

Redevelopment of Vacant Land in the Blighted Neighborhoods of Cleveland, Ohio Resulting from the Housing Foreclosure Crisis

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Introduction

For the past several years, the United States has found itself with a major housing foreclosure crisis, which has necessitated unprecedented actions by the federal government to address its impact, reminiscent of the New Deal in the Great Depression of the 1930s. Cleveland, Ohio and some of its neighborhoods have been among the hardest hit by this crisis, fueled by predatory lending (Renuart, 2004) and subprime mortgages. After reviewing the housing foreclosure crisis that engulfed Cleveland and the attempts to save homeowners from foreclosure, this paper will focus on the issue of the future use of the thousands of empty lots left in the wake of the demolition of abandoned substandard houses condemned as nuisances, especially those vandalized after the owners left for which there were no buyers in a weak housing market.

Several factors led to this crisis. These included: a boom in the value of single-family homes leading to greater investment in housing, deregulation policies nationally that allowed lenders to invent risky new mortgage products (e.g., interest only loans), the “securitization” of mortgages, the fraudulent practices of some mortgage brokers and appraisers, and the promotion of homeownership for lower-income Americans by the Bill Clinton and George Bush (43) administrations through the government sponsored enterprises (GSEs) - “Fannie Mae” (FNMA: Federal National Mortgage Association) and “Freddie Mac” (FHLMC-Federal Home Loan Mortgage Corporation)(Rohe and Watson, 2007). All of these converged to cause a collapse of the housing “bubble” and combined with an economy in recession the foreclosure of millions of homes whose owners could not afford to pay their mortgage. In some cases, the cause was the loss of jobs or other financial setbacks. In others, they only “qualified” to purchase a home because they took out a risky loan and many did not understand its terms, e.g., adjustable rate loans that escalated after a few years (so-called “teaser” loans). Two leading accounts of this disaster are by Alyssa Katz (2009) and Dan Immergluck (2009).

The Federal Response

Under the leadership of the then much admired Alan Greenspan, the Federal Reserve Board kept

interest rates low and saw no problem with the increased investment going into the housing market. It also declined to respond to the invention and promotion of high risk subprime mortgage products, predatory lending abuses, the lack of regulation of non-bank mortgage lenders and the securitization of mortgages. Katz and Immergluck detail the bursting of the housing bubble that ensued and the responses of the federal government. Immergluck suggests the Spring of 2007 with the bankruptcy of one of the largest of the subprime lenders as the beginning of the national mortgage and housing crisis. During the previous years, subprime lenders and their allies among federal regulatory agencies in the Bush administration sought to have the Congress pre-empt state legislation regulating mortgage brokers and subprime lending for fear that this would spread and curtail much of the subprime mortgage market.

By the Summer of 2007, Greenspan's successor as the Fed Reserve Chair Ben Bernanke and HUD (U.S. Department of Housing and Urban Development)'s Secretary called for federal funding for foreclosure prevention counseling. In Congress, some began to propose legislation to allow bankruptcy judges to modify the outstanding loans for the principal residence of borrowers in bankruptcy through so-called "cram down" terms to reduce the borrower's repayment obligation. The lenders, supported by the Bush administration, successfully opposed this. By late 2007 with the foreclosure crisis mounting Bush's Treasury Secretary Hank Paulson proposed a voluntary plan ("Hope Now") under which lenders could modify mortgages for eligible borrowers under strict guidelines that limited its potential impact.

As the housing situation worsened and this approach produced negligible results, Congress in July, 2008 enacted the "Housing and Economic Recovery Act" (HERA). It included \$300 billion for an FHA (Federal Housing Administration) program ("Hope for Homeowners") to restructure loans for financially distressed homeowners. It also contained \$4 billion for a "Neighborhood Stabilization Program" (NSP) to assist state and local governments over an 18-month period to reclaim and redevelop and demolish vacant foreclosed homes.

Even before either of these programs could begin, Fannie Mae and Freddie Mac faced bankruptcy. Since they held the majority of mortgages in the country, like some of the Wall Street investment firms that were bailed out, they were deemed too big and critical to the economy to fail. In September, 2008, they were placed under federal control with massive infusions of federal funding (up to \$400 billion).

With the November, 2008 election of Barack Obama as President, his incoming administration has sought to act more aggressively to stem foreclosures and to revive the housing market. It has adopted the more expansive approach advocated by Sheila Bair, the director of the FDIC (Federal Deposit Insurance Corporation), in modifying loans of homeowners. However, to date, its focus and funding have been more directed to banks and investment firms (as was the Bush administration) and more recently the auto industry and state governments, both in deep financial trouble.

Cleveland, Ohio

Cleveland is a Midwest “Rustbelt” city that has long been in decline due to “de-industrialization” resulting in the loss of manufacturing jobs that once were the centerpiece of its economy. Its population peaked at 914,000 in 1950 and has declined ever since, falling to 478,000 in the 2000 census. The most recent estimate is that it has since declined to approximately 430,000, part of which is attributable to the abandonment of thousands of homes many of whose inhabitants have then left the city. This rate of urban population loss since 2000 was exceeded only by post-Katrina New Orleans. Over the past few decades the poverty rate (by federal standards) was as high as 42 percent, reflecting the weak economy, and Cleveland has been ranked in the past few years as the poorest major central city in the United States (competing with Detroit, Michigan for this dubious ranking).

Unfortunately, this is not the first time this has led to the abandonment of homes, the demolition of houses, and a pattern of empty lots. In the decade 1970-1980, Cleveland had its heaviest population loss and not only did it experience housing abandonment but also the closing and abandonment of many industrial and commercial buildings as well (Bright, 2000). At the same time, a pattern of continuing urban sprawl has contributed to the exodus from Cleveland to its suburbs and from older to newer suburbs. This history is documented in the 2006 film by the Lincoln Institute of Land Policy (www.lincolninst.edu) entitled: “Cleveland: Confronting Decline in an American City”.

Attempts to redevelop the city, especially the downtown, have met with mixed results. The downtown has lost corporate headquarters and other major employers for a long time. Two major shopping malls built in the 1980s are in financial trouble. Tourist-based investments in major attractions like the Rock and Roll Hall of Fame have had only a limited effect. The same is true of the sports stadia that have been built to keep the professional sports franchises (baseball, basketball and football) in the downtown. After years of debate, Cuyahoga County is financing a new convention center together with a medical mart that is hoped to be another magnet for visitors. All of these and other projects have required huge public subsidies. Cleveland has also tried, like other cities, to also attract more residents to live downtown by subsidizing housing, both new and also through adaptive re-use of empty office buildings and warehouses.

Cleveland Neighborhoods

While there has been a heavy focus on downtown redevelopment, including the lakefront, for the past four decades, there has also been a concerted effort to revitalize the city’s neighborhoods. Initially, this was a grassroots effort led by community organizations protesting disinvestment of their neighborhoods through “redlining” by banks and insurance companies. This protest era faded but many of these groups formed community development corporations (CDCs) to promote redevelopment through building and rehabilitating housing and supporting local business, as well as job training and social service programs (Cunningham, 2007). Their greatest success has been affordable housing, developed in cooperation with the Cleveland Housing Network (CHN), created in 1981. CHN and its partner CDCs, with assistance from national (LISC and Enterprise) and local (Neighborhood Progress, Inc.)(NPI) intermediaries, have sponsored and financed several thousand units since then and through a lease-purchase program

which included counseling and support services allowed hundreds of lower-income tenants to become homeowners (with few defaults or foreclosures). This was part of a policy initiated by former Mayor Mike White in the 1990s to promote the development of new housing in Cleveland. The city adopted a policy of providing 15-year full property tax abatement for new houses (revenue lost mostly by the city's public school district, not the city itself). The city has also provided targeted second mortgage subsidies to assist homebuyers.

Despite the myriad problems confronting the city's neighborhoods such as substandard housing, poverty and unemployment, crime, poor public schools, and decrepit infrastructure, the strongest CDCs contributed significantly to much of the progress made in improving them. Among these is the Slavic Village Development (SVD)(www.slavicvillage.org) corporation (Krumholz, Keating, Star and Chupp, 2007). Despite this record of achievement, neighborhoods like Slavic Village (bordering the industrial valley and once home to mostly Eastern European immigrants who worked in manufacturing) were hard hit by the foreclosure wave, offsetting many of the gains of the past, including a New Urbanist community (Mill Creek) promoted by Slavic Village Development. Slavic Village became a national and international symbol of the devastation visited on people, buildings and a community by mass foreclosures (Katz, 2009: 78-101; Kotlowitz, 2009; Lind, 2008).

The foreclosure phenomenon spread not only throughout most Cleveland neighborhoods but also into neighboring suburbs. At one point Ohio had the highest foreclosure rate in the United States despite the fact that unlike states like Arizona, California, Florida and Nevada (which now lead the country in foreclosures) it never experienced the housing bubble that led to so much speculative home purchasing and risky financing. Residential foreclosure filings in Cuyahoga County soared to a high of 12,364 in 2007. In 2008, foreclosure filings in the county dropped slightly. In the city of Cleveland in 2008 there were just over 6,000 foreclosure filings, down from over 7,000 in 2007. Normally, lenders pursue foreclosure through sheriff's sales. If there are no viable bids by buyers at auction, the lenders usually take back title and then try to sell the properties themselves (evicting tenants if the homes have been rented, making them innocent victims in this process-Policy Matters, 2008). Lately, many lenders have refused to pursue resuming ownership because of the cost in the face of a lack of resales, leaving the departed and often bankrupt former owner still legally responsible for the abandoned property but unable to maintain it. Lenders have been loath to invest what is required to make these properties ready for sale except "as-is". Worse, some have sold as many as quickly as possible to a new breed of speculators, who then sell them on the internet to unsuspecting speculative absentee buyers ignorant of their substandard condition. The city of Cleveland does not have a requirement that housing must be inspected and meet all housing and health code requirements prior to sale.

It is now estimated that there are 10,000-15,000 vacant and abandoned houses mostly due to the foreclosure crisis in Cuyahoga County, the majority of which are located in the city of Cleveland. It is expected that given the poor condition of most of those located in Cleveland, rather than trying to pursue their rehabilitation and sale, they will be demolished by the city at a typical cost of \$8,000-\$10,000. Cleveland plans to spend a majority of its \$16 million in federal Neighborhood Stabilization Program (NSP) funds to demolish abandoned houses (City of

Cleveland, 2009). In 2008, Cleveland demolished 1,100 homes, up from only 225 in 2006.

Local Responses to the Foreclosure Crisis

The City of Cleveland, Cuyahoga County and CDCs like Slavic Village Development were among the first to recognize the impact of predatory lending and subprime mortgages. Cuyahoga County Treasurer Jim Rokakis sounded the alarm, attempting unsuccessfully to persuade the Cleveland Federal Reserve Bank to intervene to impose stricter regulations on lending, particularly predatory practices. In 2002 the city of Cleveland (along with two other Ohio cities) then attempted itself to regulate these lending practices. Before this could be implemented, the state legislature, dominated by conservative Republicans, “pre-empted” the right of cities to enact such laws under their “home rule” powers. However, instead of itself taking action, the state government did nothing to address this growing problem. The lobbying influence of the banking industry exerted itself to foil local governments, including Cleveland. The state’s pre-emptive action was challenged in court but upheld by the Ohio Supreme Court in 2006.

To assist victims and prevent more foreclosures, Cuyahoga County established a foreclosure prevention counseling program in 2005 to assist homeowners: www.dontborrowtroublecc.org. United Way established a First Call for Help which directed homeowners to the County’s program and to several non-profit community-based housing counseling agencies. Interim evaluations indicate that the county initiative has enjoyed considerable success, at least for those homeowners who are counseled in enough time to be able work out arrangements with their lenders to keep their homes (Weinstein, Hexter, and Schnoke, 2006, 2008).

On another front, the city of Cleveland sued 21 lenders and investment firms in 2008 on the basis of nuisance law. The city argued that it was foreseeable that making risky and often deceptive loans to borrowers with limited incomes would result in the very high rates of foreclosure that followed. Even though many of the defendants had not made the original loans but rather had bought them on the secondary market, including through securitization, the city argued that they were still liable for damages (Johnson, 2008). In a 2008 study of the cost of vacant and abandoned properties to Ohio cities, it was estimated that they cost the city of Cleveland over \$35 million in 2006 in city service costs (board-ups and maintenance and demolitions) and lost revenues from tax delinquencies and demolitions. More recently, it has been estimated that foreclosure-related demolitions of abandoned properties have cost the city \$25 million and the current inventory could cost another \$56 million. This has cost adjoining property owners an estimated \$84 million in lost equity. The case has not yet reached the decision stage. In a more recent lawsuit, NPI has sued two major lenders to try to prevent their selling foreclosed properties that do not meet code standards. Cleveland’s Housing Court judge has also taken aggressive actions against the owners of foreclosed properties in substandard condition, including fines for failing to maintain them. He too has tried to help tenants facing eviction from foreclosed properties. The local court that handles foreclosure actions has instituted a mediation program to try to forestall displacement of homeowners who might be able to negotiate a repayment plan with their lenders.

The state of Ohio, under a Democratic governor elected in 2006, also instituted a modestly-supported program to assist homeowners threatened with foreclosure. The Ohio Supreme Court recruited volunteer lawyers to assist homeowners “pro-bono”. And there is pending legislation to halt foreclosures temporarily.

The Uses of Vacant Land

Previously, the city of Cleveland created a land bank in the 1970s (Bright, 2000: Chapter 6; Krumholz and Lloyd, 2002) . Once Cuyahoga County took title of abandoned property in Cleveland due to tax delinquency, it agreed to transfer title to the city. As a result, the city became the owner of thousands of vacant lots, having demolished nuisance buildings, including those damaged by arson as well as neglect. The city’s preference is to have those lots developed and returned to the tax rolls. However, many are unbuildable due to their size and many others require expensive soil remediation to remove lead, asbestos, and other problems that deter would be purchasers. However, otherwise, these empty lots can become eyesores due to dumping and the city’s costs to remove rubbish, cut the grass, and secure the lots are expensive. Therefore, the city has “sold” lots at a nominal price to the CDCs for building affordable housing, to homeowners willing to take responsibility for them (e.g., gardening and parking), and more recently to for-profit developers when the housing market was healthier.

Mallach (2006: Part 3) has identified both the re-uses of vacant land and a process for the planning of its redevelopment (See also O’Bowman and Pagano, 2004). He argues for doing neighborhood plans that incorporate the redevelopment of vacant land, which may be for open space, urban gardens, and parks rather than the replacement of demolished homes. Urban gardening has become increasingly popular, as have farmers markets. Cleveland, with the assistance of the Ohio Agricultural Extension Service and neighborhood groups, has over two hundred community gardens maintained by residents either for their own use and consumption of food and also for distribution of produce to food banks and hunger centers. Cleveland also has several farmers markets which operate in the summer and now has its first commercial farm, located next to an abandoned manufacturing plant.

The Cuyahoga County Land Bank

Mallach (2006: 128-142) describes the mission, characteristics and structure of city and county land banks. As previously mentioned, Cleveland established a land bank in 1976 (see the Cleveland Department of Community Development website link to the land bank lots: <http://cd.city.cleveland.oh.us>). As the foreclosure crisis grew throughout Cuyahoga County, the County Treasurer Jim Rokakis led a drive to create a countywide land bank modeled on the Genesee County, Michigan land bank, which focuses on the city of Flint. Flint, featured in Michael Moore’s movie “Roger and Me”, has been devastated by the decline of the auto manufacturing industry and in particular GM, recently downsized even more after going through a bankruptcy re-organization combined with a federal bailout. The land bank has sought to both clear dilapidated structures, including foreclosed homes, while itself promoting redevelopment. This is a more active and comprehensive role than that of the Cleveland land bank.

In February, 2009, Ohio approved legislation creating the Cuyahoga County Land Reutilization Authority: www.cuyahogalandbank.org. This countywide land bank will obtain properties through tax foreclosure, from the federal GSEs (e.g., Fannie Mae and Freddie Mac) and HUD, and from lenders and other owners who no longer want them. It will be financed through a variety of sources including sales of its properties, federal and state grants, penalties and interest on unpaid real estate taxes, and revenue bonds.. Once fully operational, it will sell properties (both land and buildings), rehab houses that can be saved while demolishing those that cannot, and hold land for future redevelopment. This land bank is expected to have a major impact on the city of Cleveland.

What Does the Post-Foreclosure Future Hold for Cleveland?

It is assumed that once the current recession recedes, the housing market also recedes, and the magnitude of foreclosures is reduced, the city of Cleveland will be left with thousands of empty lots, mostly owned either by its land bank and increasingly by the county land bank. What does that portend for the city's future? The city and NPI are sponsoring a process called "Re-Imagining a More Sustainable Cleveland" to involve citizens and community groups in a discussion about the city's future under these difficult circumstances. This Fall they will award grants to applicants for proposed uses of lots in the city land bank based on the guidance provided in a "Pattern Book for Vacant Land Use Strategies" (linked to NPI's website).

One approach is to adopt "planned shrinkage" as a strategy. This has been advocated in Flint and adopted by the declining industrial city of Youngstown, Ohio. The latter has been recognized for this policy, which runs counter to the American proclivity for growth and expansion (Finnerty, 2003). This would mean that certain areas of a depopulating Cleveland would not be redeveloped. Municipal services could be eliminated in large enough areas which no longer serve a viable population. This "triage" approach was advocated by Roger Starr in the 1970s when New York City faced possible bankruptcy but was not implemented in the face of widespread opposition to proposed abandonment of sections of the worst neighborhoods (at that time, for example, the Bronx, now much redeveloped). Politically, this is a very difficult policy for a municipal government to suggest. Cleveland's city council (recently reduced to seventeen) represents neighborhoods. The current mayor Frank Jackson, formerly President of the City Council and before that the council member representing the poorest ward in the city, would have been the strongest opponent of such a policy that would have probably written off his poor residents, most then residing in public housing. The Central ward now boasts considerable new owner-occupied single-family housing in a home ownership zone sponsored by the local CDC, as well as public housing redeveloped through the federal HOPE VI program..

A more likely approach would be to target key areas that show the most promise of attracting residents and investment and to plan for these model areas as showcases for redevelopment, including vacant land within their boundaries. This in fact is already underway. NPI is sponsoring six so-called Strategic Investment Initiatives. Funded by philanthropic organizations and public sources, this is an effort at building and rehabilitating homes, demolishing those that

cannot be saved, and assisting homeowners on Model Blocks in six areas selected by participating CDCs. \$20 million has been sought to be spent over a three-year period. If successful, then the same process could be extended to other neighborhoods. While piecemeal in nature, this approach also takes into account limited resources and the need to proceed in a concentrated rather than scattered manner to achieve the greatest impact. The outcome remains to be seen. An obvious drawback politically is the likely opposition from those neighborhoods and their representatives who are not included in a selective redevelopment program.

Another approach is to build upon the “fresh food” movement, the existing network of community gardens and farmers markets, and the city’s legalization in 2007 of zoning for farming and farm animals (e.g., chickens). Urban agriculture has become a popular use of vacant land in cities like Philadelphia, Detroit (Bonfiglio, 2009) and Milwaukee and in July, 2009 was proclaimed the policy of the city of San Francisco. Cleveland has the support system to broaden this as an activity, including an EPA grant for remediation of land to be farmed. Certainly, this can serve as a temporary expedient for many empty lots (although Cleveland’s weather would limit the growing season without greenhouses for the winter months). However, there is the question as to whether it makes sense as a longer-term strategy since for-profit farming is likely to be limited and community gardens and individual gardens are not going to result in much tax revenue and few new jobs. However, if the housing market does not recover more quickly, this may prove to be an attractive option for much longer.

A related approach would be to convert vacant land into mini-parks for recreational use, walking paths and bike trails, and connectors to existing green space. While this too would not produce revenue for the city, arguably it would make blighted neighborhoods more attractive to potential residents, as well as current residents.

In the past, Cleveland has assembled abandoned land (including buildings) for conversion into industrial parks in an attempt to retain existing industrial businesses and to attract new businesses and jobs. The city’s economic development department provides some economic incentives and Cleveland enjoyed federal subsidies in the past under the federal Empowerment Zone program. These programs have not offset the city’s loss of private employers and businesses. If this approach is pursued with scattered vacant lots, the city may have to invoke its powers of eminent domain if there are “holdout” property owners. This could be both controversial and difficult. In the wake of a controversial 5-4 decision (Kelo v. City of New London) in 2005 by the U.S. Supreme Court upholding the right of local governments to condemn private property even in the absence of “blight”, many states restricted this power. This included Ohio. First the Ohio Supreme Court limited the definition of “blight” and then the state legislature reinforced its decision by further limiting it for Ohio cities which exercise this power for redevelopment (Eagle, 2008).

Whichever strategy or combination of strategies is adopted, Mallach argues that a key component is the active participation of residents in planning. Cleveland in the past has relied upon CDCs to develop neighborhood redevelopment plans, which the city’s planning department has then included in its citywide plan. Engaging residents in a redevelopment planning process is

always challenging, particularly if this is a competitive process with neighborhood winners and losers for funding. It also is complicated because of the numerous actors involved - the city and county governments (including their planning and community and economic development departments), the countywide and city land banks, CDCs, intermediaries like NPI and CHN, the public school district, religious institutions, philanthropic foundations like the Cleveland and Gund foundations, social service agencies, the private sector players critical to redevelopment like neighborhood merchants, employers, developers and lenders, and the departments of the state and federal governments that will provide funding for the elimination of abandoned homes, foreclosure prevention counseling, and urban redevelopment. Cleveland will have to address and resolve these very complicated redevelopment planning issues in order to successfully have the large amount of vacant land that it will have in the future re-used effectively.

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