condition, vacancy status, presence of code violations, property tax payment status, home sales, foreclosures, and investment activity, like building permits. Users should be routinely trained by MIS staff on how data can be better collected and used to inform more proactive approaches like, for example, locating and tracking vacant properties in Racine. Task Force members might also

explore whether key County level property data sets may be imported into the Cityworks database.

- 2) *Use improved data to develop a list of properties that are likely vacant and abandoned and to make the case for directing resources to those properties.* The Task Force may consider developing a list of properties for closer inspection and monitoring by the City that are likely vacant. A “Priority Vacant Property” list could include addresses that contain all of the following: (a) delinquent property taxes, (b) one or more code enforcement orders (Health or Buildings) in the last 2 years, and (c) utility shut-off information, like water or electricity shut-offs (if available). The list could be modified or expanded based on the number of results and an initial inspection of the properties, but the ability to understand, map, and prioritize property based on condition and potential danger to the community would help to direct resources to the highest priority problems.
- 3) *Build upon vacant property data points over time to achieve increased targeting of limited public resources for neighborhood stabilization, and increase efficacy of property interventions that protect public health and safety.* Limited public resources should be directed strategically, to help stabilize neighborhoods where public interventions generate and inspire additional stabilizing activity by the private market. Similarly, limited public resources must always be utilized to protect the health and safety of residents, with a careful emphasis on the most vulnerable neighborhoods without regard for market forces. Data sets including property values, tax delinquency, and various indicators of vacancy should be used by the Task Force to help guide neighborhood intervention strategies on problem properties. Additional data sets including, for example, presence of police and fire calls, should be collected, analyzed, and mapped over time to ensure public resources are utilized to address those vacant and abandoned properties that are most harmful to vulnerable neighbors and neighborhoods throughout the City.

### **III. Code Enforcement Systems Should be Proactive, Authorize the Transfer of Noncompliant Vacant and Abandoned Property to Responsible Ownership, and Provide Support to Vulnerable Property Owners**

Housing and building code enforcement, or “code enforcement,” refers to the system of laws, policies, and programs that require property owners to maintain their property in accordance with local and state standards. Code enforcement systems should be efficient, effective, and equitable. An **efficient** system is one that achieves voluntary compliance from the owner of the property in as little time as possible, and usually is one which imposes liability on the property (*in rem*) as opposed to the person or owner (*in personam*). An **effective** system is one that tailors enforcement strategies based on the likelihood of compliance, recognizing that where compliance is likely, simple notice should be enough, and that where compliance is unlikely, the enforcement process should seek to compel the transfer of the property to a new, more responsible owner.



Finally, an **equitable** system is one that recognizes that different types of properties and owners require different approaches and that, at a minimum, an equitable approach should differentiate between properties that are owner-occupied, properties that are occupied by renters, and vacant properties.<sup>6</sup> An equitable approach should pay particular attention to owner-occupants and other residents who are vulnerable, which includes low-income or elderly residents (both homeowners and tenants) who may lack the resources to comply with certain housing and building code requirements.

Under the current City code enforcement system, if a property owner fails to comply with a City inspector's notice to correct code violations, the matter is forwarded to the City Attorney's office for prosecution in Municipal Court as a civil forfeiture.<sup>7</sup> Property owners must be served personally with notice of a violation, which presents a challenge for those corporate or out-of-state property owners that are difficult to identify and serve. Property owners are required to either appear at a Municipal Court hearing in response to the notice of a violation, or to pay the forfeiture amount (often around \$200 per day) in lieu of challenging the violation. If no one appears at the hearing or if the property owner does not correct the violations on the property in a timely manner, the City Attorney's office can request the Municipal Court judge to assess a forfeiture against the owner for each day that a violation exists, which can result in judgments in the thousands of dollars. If the forfeiture is not paid, a warrant can be issued for the arrest of the owner or the forfeiture can be forwarded to the State's Department of Revenue for personal collection. The forfeiture is a personal judgment against the owner of the property, and cannot be converted into a lien against the property.

Civil forfeiture does not result in a priority lien against the property, therefore depriving the City of one of the most effective methods to compel compliance – the prospect of the forced transfer of the property through code lien foreclosure or otherwise. Note that even if a property owner chooses to pay forfeiture fines, there is no guarantee that the property owner has corrected the underlying violations. In addition, the use of civil forfeiture greatly limits the use of code enforcement as a strategic tool that can be tied to property acquisition and the City's land acquisition and reuse priorities and practices. Finally, the use of civil forfeitures can impose personal liability on vulnerable homeowners and residents who simply do not have the means to make needed property repairs which can leave homeowners or residents with less resources to make repairs and, in some cases, encourage abandonment.

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<sup>6</sup> For an in-depth discussion of how code enforcement systems should be equitable, efficient, and effective, see Community Progress' *Alternative Strategies for an Equitable, Efficient, and Effective Code Enforcement System in Mobile, Alabama* at: [http://www.communityprogress.net/filebin/FINAL\\_Strategic\\_Options\\_for\\_Mobile\\_Alabama\\_Code\\_Enforcement\\_June\\_2016.pdf](http://www.communityprogress.net/filebin/FINAL_Strategic_Options_for_Mobile_Alabama_Code_Enforcement_June_2016.pdf).

<sup>7</sup> A Municipal Court is a court of limited jurisdiction entitled to hear largely municipal matters. Municipal Courts primarily hear building code violations, traffic matters, and some misdemeanor criminal offenses. For more information, see: <https://wicourts.gov/courts/municipal/index.htm>.

There are some alternatives to enforcement by civil forfeiture for the City, the most notable of which includes abatement actions. For certain violations, like high weeds, failure to remove snow and ice from a sidewalk, and accumulation of garbage or trash, the City can send notice and, if no response is received, abate the violation and assess the costs of the work against the property as a “special charge.” Special charges can also include costs incurred for boarding up vacant property, costs to demolish property, and fees for re-inspection of the property during a pending civil forfeiture action. Special charges can be added to the property tax bill and, if not paid, enforced through the delinquent property tax enforcement process. If a property owner fails to pay her property tax bill and special charges are owed, the County fully reimburses the City for all unpaid property tax bills *and* any special charges up to \$7,500 per property.

The City’s current approach to code enforcement is in need of two key reforms to be more efficient, effective, and equitable: a more targeted and proactive component to better and more efficiently deploy its limited resources, and a menu of enforcement outcomes that includes the potential transfer of noncompliant property to a new, more responsible owner, preferably through the delinquent property tax enforcement system.

A more proactive approach to code enforcement could help to relieve the significant capacity constraints on the two departments responsible for the majority of the City’s code enforcement activities: Buildings and Health.<sup>8</sup> For example, the City’s three Buildings inspectors, which primarily inspect violations of the City’s building code or property maintenance code (most often for exterior violations), issue about 5,800 notices per year according to the Chief Building Inspector. An estimated 75% of a Buildings inspector’s time is spent in the office researching property ownership and writing up compliance orders and only 25% of their time is spent in the field inspecting property. The Chief Building Inspector is also tasked with inspecting properties for potential demolition, although only three properties have been demolished in 2017 given this year’s limited demolition budget of \$25,000. Health inspectors report conducting another roughly 1,500 annual inspections of occupied properties (primarily rental) for violations of the City’s property maintenance code and health code, which can include violations like the presence of lead paint or violations of the standards required for basic habitability of residential quarters. A proactive code enforcement system would enable staff from Buildings and Health to prioritize the caseload in front of them, enabling them to spend less time on minor violations and more time on violations on problem properties causing the most harm to neighborhoods. A proactive system would also sort and prioritize properties for investigation and remediation based on potential enforcement outcomes

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<sup>8</sup> The City’s Departments of Zoning, Public Works, and the Fire Department also enforce municipal codes related to property standards.

(e.g., compliance after initial violation notice, fine, abatement action, payment of the City's costs, potential transfer of property).<sup>9</sup>

In addition, a code enforcement approach that includes the potential transfer of noncompliant property to responsible ownership in the face of noncompliance is critical to increase overall compliance and to provide an avenue for remediation of vacant and abandoned properties. The current use of civil forfeiture as the primary tool to enforce noncompliance in most Building or Health enforcement actions is limited because enforcement is against the person, not the property. This prevents the City from compelling the transfer of noncompliant property to: (a) mitigate the impact of a dangerous vacant or abandoned property, and (b) move the property into the hands of a responsible public or private owner that will develop, remediate, or maintain the property in line with local needs and priorities.

Consider the following next steps:

- 1) *In accordance with improved and more comprehensive data collection described in Section I above, prioritize code enforcement efforts and limited resources in strategic locations and against those properties causing the most threat to public health and safety.* Buildings and Health, as well as other enforcing departments, should work with MIS to utilize Cityworks data to triage properties into categories that might include: (a) properties where the owner is likely to comply with simple notice of the violation, like those properties in neighborhoods with a strong real estate market, (b) properties where it is unlikely that the owner will comply with simple notice but will likely comply if threatened with a civil forfeiture, (c) properties where the owner is unlikely to comply and the violations observed merit abatement action, like a vacant and abandoned property that needs to be boarded, and (d) properties that present public safety hazards and require demolition or immediate City action. Categorizing properties in this fashion will allow work to be more efficiently triaged.
- 2) *Identify the best use of civil forfeiture and alternate avenues of enforcement.* Conduct a review of past civil forfeitures and identify those types of properties or property owners for which civil forfeiture has been least likely to compel compliance or payment of the forfeiture. Assess whether it makes sense for either Buildings or Health inspectors when they encounter similar properties to simply add such property to a list to monitor for further deterioration and public safety and, if applicable, conduct abatement actions in lieu of starting the time consuming and resource-intensive process of civil forfeiture.

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<sup>9</sup> Examples to consider for developing a more proactive use of data for code enforcement can be found in Community Progress' *Vacancy and Abandonment in Indianapolis, Indiana: Available Tools to Combat Vacancy and Abandonment* available at [http://www.communityprogress.net/filebin/Final\\_Indianapolis\\_Report\\_5\\_26\\_16\\_website.pdf](http://www.communityprogress.net/filebin/Final_Indianapolis_Report_5_26_16_website.pdf).

- 3) *Research existing State Law to determine if an enforcement mechanism for code lien enforcement on vacant and abandoned properties is authorized.* Explore whether unpaid costs for abatement actions, including demolitions, could be enforced independently as priority liens against property, junior only to those liens for unpaid property taxes. If so, a process for lien foreclosure, with appropriate carve-outs for occupied properties, should be explored.
- 4) *Ensure resources for increasing code compliance are available to vulnerable homeowners and residents and update related programs and policies to define “vulnerable” appropriately.* The City Attorney’s office indicated in this engagement that while some programs exist to help homeowners with rehab or make other needed home repairs, very few, if any, property owners that appear in Municipal Court qualify for those programs, although it was unclear what disqualified those owners. It is imperative for any equitable system of code enforcement to direct resources for code compliance to vulnerable homeowners and residents. Requiring compliance from a homeowner without means to comply is both inequitable, and nonsensical as it may inspire increased abandonment. Explore whether any existing City code enforcement programs for support of vulnerable homeowners and residents need to be updated and revised to capture appropriate property owners. Ensure the existence of such programs is communicated to property owners by including information sheets along with violation notices.

#### **IV. Delinquent Property Tax Enforcement is a Mechanism for the Transfer of Tax Delinquent, Vacant, and Abandoned Properties to Responsible Ownership**

Delinquent property tax enforcement systems offer local governments a mechanism to direct tax delinquent, vacant, and abandoned properties to responsible ownership. With the exception of any federal tax liens, delinquent property tax debt is generally higher in priority than any other lien against the property including mortgages. If taxes remain unpaid after ample due process and the opportunity to pay is afforded property owners, then effective and efficient delinquent tax enforcement systems compel the sale or other transfer of marketable and insurable title to the underlying tax delinquent parcel. When this tool is aligned with local housing and building code enforcement systems and public land acquisition and reuse priorities, it can lead to a powerful systemic approach to addressing vacant and abandoned properties.

For example, if a city’s efforts to compel the owner of a vacant property to comply with local housing and building codes fail, the owner should be billed for the costs incurred by the city to remediate the violation in addition to a penalty. If the unpaid costs and penalties can then be added to the property tax bill, it provides the ultimate incentive to the property owner to pay back the local government– the threat of the potential transfer of the property through the delinquent property tax enforcement system. Community Progress often sums up this coordinated approach as “Fix it Up, Pay it Up, or Give it Up.”

It is absolutely critical to clarify that the observations and recommendations contained in this memorandum regarding the use of delinquent tax enforcement to compel the transfer of vacant and abandoned property are not recommended for occupied properties. Special protections and programs, including hardship payment plans and otherwise, are vital for vulnerable homeowners and residents. Delinquent tax enforcement systems and code enforcement systems that do not offer protections for vulnerable property owners will actually create more vacancy and abandonment, not to mention pose the threat of unjust treatment of low-income and other property owners.

Delinquent property tax enforcement offers a powerful mechanism to compel the transfer of tax delinquent, vacant, and abandoned properties in Racine. Because the process is entirely controlled by the County, the City must prioritize working through the County and the County Treasurer to develop more strategic options to enforce delinquent taxes on property located in Racine and seek to better align the City's code enforcement efforts and the City's land acquisition and reuse priorities with the delinquent tax enforcement system.

Consider the following next steps:

- 1) *At the outset of any expanded program for the City to acquire vacant and abandoned properties through tax foreclosure, establish and nurture a working relationship between the City and the County that recognizes the variety of equally important and complimentary goals for delinquent tax enforcement.* The County uses the delinquent tax enforcement system to maximize tax revenue collection. The City relies on the County's maximization of tax collection, and also seeks to utilize the delinquent tax enforcement system to move vacant and abandoned properties into responsible ownership, and to create a possible pipeline to acquire vacant and abandoned property for various development programs. These different goals represent a point of friction between the City and the County, but the goals are actually complimentary and there are opportunities to find common ground. For example, the City and the County have common interest in: putting tax delinquent properties back onto the tax rolls; reducing the need for code enforcement calls and resulting special charges; reducing housing and building code violations that erode property values and neighborhood morale; and reducing crime. In addition, it is important for both the City and the County to recognize they share the costs of these tax delinquent, vacant, and abandoned properties. The County currently carries the majority of direct costs associated with these properties. The City carries the direct costs of heavier code enforcement staff and the provision of public safety services. Both the City and the County are affected by reduced property values and a decreasing tax base imposed by vacant and abandoned properties.
- 2) *With the support of MIS, review the past five years of tax delinquency on properties in Racine to assess to what extent property owners may be refraining from paying taxes due to lack of enforcement.* Because the County Treasurer can only order up to 200 title reports for

tax foreclosures per year, decisions on which properties to foreclose often involve an analysis of which properties will offer the greatest immediate financial return. Given the relatively low value of many residential properties in Racine when compared to those properties located in other municipalities within Racine County (as reported by stakeholders), the County Treasurer rarely seeks to foreclose on residential property in Racine. Data showing that a delinquent property owner is otherwise current on mortgage payments, owns other properties within Racine, or is current on utility bills may reveal that the owner is otherwise solvent and able to pay. If data indicates that some property owners may avoid paying taxes due to little fear of enforcement then, to the extent possible, it will be important to aggregate the total amounts owned from such properties on an annual basis to make the case for more aggressive tax foreclosure to the County. If this research supports increased tax foreclosure efforts, such efforts may increase the number of property owners that pay their taxes - to the benefit of both the County and the City.

- 3) *Fully utilize the existing commitment of the County to make the City whole for special charges assessed against tax delinquent properties.* Because the County fully reimburses the City for special charges less than \$7,500 assessed against properties in Racine (in addition to all unpaid property taxes), the City should fully utilize this funding stream and ensure it is remediating the maximum number of properties possible and assessing the related special charges. The case should be made that the value of the work reflected by the special charges helps to stabilize the tax base by mitigating violations that negatively impact property values. In addition, use of the delinquent tax enforcement system to force the transfer of vacant and abandoned properties with unpaid special charges to responsible ownership will ultimately result in bringing such properties back into tax-producing status.
- 4) *Identify vacant and abandoned properties that continue to accrue special charges and remain tax delinquent for multiple years, stop assessment of special charges, and redirect those resources to foreclose on and force a transfer of such properties.* In an effort to build trust with the County, the City might consider offering to work with the County Treasurer to identify properties that have been delinquent for multiple years and on which the County continues to reimburse the City for special charges. If this subset of properties could be identified, the City could notify the County Treasurer that it would no longer seek special charges for weed cutting or similar activity on such property and ask the County Treasurer to redirect those resources to needed title research to subject the property to tax foreclosure, and thereby compel a transfer in ownership of such property to responsible public or private ownership.
- 5) *The City should be prepared to provide any additional financial or staffing resources the County Treasurer may need to expand the delinquent tax enforcement process to compel transfer of tax delinquent, vacant, and abandoned properties to new ownership.* If a property owner fails to pay her property tax bill, the County Treasurer issues a tax certificate in the

name of the County. Once the tax certificate is issued, the owner has two years to redeem by paying the full value of the tax certificate plus 1.5% interest per month and any costs of collection. If the owner fails to pay and the redemption period expires, the County Treasurer has broad discretion to foreclose on a tax certificate through a judicial *in rem* procedure and then offer the property for sale at its fair market value, but that discretion is limited by budget constraints imposed by the County Board of Supervisors. Currently, the County Treasurer has a limited staff and authorization from the County Board to pursue up to 200 properties per year for tax foreclosure, despite reports that up to 2000 properties in the County, the majority of which are located in Racine, are eligible for tax foreclosure in a given year.

- 6) *If efforts to partner with the County are successful, consider a long-term program to develop a “Code 25” list.* This list would contain 25 tax delinquent, vacant, and abandoned properties eligible for tax foreclosure, updated each year, that also reflect current code violations. The County Treasurer would be required to foreclose on any of the properties on the list at the City’s request, provided the City paid the costs of foreclosure. At the end of the foreclosure process, the County could transfer those properties to the City.<sup>10</sup> If such a list is successful, the number of properties included on an annual Code 25 list could increase as appropriate.

## **V. Vacant and Abandoned Properties Acquired Through Tax Foreclosure Could Support the City’s Acquisition and Disposition Goals**

Local governments around the country often identify tax delinquent, vacant, and abandoned properties as a potential source of inventory to deploy housing development programs, like affordable housing development, for several reasons. First, acquiring and developing or remediating such property has the benefit of eliminating those vacant and abandoned properties that impose harm on a community. Second, acquisition through the delinquent property tax enforcement process may result in title that is free and clear of past liens and is insurable. Finally, properties acquired through this process may often be acquired for relatively little out of pocket cost.

The City has identified tax delinquent, vacant, and abandoned property as a key source of inventory for its own housing development programs. To date, efforts to acquire such property have been largely unsuccessful given the City’s inability to align itself with the County’s delinquent property tax foreclosure system.

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<sup>10</sup> The City of Dallas contracts with a private law firm to foreclose on delinquent property tax liens on behalf of the City. It also maintains a “Code 100” list, which is a running list of properties with code liens or violations that the City may ask the law firm to foreclose upon at any time. This list is described in Community Progress’ *Vacancy and Blight Action Plan for the City of Dallas, Texas*, available at [http://www.communityprogress.net/filebin/150928\\_TASP\\_Dallas\\_Report\\_FINAL.pdf](http://www.communityprogress.net/filebin/150928_TASP_Dallas_Report_FINAL.pdf).

Access to tax delinquent, vacant, and abandoned properties for the City's housing development programs has become increasingly important to the City because its prior source—mortgage-foreclosed properties—is available much less frequently than in years past. Since the Great Recession, the City acquired properties for its housing development programs by purchasing carefully selected mortgage-foreclosed properties from lenders. The City used federal and local resources to rehabilitate mortgage-foreclosed properties that were substandard to create homeownership opportunities for low- and moderate-income families. Because there were quite a number of mortgage-foreclosed properties in the market, the City could select properties that also helped them strengthen vulnerable blocks in key areas of Racine. As borrowers and banks have recovered from the Great Recession, however, there are fewer properties available through this channel.

The City hopes to use tax foreclosure as a strategic acquisition tool to reactivate vacant and abandoned properties by acquiring such properties for its housing development programs. For the City's development programs to be most effective the City should carefully target development on blocks and specific properties where the program serves both to create housing opportunity and to mitigate the impact of properties that are harmful to neighbors and neighborhoods. Tax delinquent, vacant, and abandoned properties are a key target of this effort. Properties acquired through tax foreclosure offer marketable and insurable title and, if a program with the County can be established, a chance to acquire properties for little more than the cost of foreclosure.<sup>11</sup>

Though comprehensive data is not available, there are reportedly a limited number of vacant properties in Racine, and it will be critical to utilize data to strategically identify those vacant properties that are the best fit for the City's development projects and to build a partnership with the County to ensure the delinquent property tax enforcement process is an available pipeline for acquisition of such properties. Although it is not yet known how many of those vacant properties are tax delinquent, there is an opportunity for MIS to assist City Development leaders to identify vacant properties, perhaps using some of the criteria mentioned in the previous sections of this assessment. The City could assemble data from various City departments through Cityworks to identify the universe of properties that might be vacant and suitable for tax foreclosure acquisition and located in the City's Neighborhood Revitalization Strategic Areas or other targeted development zones.

There are alternative sources of property that might be available to support the City's housing programs. For example, the City's Redevelopment Authority is currently focused on

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<sup>11</sup> The City of Milwaukee uses delinquent property tax enforcement, in part, to sustain a real estate program that offers qualified buyers the chance to purchase various types of properties, including single family homes, vacant lots, and property with an opportunity for development. See the City of Milwaukee website at: <http://city.milwaukee.gov/CityRealEstate#.WigR-IWnF9A>.



commercial and industrial development, but City officials have suggested that it could expand its land holdings to include residential property. The Redevelopment Authority might be able to use its powers and authority to acquire key parcels of vacant and abandoned property, but the out-of-pocket cost of exercising development powers will likely be a significant deterrent. Additionally, the City might explore the National Community Stabilization Trust's new programs that facilitate the transfer of defaulted mortgages to programs that can subsequently clear title for reuse, but the City's capacity for this will be constrained by the County's priority tax lien. None of these sources, however carry the advantages (clear title, low cost) of acquiring vacant and abandoned properties through tax foreclosure.

Additionally, as referenced throughout this assessment, there is still a significant need to build trust – not just between the City and County, but also with local developers who may have lost trust that the City's efforts to develop will involve them in a fair and open way. Closer collaboration in the early stages of developing new program proposals, and clear performance metrics for all program partners could be helpful. A communications strategy that celebrates and shares successes can also help to keep partners at the table.

The City has explored multiple opportunities to expand its access to tax delinquent, vacant, and abandoned properties but those efforts have not yet been successful. For example, the City has expressed an interest in establishing a land bank or land banking program. Land banks are typically governmental or quasi-governmental entities or nonprofit corporations that are focused on the conversion of tax delinquent, vacant, and abandoned properties into productive use. Many of the most effective land banks around the country have special powers granted by state-enabling legislation that allow them to undertake these activities more effectively, efficiently, and equitably than other public or nonprofit entities.<sup>12</sup> Some of the key powers that can be granted to land banks through state-enabling legislation include: (a) the ability to acquire tax delinquent property for substantially less than the amounts due on the property; (b) the ability to ensure that past liens are extinguished and that title offered for sale is insurable and marketable; (c) the ability to dispose of properties more flexibly than local governments, prioritizing best outcome over highest offer; and (d) dedicated funding to pay for acquisition costs, management costs, and disposition costs.

A land banking program, on the other hand, is the practice of holding, managing, and disposing of public land by a public entity in a way that seeks to maximize optimal use of the land for a public benefit. Local governments can implement land banking programs, but those programs are often subject to the existing limitations of the local government to acquire and dispose of property. State-enabling legislation that would allow the City to establish a land bank does not exist in Wisconsin, but the City could seek to establish a land banking program.

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<sup>12</sup> For a detailed review of land banks and land banking programs, including sample state-enabling legislation, see *Land Banks and Land Banking*, 2<sup>nd</sup> Ed. available for download on the Community Progress website at: [http://action.communityprogress.net/p/salsa/web/common/public/signup?signup\\_page\\_KEY=8679](http://action.communityprogress.net/p/salsa/web/common/public/signup?signup_page_KEY=8679).

The City has drafted several internal proposals over the years in an attempt to establish a land banking program, with each proposal primarily aimed at acquiring tax delinquent, vacant, and abandoned property for the purposes of mitigating the harmful impact of such properties and to support the City's development programs. Each of those proposals have identified tax foreclosure as a primary source of property acquisition, but the lack of an established relationship with the County has been the primary reason these proposals have not yet been successful.

As an alternative to a more formal land banking program and in an attempt to establish a relationship with the County, the City recently explored piloting a program to acquire a limited number of properties through tax foreclosure. In early 2017, the City identified roughly 10 properties that were ripe for tax foreclosure and appropriate for specific City Development projects. The City has requested that the County foreclose on that small subset of properties. Given the lack of an established relationship with the County, as well as County capacity concerns highlighted in Section IV of this memorandum, this pilot project has stalled.

Consider the following recommended next steps:

- 1) *Reboot the pilot tax foreclosure acquisition project for a limited number of tax delinquent properties with the County.* If efforts to establish a better working relationship between the City and the County are successful, the City should revive the early 2017 pilot program. Focusing on this more limited approach, as opposed to immediately trying to establish a more comprehensive land banking program, and ensuring that there is a transparent and achievable plan for each property acquired will go a long way toward building trust with the County and residents and give them faith that future acquisitions will continue to contribute to neighborhood stabilization efforts. Success of the pilot program may also form the foundation for establishing a "Code 25" list, as referenced previously.
- 2) *Reframe the existing land bank proposals to discuss how an expanded acquisition and disposition program might help additional stakeholders, not just the City.* Community Progress reviewed some of the land banking proposals developed by the City over the past three years. These proposals discuss how the program helps the City, but fail to make a clear and convincing case that the County, neighborhood residents, non-profits, and for-profit developers all stand to benefit as well. The City needs to make a convincing case that expanded tax foreclosure under such a program will help everyone: the County Executive and Treasurer, the Mayor and City Administrator, and potential partners across the City. Community and business partners that see their own success in this work can help to push the program forward. Some examples of ways in which this case could be framed include: the County will save money by not paying uncollected taxes and special charges to the City; communities will get new neighbors and renovated homes; developers will have access to properties that were previously inaccessible; the reuse of land in line with local needs and

priorities could cause crime rates to drop; and, eventually, increased stabilization efforts should lead to increased property values, thereby increasing the tax base.

- 3) *Explore whether funding from the Intergovernmental Revenue Fund and other sources makes sense to support public land acquisition and reuse priorities and practices.* Funding public land acquisition and reuse efforts is a challenge everywhere, but the City has a head start. The City receives close to \$2 million annually for economic development through the Intergovernmental Revenue Fund, some of which might be used to acquire property or perhaps fund the operation of an expanded tax foreclosure program. The City also has nearly \$3 million in available funding for rental rehab, and an annual appropriation of just over \$2.2 million in Community Development Block Grant (“CDBG”) and Home funds. Accordingly, the City is well positioned to support the renovation and resale of properties acquired through an expanded tax foreclosure program, like the pilot tax foreclosure project highlighted above.

## **Conclusion**

This assessment is intended to summarize and synthesize information gleaned from the City through the research, site visit, and conversations described above, and to provide tangible and actionable items on which the City can move forward. The City can remediate harms imposed by vacant and abandoned properties through dedicated multi-departmental leadership; improved data collection; efficient, effective and equitable housing and building code enforcement; and strategic and thoughtful use of delinquent tax enforcement in partnership with the County. Strategic deployment of improved systems and available resources, and targeted use of delinquent tax enforcement on vacant and abandoned properties may provide a manageable set of parcels that could be utilized for various public land acquisition and disposition goals including affordable housing. Implementation of the steps and suggestions described in this assessment will require a sustained and committed effort from City leaders to support systemic change, build lasting partnerships, and provide a new path for properties that impose a burden on the City and its residents. With the dedication and leadership displayed by City leaders throughout this engagement, implementation of systemic change is imminently achievable.